

**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:	2023/62/90945/E
Site Address:	adj, 9, Hyrst Gardens, Batley, WF17 7EH
Description:	Erection of detached dwelling
Recommending Officer:	Alice Downham

DECISION - REFUSE

I hereby authorise the refusal 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: 07 June 2023

Officer Report

Site Description

The application relates to an area of land adjacent to 9 Hyrst Gardens, Batley. The site is relatively level and is heavily vegetated with several trees which are subject to Tree Preservation Orders. The site is accessed from Track Road via Hyrst Gardens.

The site is located in a predominantly residential area. The surrounding dwellings are varied in age, size, style, and materials of construction. The neighbouring dwellings on Hyrst Gardens are modern in age and design. To the northeast is a Grade II listed building (Al Hikmah Centre). To the north, construction appears to have begun on a place of worship / faith centre granted permission in 2019.

The site is within the Green Belt. The site is not within a conservation area, and there are no Public Rights of Way within close proximity to the site.

Description of Proposal

The applicant is seeking permission for the erection of a detached dwelling.

The proposed dwelling would be two-storey in scale and would have a flat roof. It would measure a maximum of 19.9m deep and a maximum of 13.5m wide, with an overall height of 7.2m.

The dwelling would be faced in natural stone, timber cladding, and white render, with grey fibreglass / EPDM membrane for the roof covering. The proposed dwelling would have a modern design, with large areas of glazing to the front and rear. There would also be openings to each side elevation and rooflights in the roof.

There would be off-street parking for three vehicles to the south-western corner of the site, and a garden to the rear.

History of negotiations/amendments received

The submitted plans were considered unacceptable due to the impact of the proposal on trees covered by Tree Preservation Orders. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Amended plans have not been sought as it was considered there were no amendments which could overcome officers' concerns within the scope of this application.

KC Ecology requested a Preliminary Roost Assessment; however, given that officers were unable to support the application, this was not requested prior to determination to avoid unnecessary cost to the applicant.

Relevant Planning History

97/90303 – Erection of 6 detached dwellings and garages. Refused [appeal dismissed].

98/91139 – Erection of one detached dwelling with garage. Refused [appeal dismissed].

97/93014 – Erection of 6 no. detached dwellings and garages. Withdrawn.

2015/92068 – Outline application for residential development. Conditional outline permission.

2016/93134 – Outline application for erection of 2 dwellings. Withdrawn.

2016/93603 – Reserved matters application pursuant to outline permission 2015/92068 for erection of one detached dwelling. Approved.

2017/93967 – Outline application for erection of one detached dwelling. Pending consideration.

2017/94255 – Demolition of existing building and erection of Place of Worship/Faith Centre. Section 106 Full Permission.

2018/90330 – Reserved Matters application for erection of 4 dwellings pursuant to outline permission 2015/92068 for erection of residential development. Approved.

2020/93533 – Non-material amendment to previous permission 2018/90330 for Reserved Matters application for erection of 4 dwellings pursuant to outline permission 2015/92068 for erection of residential development. Refused.

2021/92929 – Erection of detached dwelling. Pending consideration.

Publicity and Representations

The application was advertised by neighbour letter, site notice and in the press due to the close proximity to a Listed Building. Publicity expiry:

- Neighbour letter – 18th May 2023
- Site notice – 8th May 2023
- Press notice – 18th May 2023

As a result of the above publicity, no representations have been received.

No parish/town council comments are required in this instance.

Consultation Responses

KC Highways Development Management (HDM) – no response received.

KC Environmental Health – no objection subject to conditions (to be detailed within the report).

KC Ecology – requested Preliminary Roost Assessment. As officers were unable to support the application, this was not requested prior to determination to avoid unnecessary cost to the applicant.

KC Trees – object to the proposal.

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.

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. The National Planning Policy Framework 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 pre-dates 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 under other matters.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 3** – Location of new development
- **LP 7** – Efficient and effective use of land and buildings
- **LP 20** – Sustainable travel
- **LP 21** – Highways and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity & geodiversity
- **LP 33** – Trees

- **LP 35** – Historic environment
- **LP 51** – Protection and improvement of air quality
- **LP 52** – Protection and improvement of environmental quality
- **LP 53** – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

Kirklees Council has adopted Supplementary Planning Documents (SPDs) for guidance on house building, house extensions, and open space, to be used alongside existing, previously adopted SPDs. These carry full weight in decision making and are now being considered in the assessment of planning applications. The SPDs indicate 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 and the National Planning Policy Framework, requiring development to be considerate in terms of the character of the local area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)
- Housebuilders Design Guide SPD (adopted 29th June 2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The National Planning Policy Framework 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 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity and the historic environment
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conditions
- 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.

The proposal is required to accord with Policy LP3 of the Kirklees Local Plan, which requires new development to be situated in a sustainable location that provides access to a range of transport choices and access to local services. This site is within walking distance of Mount Pleasant and Lower Staincliffe Local Centres, Dewsbury train station, and bus stops on Halifax Road and Hyrstlands Road. Therefore, the site is considered to be in a sustainable location close to public transport and local services. Officers consider the site is in a sustainable location for residential development.

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 National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing.

Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 69 of the NPPF recognises that:

“Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Although the Local Planning Authority can demonstrate a five-year land supply, it is noted that this development would contribute to the housing supply in the district. However, the provision of one dwelling needs to be balanced against other policies and material planning considerations.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

When making decisions on planning applications for development that would affect a Listed Building or its setting, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Any impact on heritage assets (including the setting of the Listed Building to the northeast) will be given consideration having regard to Policy LP35 of the Kirklees Local Plan, and Chapter 16 of the National Policy Planning Framework.

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 and the historic environment:

The National Planning Policy Framework offers guidance relating to design in Chapter 12 (achieving well designed places), whereby paragraph 126 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan Policies LP1, LP2, and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

Paragraph 129 of the National Planning Policy Framework sets out that design guides and codes carry weight in decision making. Of note, paragraph 134 of the National Planning Policy Framework states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.

Officers consider that the dwelling would be read in conjunction with the existing detached dwellings on Hyrst Gardens. The proposed dwelling would be faced in natural stone, timber cladding, and white render, with grey fibreglass / EPDM membrane for the roof covering. This is in line with the neighbouring dwellings on Hyrst Gardens which are faced in stone and render. No.9 also has a flat roof. The materials are therefore considered to be acceptable. To ensure that the dwelling would sit comfortably within the street

scene, it is considered appropriate to impose a condition requiring samples of materials to be submitted, should planning permission be granted.

The proposed dwelling would have a modern design, with large areas of glazing to the front and rear, similar to the neighbouring dwellings on Hyrst Gardens, and as such would not be out of character with the area. There are a mix of roof forms, with no.9 having a flat roof. The detailing of the proposed dwelling is considered to be acceptable.

The application site is of a sufficient size to support a dwelling, as proposed with a parking area to the front and amenity space to the rear. The dwelling would have two storeys; this is considered acceptable as the majority of the neighbouring dwellings also have two storeys. In terms of footprint and massing, the proposed dwelling would not be out of keeping with the neighbouring dwellings on Hyrst Gardens. The scale is considered acceptable. However, whilst a dwelling may be acceptable, it is considered appropriate to include a condition (should planning permission be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

The proposed dwelling, by virtue of its design, scale, massing and roof line, is considered to be in keeping with the existing development on the site and as such, it is considered that the proposed dwelling would sit comfortably within the existing street scene and against the neighbouring properties.

The submitted plans provide little information regarding the proposed boundary treatments, though the submitted site plan indicates the existing boundary wall to be retained to the front and a fence to the northern site boundary. It is considered appropriate to impose a condition (should planning permission be granted) requiring details of the proposed boundary treatment to be submitted to and approved in writing by the Local Planning Authority before the development commences in the interest of visual amenity.

Although the proposed parking provision would be to the front of the dwelling, this is considered acceptable in terms of visual amenity as there are other dwellings within the street scene with parking/hardstanding to the front. It is considered appropriate to recommend a condition requiring details of landscaping to be submitted, should planning permission be granted, to promote good design by ensuring the development enhances the landscape.

With the inclusion of appropriate conditions, the proposal is considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the Kirklees Local Plan, Principles 2, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

Policy LP35 of the Kirklees Local Plan states:

“Development proposals affecting a designated heritage asset... should preserve or enhance the significance of the asset.”

In this instance, a separation distance of ~36m would be retained between the application site and the neighbouring listed building. Given that dwellings of a similar appearance have been approved and built at a similar separation distance (9 Hyrst Gardens), it is considered that the proposed development would not result in any additional harm to the heritage asset. The proposal would therefore comply with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

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

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

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”* The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

The properties mostly likely to be affected by the proposed development are considered to be nos. 3 and 9 Hyrst Gardens. The impact upon these properties will be discussed below. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect. Of note, whilst there are a number of properties to the west of the site (on Track Road), a separation distance of ~40m would be maintained between the front elevations of these dwellings and the western boundary of the application site.

Impact on 3 Hyrst Gardens

This is the neighbouring property to the southeast of the application site. The front elevations of these dwellings would face each other; however, the properties are offset such that the habitable rooms on the front elevation would have an oblique relationship to each other. An acceptable separation distance of ~23.7m would be retained between bedroom windows on the front elevation of no.3 and the window of bedroom 2 on the front elevation of the proposed dwelling. A separation distance of ~20.6m would be retained between bedroom windows on the front elevation of no.3 and the window of the dining kitchen / master bedroom on the front elevation of the proposed dwelling. This is slightly less than the 21m recommended in Principle 6 of the Kirklees Housebuilders Design Guide SPD. However, given the oblique angle, this is considered acceptable in this instance. As such, it is considered that there would be no significant detrimental overlooking impact on no.3 as a result of the proposed development. Given the separation distances that would be retained, and that the proposed dwelling would not have a direct relationship with no.3, it is considered that there would not be any detrimental overbearing impact on no.3 as a result of the proposed development. Given that the application site would be located to the north of no.3, it is considered that there would be no detrimental overshadowing impact on no.3 as a result of the proposed development. Officers are satisfied that the proposed development would have no significant detrimental impacts on the amenities of 3 Hyrst Gardens.

Impact on 9 Hyrst Gardens

This is the neighbouring property to the east of the application site. There is only one window in the eastern side elevation of the proposed dwelling. This would serve a prayer room and would be angled towards the Qibla (the direction towards the Kaaba in the Sacred Mosque in Mecca). It is considered that a prayer room would not be a habitable room. Moreover, a separation distance of ~44m would be maintained between no.9 and the eastern boundary of the application site. As such, it is considered that there would be no significant detrimental overlooking impact on no.9 as a result of the proposed development. Given the separation distance that would be retained, it is considered that there would not be any significantly detrimental overbearing or overshadowing impacts on no.9 as a result of the proposed development. Officers are satisfied that the proposed development would have no significant detrimental impacts on the amenities of 9 Hyrst Gardens.

Amenity of future occupiers

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”*

Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the*

character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”

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

As discussed above, it is considered appropriate to remove permitted development rights for any additions (should planning permission be granted), so extensions/buildings reducing the area of amenity space would need to be approved by the LPA. Therefore, the proposal is considered to provide a sufficient level of external amenity space for future occupiers of the property.

To the north, construction appears to have begun on a place of worship / faith centre granted permission in 2019 (2017/94255). It appears that a separation distance of ~22m would be maintained between the proposed dwelling and the place of worship. There would be windows in the place of worship facing the rear elevation of the proposed dwelling; however, these would be at an angle and would be screened by the mature vegetation to the rear of the proposed dwelling. As such, it is considered that there would be no significant overlooking impact on the proposed dwelling from the place of worship. Given the separation distance that would be maintained, and that the place of worship would be located to the north, as well as the mature vegetation to the rear of the proposed dwelling, it is considered that there would be no significant overbearing or overshadowing impact on the proposed dwelling from the place of worship.

Noise

KC Environmental Health were consulted and highlighted that the proposed development is within a residential area where noise from construction activities has the potential to impact the amenity of nearby residents. Although KC Environmental Health recommend a condition to restrict construction site working times (should planning permission be granted), officers consider an informative footnote would be reasonable.

Having considered the above factors, it is considered that this proposal would not result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policies LP24 and LP52 of the Kirklees Local Plan, Principles 6, 16, and 17 in the Council's Housebuilders Design Guide SPD, and Paragraphs 130 (f), 174 (e), and 185 (a) of the National Planning Policy Framework.

4 – Impact on highway safety:

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

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

A 4-bedroom dwelling is proposed at the site, and the Kirklees Highways Design Guide SPD states that at least 3 off-street spaces are required for dwellings with 4 or more bedrooms.

KC Highways Development Management were consulted; however, no response was received. Officers note that 3 off-street parking spaces are to be provided, which is considered acceptable for a dwelling of this size.

Principle 19 of the Housebuilders Design Guide SPD sets out how provision for waste storage and recycling should be incorporated into the design of new developments. No details of bin storage and presentation has been provided. It is recommended that these details are secured by condition, should planning permission be granted.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Protected Trees

Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

There are multiple trees subject to Tree Preservation Orders within the red line boundary of the site. As such, KC Trees officers were consulted on the application. Their response highlights that the proposals for a dwelling on this site would result in a significant impact on the important trees on this site. It is noted that trees have been removed as part of the existing surrounding residential development. The submitted Arboricultural Impact Assessment suggests the loss of three trees and cutting back of others is acceptable. However, the long-term effects of the adjacent trees to the proposed dwelling from nuisance and shade impacts would likely result in a significant pressure to prune or fell the trees. The loss of further trees on this site and the long-term impact of the proposed dwelling so close to retained trees is contrary to Policies LP24 and LP33 of the Kirklees Local Plan.

Contaminated land

This site is located near to land which is potentially contaminated land due to its previous use (site 318/5). KC Environmental Health have no objection to the application. However, the dwelling is a permanent structure that would involve significant groundworks. Hence, it is recommended to add a condition relating to reporting of unexpected contamination, should planning permission be granted. As such, the development complies with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework

Biodiversity

Kirklees Council's Ecology officer was consulted as the site is located within a bat alert layer on the Council's GIS mapping system. The consultation response highlighted that no ecological information was submitted along with the application; therefore, the assessment of the ecological impacts is based on the limited information available. The site is located within the bat alert layer and the proposals include the removal of trees at the site. Therefore, there is a reasonable likelihood of disturbance to roosting bats. KC Ecology requested that a Preliminary Roost Assessment be conducted and submitted prior to determination (in accordance with government circular on Biodiversity and Geological Conservation (ODPM, 2005) and explanatory note from Natural England (Natural England, 2020)). However, as officers were unable to support the application, this was not requested to avoid unnecessary cost to the applicant. This is acceptable in terms of the aims of Policy LP30 of the Kirklees Local Plan, Principle 9 of the Council's Housebuilders Design SPD, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.

Drainage

Policy LP28 of the KLP establishes a hierarchy of drainage solutions with a Sustainable Urban Drainage System being the most preferable solution and Main Sewer the least preferable option. The applicant states in the application form that the surface water is to be discharged to sustainable drainage system. In any case, for an application of this scale, drainage would be addressed under a separate remit.

Carbon Budget

The proposal is a minor development for the erection of a single dwelling. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric vehicle charging point is recommended, should planning permission be granted. The proposal therefore complies with Policies LP20, LP21, LP24, LP51, and LP52 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

Procedural matter

It is noted that the road shown on the submitted plans differs from what has been constructed on the ground. However, the road shown on the submitted plans for this application aligns with the road approved under 2018/90330. As such, the road is considered acceptable. Moreover, the road is shown only for access in this instance.

There are no other matters considered relevant to the determination of this application.

6 – Representations:

No representations have been received.

7 – Conditions

None as the application is recommended for refusal.

8 – Conclusion:

This application for erection of detached dwelling at adj, 9, Hyrst Gardens, Batley, WF17 7EH, has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework 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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the National Planning Policy Framework and other material considerations.

Recommendation

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2023/90945

Officer Recommendation: Refuse

Conditions and Reasons

1. There are multiple trees subject to Tree Preservation Orders within the red line boundary of the site. The proposals for a dwelling on this site would result in a significant impact on the protected trees on this site. Trees have previously been removed as part of the existing surrounding residential development, and the loss of three trees and cutting back of others is proposed in the submitted Arboricultural Impact Assessment. However, the long-term effects of the adjacent trees to the proposed dwelling from nuisance and shade impacts would likely result in a significant pressure to prune or fell the trees. The loss of further trees on this site and the long-term threat of the proposed dwelling so close to retained trees is contrary to Policies LP24 and LP33 of the Kirklees Local Plan and guidance contained within Chapters 12 and 15 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Web ID	Date Received
Grouped Plans and Elevations	001 Rev C – Location Plan; Roof and Site Plan as Existing	989420	02/05/2023
Grouped Plans and Elevations	002 – Roof and Site Plan as Proposed; Floor Plans and Proposed	982437	12/04/2023
Proposed Elevations	003 – Elevations as Proposed	982436	12/04/2023
Grouped Plans and Elevations	004 – Street Scene / Site Section as Existing; Street Scene / Site Section as Proposed	984160	12/04/2023
Tree / Arboricultural Survey	Arboricultural Impact Assessment & Method Statement by treeplan Arboricultural Consultants dated 7 February 2023	984158	12/04/2023
General	Climate Change Statement	984159	12/04/2023

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.

The submitted plans were considered unacceptable due to the impact of the proposal on trees covered by Tree Preservation Orders. Although the Kirklees

Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Amended plans have not been sought as it was considered there were no amendments which could overcome officers' concerns within the scope of this application.

KC Ecology requested a Preliminary Roost Assessment; however, given that officers were unable to support the application, this was not requested prior to determination to avoid unnecessary cost to the applicant.

Report Dated:

30/05/2023
