

**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:	2023/62/91261/W
Site Address:	land at, Alexandra Road West, Paddock, Huddersfield, HD3 4EX
Description:	Erection of two detached dwellings with garages, regrading of land and erection of retaining walls to form access and turning area from Lower Gate
Recommending Officer:	William Simcock

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 14th November 2023

Officer Report – 2023/91261

Land at Alexandra Road West, Paddock, HD3 4EX

Site Description

The site comprises a plot of undeveloped land within an otherwise mainly built-up area. The unadopted Alexandra Road West approaches the site from the north but there is no formal access into the site. It is bounded to the south by Lowergate and supported by a retaining wall approximately 2m high. The land slopes steeply downwards from north to south and is elevated above Lowergate. It is overgrown with long grass and scrub. To the east, the adjacent development consists of terraced houses; to the west is a large modern commercial building.

Description of Proposal

The proposal is for the erection of two detached dwellings, and associated works.

The two dwellings would be placed approximately 5m back from the highway boundary. Plot 1, the smaller dwelling, would be on the left as viewed from the highway, Plot 2 on the right. They would respectively have 3 and 4 bedrooms.

Both dwellings would be of back-to-earth design and contain accommodation over three floors, but the second-floor accommodation would mostly be in the roof space.

An earthsheltered car port would be constructed to the west of the two dwellings to provide each dwelling with space to garage two cars. A garden for use by Plot 1 would be formed on top of this. Plot 2 would be provided with approximately 130sqm of outdoor amenity space of which approximately 51sqm would be in the form of a terraced garden accessible from first-floor level. Plot 1's garden space would be 105sqm, of which 71sqm at upper level.

The application form states that the materials would be "reproduction stone" and concrete tiles. The architect has subsequently confirmed that natural stone will be used.

History of negotiations/amendments received

22-Sep-2023: Vehicle swept paths submitted and bin collection point added to plans.

24-Oct-2023: Amended site plan with vehicle swept paths superimposed.

These were not re-advertised since it was considered that they did not raise new planning issues that would necessitate new public consultation.

Relevant Planning History

2020/94024 – Erection of three dwellings. Withdrawn.

2021/92467 – Proposed erection of 4 no. semi-detached dwellings. Refused.
Reasons for refusal:

1. The proposed development, owing to the scale of the proposed dwellings and their nearness to the highway boundary, and the building of high retaining structures associated with the parking area, would have an overpowering impact on its surroundings and would fail to respect local character or the townscape contrary to the aims of Policies LP24a, para. 124(e) and 130(a-d) of the NPPF, and Principle 2 of the Housebuilders' Design Guide Supplementary Planning Document.

2. The provision of private amenity space to serve the new dwellings and the ground floor living space provided for the occupiers of the dwelling, in terms of its size and quality, would be inadequate for dwellings of the size and type proposed, resulting in an unsatisfactory level of amenity for future occupants of the development, contrary to the aims of Policy LP24(b) of the Kirklees Local Plan, NPPF paragraph 130(f), and Principles 16 and 17 of the Housebuilders' Design Guide Supplementary Planning Document.

3. The proposed parking area to serve the proposed dwellings by reason of its layout would make internal turning and manoeuvring very difficult. The layout provides insufficient room of vehicles to reserve out of the spaces to leave in a forward gear and no swept path analysis has been provided to demonstrate how the parking spaces would function. It is therefore considered that spaces would not be used in full and the layout would lead to vehicles seeking to park on street along Lowergate, which already experiences high levels of on street parking. The proposal would therefore be detrimental to highway safety and fail to accord with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the House Builders Design Guide Supplementary Planning Document and Key Design Driver 21 of the Highways Design Guide Supplementary Planning Document.

2022/90601 – Erection of two detached dwellings and associated works.
Refused

1. The majority of the proposed private amenity space would be located to the front of the new dwellings at, or close to, highway level, and consequently would make only a limited contribution to the amenities of future occupants owing to limited privacy and exposure to traffic noise. It is considered therefore that the new dwellings would not have adequate

access to private outdoor space that is functional and proportionate to the size of the dwelling and the development would therefore not be in accordance with the aims of Principle 17 of the Housebuilders' Design Guide Supplementary Planning Document, Policy LP24(b) of the Kirklees Local Plan and paragraph 130(f) of the National Planning Policy Framework.

2. It has not been demonstrated by means of swept path analysis that the parking spaces intended to serve the proposed dwellings would be easily accessible, allowing vehicles to conveniently turn within the site and thereby enter and leave in forward gear. It is therefore considered that the parking spaces would not be fully used and the layout would lead to vehicles seeking to park on street along Lower Gate, which already experiences high levels of on street parking. The proposal would therefore be detrimental to highway safety and fail to accord with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders' Design Guide Supplementary Planning Document and Key Design Driver 21 of the Highways Design Guide SPD.

Representations

Final publicity date expires: 30-Jun-2023. Publicity was by site notice and press publicity in addition to neighbour notification letter because the proposal was deemed to potentially affect the setting of a Listed Building.

Two representations made. Grounds of objection are summarised below:

- Overdevelopment of the site. This is highlighted by the provision of insufficient space on site to accommodate the needs of the proposed residents, including relation to outdoor amenity space, which remains in the main on the site frontage contrary to one of the previous reasons for refusal;
- Unacceptable levels of noise in the local area, which would be to the detriment of future residential occupiers;
- Poor levels of amenity for future occupants;
- Turning space is difficult to use. It is noted that the plans only relate to the use and accessibility of the site for one standard car. No analysis appears to have been undertaken of a larger vehicle, and it is unclear whether the analysis accurately reflects accessibility for as example for an SUV? Given that day to day cars are now substantially larger than historically, this should be clarified. In any event, whilst the plans appear to indicate the ability to access each space, this accessibility is shown to be incredibly tight, with some manoeuvres taking vehicles practicably up to boundary walls, and within the car port frontages to

manoeuvre. It is noted that the proposed bin storage pad has also not been included on the swept path plans, and there would appear to be some infringement. The plans do not provide any clarity as to accessibility should vehicles be parked within the site and not perfectly within an allocated bay. There is no allowance for bin wagons, delivery trucks/vans (who will inevitably drive into the site in a forward gear and reverse off site when the delivery has been completed), ambulances etc, and no allowance for the realities of day to day living with general family paraphernalia in the circulation space, visitors parking outside of allocated spaces etc. In our view, the plans only demonstrate what could potentially be achieved in a perfect scenario, which will not reflect reality;

- Lack of detailed plans showing the impact of the development on all neighbouring properties, which has not been addressed as per previous objections;
- Lack of supporting information, including, but not exclusive to:
 - i. Contaminated Land Assessment;
 - i. Coal mining risk assessment;
 - ii. Landscaping plan;
 - iii. Sustainable drainage strategy;
 - iv. Topographical survey;
 - v. Preliminary Ecological Appraisal;
 - vi. Biodiversity Net Gain/Biodiversity, Ecology Management Plan;
 - vii. Drainage Report;
 - viii. Structural survey and assessment of proposed retaining walls (we do not agree with the Council highways team that this can be addressed by way of condition given the significant impact this issue could have on the local area and adjacent properties);
 - ix. Vehicle tracker drawings for all parking spaces proposed, and for delivery and emergency vehicles who may need to access the site
 - x. Air Quality Assessment;
 - xi. Energy statement;
 - xii. Arboricultural Impact Assessment; and
 - xiii. Heritage Statement
- Other inaccurate or misleading information on the application form, including: Incomplete description; does not acknowledge contamination; lack of details about materials; no information on cycle parking; trees; implications of soakaway; no designated sites or biodiversity features affected (it is in the Valley Slopes Biodiversity Opportunity Zone); no details of foul drainage; lack of details on waste storage provision.

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 Development Management – Acceptable subject to conditions
- KC Highways Structures – Acceptable subject to conditions
- KC Ecology – Acceptable subject to conditions
- KC Conservation & Design – No objections (informal response)

In addition, the following were consulted on the first of the previous three applications for this site:

- KC Arboricultural Officer – No objection subject to appropriate landscaping/planting
- KC Environmental Health – No objection subject to conditions.

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 a Strategic Green Infrastructure Corridor on the Kirklees Local Plan.

The site is approximately 25m from the nearest designated heritage asset, 67-69 Lower Gate, a Grade II Listed Building. Historic England list description:

“Early or mid C19. Hammer-dressed stone. Pitched stone slate roof. Coped gables. 2 storeys. Stone brackets to gutter. One range each of 3-light stone mullioned sashes. One 1st floor sash each.”

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees
- **LP 47:** Healthy, safe and active lifestyles
- **LP 52:** Protection and improvement of environment
- **LP 53:** Contaminated and unstable land

Supplementary Planning Documents:

- KC Highways Design Guide 2019
- Housebuilders Design Guide Supplementary Planning Document, (HGD SPD)
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published September 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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk 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 (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

1 – Principle of development: Policy LP1 of the 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 the NPPF. LP1 goes on further to stating that:

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

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. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, 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 weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement for application, where applicable, will be set out in the officers' assessment.

The proposal will be further assessed according to the following policies:

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – Development to incorporate biodiversity enhancement measures.
- LP33 – Trees and woodlands of significant amenity should be protected.
- LP52 – The impact of pollution, including noise, on sensitive premises, should be considered and mitigated as part of the planning process.
- LP53 – For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures

to ensure that the contamination/instability does not have the potential to cause harm to people or the environment.

The land is not “previously developed” within the meaning of the NPPF. This does not mean that there is a presumption against residential development, but it also does not mean that development making “efficient” use of the land will necessarily be acceptable – this will depend upon a thorough assessment of the proposal against amenity, highway safety and environmental criteria, as detailed below.

Under Chapter 11 of the NPPF, planning decisions should support development that makes “efficient use of land” taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed places”, should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments. Also of relevance is Chapter 14 (opportunities to be taken to prevent development contributing to flooding) and 15 (any potential pollution impacts should be assessed at the planning stage, and biodiversity should be enhanced where possible.)

2 – Impact on visual amenity: The proposal will be considered having regard to the aims of LP24a, and also those of the House Builders’ Design Guide, in particular:

Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.

Principle 13 – Materials should be appropriate to the site’s context.

Principle 14 – Design of windows and doors should relate well to the street frontage and other neighbouring properties.

Principle 15 – Roofline should respect the existing street scene.

Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, where a development proposal would affect a Listed Building or its setting, have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. As a precautionary measure, the application was advertised as affecting the setting of a Listed Building. 67-69 Lower Gate are Grade II Listed Buildings but are approximately 25m from the site on the opposite side of the road and furthermore are rear back-to-backs. Nos 63-65, their front-facing counterparts, are situated between the Listed Buildings and the development site. The Listed Buildings would therefore not be seen in the same context as the new build and it is considered that their setting would not be detrimentally affected. The Conservation and Design team were consulted

on the 2020 application and raised no concerns. The proposed development is therefore deemed to accord with the aims of Chapter 16 of the NPPF and Policy LP35 as well as the Council's duties under Section 66 of the Act. In addition, the development would in any case bring about public benefit through the provision of housing at a time of national and local shortage.

The proposal would result in two dwellings occupying an area of approximately 550sqm, which would equate to 36 per hectare. This would offer a density close to that recommended as a target in Policy LP7 and which is considered consistent with the local area, which comprises medium- to high-density housing.

The immediate surroundings of the site along the sides of Lowergate are dominated by high-density housing, predominantly terraced rows of variable length with gaps in the frontage allowing views of the Colne Valley beyond, some industrial and commercial premises, and further west some modern development comprising two-storey detached houses (Valley Gardens) and a smaller development of modern semi-detached (and one detached) houses with garages. The terraced houses are built mainly in stone with blue slate roofs and with gutters supported by corbels, the industrial premises in either brick or artificial stone. There are also two detached houses (one a bungalow) close to the application site which have hipped roofs. It is noted that the terrace, 20-38 Lowergate, is also built in close proximity to the highway – distance varies because of the curvature of the road but it averages about 5m and they are somewhat elevated above it. Nos. 76-78 are also set back by only 5.7m. Stone boundary or retaining walls of domestic scale are a common feature along both sides of the highway but they vary in height and design details.

In short, the area lacks a strong uniformity although there are elements that give it a degree of coherence and character.

It is considered that the land in its present condition makes, at most, a very limited contribution to local amenity, and whilst it has an open and semi-natural appearance, the surrounding area is urban in character. The plans also indicate that some of the existing semi-natural land would be left undeveloped. The erection of two dwellings would however involve very substantial excavation of the site and the building of retaining walls and the implications of this will need to be considered carefully.

The reason for refusal (1) on application 2021/92467 cited the scale of the proposed dwellings, their nearness to the highway boundary, and the building of high retaining structures associated with the parking area, which were assessed to have an overpowering impact on the surroundings.

The subsequent application, 2022/90601, was refused on residential amenity and highway safety grounds only, not appearance.

Returning to the present application, it is noted that it would involve the building of substantial retaining walls, which would extend further to the west

than those shown on the 2022 application. The western retaining wall would extend over the span of two garage doors rather than just one. The overall bulk of the development has however been reduced, and in the case of Plot 1, simplified, in that it is both smaller and is flat-fronted instead of having a front-facing gable. It is considered that overall appearance would be an improvement on the earlier scheme.

The two dwellings would present only a two-storey aspect to the public highway. Whilst most of the nearby development comprises two-storey terraced houses that have their eaves line very close to the height of the first-floor window cill, and in this respect the proposed new houses would be different, it is considered that the new dwellings would not have an excessive vertical emphasis or seem out of place because of their height.

The retaining walls proposed would now be in two discrete stretches and contiguous with the rear elevation of the new houses. Their impact would be softened by having the raised garage with garden terrace in front. It is noted that neither high retaining walls nor prominent raised or terraced gardens are a typical feature of this stretch of Lower Gate generally, but the construction of high retaining walls was deemed acceptable in principle in the assessment of the last application, and it is considered on balance, given the lack of uniformity in the street scene as previously summarised, that they would not detract from the character of the area, subject to their being faced in coursed stone of a type to harmonise with the stone used in the local area.

It is considered that design details including roof style and window style would harmonise with the local area.

The use of flat concrete tiles is judged acceptable in this location. The use of artificial stone, as stated on the application form, is not considered acceptable since it is in a location where natural stone is the predominant material and would face on to the public highway. The architect has subsequently confirmed that natural stone will be used, which can be conditioned.

Subject to samples of facing and roofing materials being inspected and approved, which can be the subject of a condition, this the development would respect the quality and character of the townscape and landscape and would accord with the aims of LP24a, para. 124(e) and 130(a-d) of the NPPF, in addition to the above parts of the Housebuilders' Design Guide SPD.

3 – Impact on residential amenity: The following principles within the Housebuilder Design Guide are of particular importance:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

- 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.

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards.

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

The main living area and the first-floor bedrooms in each of the proposed dwellings would have their outlook to the south, where it would be unobstructed and be able to receive direct sunlight for much of the day. Both of the second-floor bedrooms in the smaller dwelling, and one of the two second-floor bedrooms in the larger dwelling, would be illuminated by rooflights only which it appears are too high to allow a view out. On balance the level of amenity available to future residents is judged satisfactory.

The nearest facing habitable room windows in established development on the opposite side of the road would be a minimum of 24m away from windows in the new development. This is in excess of the minimum demanded in the SPD even for windows at the rear of a dwelling, and notwithstanding the difference in levels it is considered that the new dwellings would not be perceived as either intrusive or overbearing on account of their window position, height or bulk. The only side-facing windows in the outer walls would be the utility room at ground floor and landing at first floor (west) and the study window at first floor (east). These would not be placed close to the plot boundaries – the landing window would be, at its closest 9m from the curtilage boundary of no. 38 and at an angle. It is considered that this relationship would not give rise to a loss of privacy.

With regard to nos. 1 and 2 Alexandra Road West, which are located directly to the north, they would at their closest be approximately 18m from the rear elevation of the new dwellings when measured horizontally, but the new dwellings would have no windows in the rear elevation except rooflights. There is a very pronounced difference in levels between the proposed and existing dwellings and the sectional drawings indicate that there would be, at most, a line of sight between the bedroom rooflights and upper floor windows in the existing dwellings, the mutual distance being just over 21m. It is considered that the relationship would not give rise to loss of privacy or overbearing impact.

Total floor space would be 121sqm and 223sqm which in both cases is in excess of the recommended minimum (90 and 103sqm) for a three-storey dwelling with three and four bedrooms respectively.

In the assessment of the previous application, it was noted that the majority of the proposed private amenity space would be located to the front of the new dwellings at, or close to, highway level, and consequently would make only a limited contribution to the amenities of future occupants owing to limited privacy and exposure to traffic noise. It was therefore considered that the new dwellings would not have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the development.

Plot 2 would now be provided with approximately 130sqm of outdoor amenity space of which approximately 51sqm would be in the form of a terraced garden accessible from first-floor level. On the last scheme it would have been about 105sqm of which 38sqm was upper garden.

Plot 1's garden space would be 105sqm, of which 71sqm at upper level. Previously it would have been approximately 67sqm altogether.

A larger amount of amenity space at the rear might ideally be preferable so as to maximise the levels of peace and quiet, as well as privacy, for future users, but any amenity space directly to the rear would either be heavily overshadowed or not easily accessible, so it is considered that the provision of primary amenity space at the side of each dwelling is the most appropriate design solution.

It is therefore considered that the new proposal provides amenity space for the new dwellings that is acceptable both in quantity and quality and it has thereby addressed the first reason for refusal.

The plans do not clearly show what boundary treatments would be used for the garden areas. Some form of fencing or balustrade will be required at least to the outer edges of the main garden areas (for security reasons), and may be desirable to install it to the outer edges of the site to keep out intruders. Fencing is unlikely to be required for reasons of privacy since the new dwellings do not have rear gardens, and the side garden to Plot 2 would be lower than existing ground levels and therefore would not allow views into the next property. Details of fencing can be conditioned so as to ensure that the treatment used respects the amenity of the area. This can form part of the landscaping condition.

In their comments on the 2020 application, Environmental Health requested that before construction work commences a report specifying the measures to be taken to protect the development from noise from nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. They did not specify traffic noise as being a concern; in general, a condition requiring a noise survey and attenuation measures on account of traffic noise in particular is only imposed where the development is accessed off an 'A' road. It is considered on balance that as there are commercial uses

in the vicinity of the site, and taking a precautionary approach, this condition would be justified in accordance with the aims of LP52.

To sum up, it is considered that the development now proposed, as conditioned, would provide an acceptable standard of living for future occupants whilst not harming the amenities of neighbouring properties, thereby accords with the aims of LP24(b) and LP52 of the Local Plan and the relevant parts of the SPD.

4 – Impact on highway safety: The development would involve creating a new access on to Lowergate, a 30mph two-way single carriageway local link road of approximately 6.3m width with footways on both sides and street lighting present.

The development would contain parking provision for five vehicles, of which one would be external, four in car ports.

A swept path analysis has been provided to show that all five parking spaces would be accessible in such a way that motorists would be able to enter and leave the site in forward gear and without any vehicle needing to perform complicated reversing movements. The arrangements would not allow space for visitor parking. The Highway Design Guide recommends that consideration should be given to the provision of visitor parking spaces at the rate of one per four dwellings. For developments of fewer than four units, the decision of whether to round this figure up or down is made on a case-by-case basis. The Highway Officer, it is noted, has not raised any concerns about this aspect of the proposal. Visitors would be able to park on the public layby opposite the site which had spare capacity at the time of the case officer's most recent, and previous site visits.

It is noted that two of the swept paths would cut across the frontage of the car ports. This is a situation that should ideally not occur, but as long as the car ports remain open-fronted structures without garage doors, the turning provision will still work. A condition should be added to this effect, so as to ensure that the area can be conveniently used.

The plans show that sightlines of 2.4m by 43m can be provided which are appropriate for a road of this type. There is an existing telegraph pole on the site frontage, which has not been acknowledged on the site plan. This will need to be moved as part of the development since in its present position it would appear to obstruct the access and would certainly obstruct the sight lines. It may also be necessary to relocate the inspection chamber which is located within the public footway since it might not be able to withstand the weight of frequent vehicle crossings. Further conditions, along the lines of that proposed by the Highway Officer, will therefore need to be added to ensure that these features are suitably relocated by agreement with the relevant authority in each case.

A refuse collection point has been provided just in from the highway boundary which is easily accessible by bin wagons and is adequate in terms of capacity. The Highway Officer has confirmed that the collection of the bins from this location would be acceptable as there is an exemption from the double white centre-line Traffic Regulation Order for municipal waste collection.

In keeping with the aims of promoting low-impact methods and transport and healthy and active lifestyles as set out in Policies LP20, LP24(d) and LP47, and Key Design Driver within the Highways Design Guide, new development should provide opportunities for storage of pedal cycles. In many cases they can be provided within garages, or in secure external space out of sight at the rear of the dwelling, but this would not be an option here. The only obviously realistic way of providing such a facility would be within the raised garden. Since this can be achieved without any further redesign of the proposal, it is considered that this can be conditioned.

The topography and layout of the site will present challenges in the early phases of construction because it will not be possible to park on the Lower Gate front until some excavation has been undertaken and the parking of construction vehicles on Alexandra Road West could obstruct the flow of traffic or interfere with the use of the parking spaces at the end of the road. For these reasons, although not requested by the Highway Officer, the submission of a Construction Management Plan should be conditioned.

In conclusion, the latest plans demonstrate that safe access to the public highway can be achieved and that acceptable parking provision will be incorporated into the scheme. Officers acknowledge that the layout of the parking and turning area is tight and only just allows enough room for vehicles to turn, and the layout and topography of the site would not allow cycle storage at highway level, and is therefore not ideal from the point of view of accessibility and convenience. Taking into account all relevant factors including the lack of objection by Highways Development Management and the “tilted balance” arising from the present housing land supply position, the development is considered acceptable. Subject to the sightlines being provided, which can be conditioned along with the other issues highlighted in this section, the development would avoid any impact on the free and safe use of the highway and accord with Policies LP21-22 of the Local Plan and Principle 12 of the Housebuilder Design Guide SPD.

5 – Other matters:

Climate Change:

The applicant’s Climate Change Statement sets out the following measures:

- The dwellings will be highly insulated beyond the minimum standards in the Building Regulations;
- Construction materials will be sourced locally where possible;

- The dwelling has been oriented to take advantage of the path of the sun.

It is also noted that the site is about 250m from a bus stop with a frequent (more than hourly) service into Huddersfield Town Centre and is also only a short distance from Paddock Local Centre.

The proposed site occupies a moderately sustainable location. It is considered that in principle it would support local and national carbon reduction aims. To ensure that the development fully takes advantage of opportunities to minimise carbon emissions and contribution to climate change, a condition is recommended to require the developer to provide details of carbon reduction measures before development proceeds above foundation level, which may include but not be limited to on-site microgeneration and insulation measures going beyond the statutory minimum.

To promote sustainable means of transport in accordance with government guidance on air quality mitigation and reducing greenhouse gas emissions, in accordance with the aims outlined within LP24(d) of the Local Plan and Chapter 14 of the National Planning Policy Framework, it should also be conditioned that one new electric vehicle charging point per dwelling be installed before the dwelling is occupied.

Ecology:

The site is in the bat alert layer. The Ecology Officer was consulted on the 2020 application and made the following comments:

“No ecological information has been submitted with the application however, there are no immediate ecological constraints apparent from the information available to me and the risk of significant ecological harm due to the proposals is limited, provided mitigative measures are applied to ensure protection of nesting birds. The site is relatively close to the Kirklees Wildlife Habitat Network and to secure a net gain and preserve connectivity through the site, in accordance with LP30, an Ecological Design Strategy should be conditioned. See below for suggested conditions” [Ecological Design Strategy; no removal of hedgerows, trees, shrubs or brambles between 1st March and 31st August inclusive, without a check for active birds’ nests]

These comments were repeated for the current application. The site is considered to have limited ecological value in its present condition and, following the approach that is generally taken for similar sites that are not in the Wildlife Habitat Network and do not have extensive tree cover, there would be insufficient justification for requiring any further survey work before the application is determined. The use of the Biodiversity Net Gain Metric 2.0 is not required to be used for Minor applications, except on unusually sensitive sites. However, to ensure that the aim of delivering BNG is achieved, in line with the requirements of Policy LP30, Principle 9 of the

Housebuilders' Design Guide SPD and NPPF Chapter 15, it is recommended that an Ecological Design Strategy (EDS) be secured by condition.

Trees:

The Arboricultural Officer was consulted on application 202/94024 and had the following observations to make:

“There are trees on the northern boundary, a mix of conifer and holly, which are small or poor quality and insignificant trees. There are also trees on the banking but most of these are *Rhus typhina* and Norway maple which again are of poor quality or regrowth from stumps of previously felled trees.”

It is considered that these observations remain valid at the present time. There are no trees within or on the boundary of the site that are covered by a Tree Preservation Order or are deemed worthy of one. It may however be possible to secure the planting of new trees or shrubs as part of the EDS referred to above, in such a way that would increase both the biodiversity and visual amenity of the site.

Drainage:

The application form proposes that disposal of surface water will be by soakaway. Based on the layout plan, it is not clear that a soakaway could be installed in a way compatible with the Building Regulations, owing to the need for minimum stand-off distances between the soakaway and buildings / the highway boundary. The use of a soakaway is, in principle, to be encouraged as being one of the more sustainable methods of disposal. In the event of a soakaway being shown to be impracticable at the Building Regulations stage, direct discharge to mains will be acceptable. Following the approach that is generally taken with small minor applications (fewer than five dwellings) in Kirklees, notwithstanding the wording of Policy LP28, the developer will not be required to demonstrate that the drainage hierarchy principle has been adhered to, or to incorporate attenuation storage into the development, since this is considered disproportionate for a development of this scale.

Contaminated or unstable land:

Environmental Health, consulted on application 2020/94024, noted that the land was registered as potentially contaminated owing to its previous use as a quarry. Following the approach that Environmental Health recommended on that occasion, it is considered this risk can be suitably mitigated by imposing conditions that a Phase I report, and subsequent reports where applicable, be submitted and approved before development commences.

Paragraph 174(f) and 183 of the NPPF state that planning policies and decisions should prevent new development from contributing to, or being put at risk from, land instability and that a site is suitable for its proposed use. Paragraph 184, however, states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The land is not believed to be unstable at the present time, but as it would involve very substantial excavation of the existing banking, and formation of high retaining walls, it is deemed appropriate to impose conditions as recommended by Highways Structures so as to ensure that highway land is not put at risk.

Subject to inclusion of the recommended conditions, also in accordance with Policy LP53 of the Local Plan, the proposal is considered to be acceptable with regard to land contamination / stability.

Removal of permitted development rights:

It may sometimes be appropriate to remove or restrict householder permitted development rights for new build where the site is small, especially in situations where such development would be liable to give rise to the appearance of overdevelopment or have an overbearing impact on neighbouring occupiers. It is considered that the circumstances of the site would not provide justification for a condition removing permitted development rights in this instance. The potential to extend either property under permitted development rights would be limited in any case since it would not be possible, for example, to extend at the rear.

6 – Representations: Two representations have been made. Grounds of objection are summarised below with officer responses:

- Unacceptable levels of noise in the local area, which would be to the detriment of future residential occupiers;
Response: It is noted that there are potential sources of noise in the area. Following the advice of Environmental Health, and the approach that has been taken with similar applications in the recent past, it is considered that this can be addressed by a condition. It is considered that the degree of noise in the local area is such that it would be disproportionate to require the developer to undertake survey work in advance of permission being granted.

- Overdevelopment of the site. This is highlighted by the provision of insufficient space on site to accommodate the needs of the proposed residents, including relation to outdoor amenity space, which remains in the main on the site frontage contrary to one of the previous reasons for refusal;
Response: These issues have been examined in detail in parts 2 and 3 of the Assessment. It is now considered that the proposal does not amount to overdevelopment and that the amount of private amenity space per dwelling and its location would be proportionate.

Poor levels of amenity for future occupants

Response: This issue has been thoroughly examined in Part (3) of the Assessment above.

Turning space is difficult to use. It is noted that the plans only relate to the use and accessibility of the site for one standard car. No analysis appears to have been undertaken of a larger vehicle, and it is unclear whether the analysis

accurately reflects accessibility for as example for an SUV? Given that day to day cars are now substantially larger than historically, this should be clarified. In any event, whilst the plans appear to indicate the ability to access each space, this accessibility is shown to be incredibly tight, with some manoeuvres taking vehicles practicably up to boundary walls, and within the car port frontages to manoeuvre. It is noted that the proposed bin storage pad has also not been included on the swept path plans, and there would appear to be some infringement. The plans do not provide any clarity as to accessibility should vehicles be parked within the site and not perfectly within an allocated bay. There is no allowance for bin wagons, delivery trucks/vans (who will inevitably drive into the site in a forward gear and reverse off site when the delivery has been completed), ambulances etc, and no allowance for the realities of day to day living with general family paraphernalia in the circulation space, visitors parking outside of allocated spaces etc. In our view, the plans only demonstrate what could potentially be achieved in a perfect scenario, which will not reflect reality.

Response: It is generally expected that developers provide turning space that will allow a typical family car to enter and leave its parking space in a three-point turn. Provision for larger private vehicles is not treated as essential. If one or more occupants chose to buy a larger vehicle, it would still be able to turn but it might require more than a three-point turn. As stated in part (4) of the Assessment, car port frontages can be kept open. The latest plan shows that the turning movements can be completed without vehicles coming into contact with the bin storage areas. Bays / carports are of standard size. The layout presupposes that users will show consideration and common sense in parking solely within their allocated bay or carport; this is something that would be difficult to enforce through the planning system but the same assumption is used in assessing other applications for planning permission and there is no reason why this proposal should be treated differently.

Refuse collection would be undertaken by the side of the road. Delivery vans, and emergency vehicles as and when required, would have the option of parking in the public lay-by opposite or pulling into the site and reversing out (small delivery vehicles would probably be able to turn within the site although this again might require more than a three-point turn); it is recognised this is not ideal, but for developments of only two dwellings served by a common access, turning space for emergency, delivery or other large vehicles is not treated as a standard requirement and it is considered that the level of risk and inconvenience to highway users would not be sufficient to justify a refusal.

Finally, a standard condition will be imposed to require that the areas for the parking and turning of vehicles are kept free from obstructions.

- Lack of detailed plans showing the impact of the development on all neighbouring properties, which has not been addressed as per previous objections;

Response: The plans submitted include sections, finished floor levels, ground levels at lower garden (upper garden levels can be imputed from the floor levels and sections), and a basic contextual elevation showing the position of 38 Lower Gate. It is considered that the plans contain enough information to allow a determination to be made. It may sometimes be expedient to request sections through the proposed development and neighbouring houses, but this is not a mandatory requirement and is to be considered on a case by case basis.

- Lack of supporting information, including, but not exclusive to:
 - i. Contaminated Land Assessment;
 - i. Coal mining risk assessment;
 - ii. Landscaping plan;
 - iii. Sustainable drainage strategy;
 - iv. Topographical survey;
 - v. Preliminary Ecological Appraisal;
 - vi. Biodiversity Net Gain/Biodiversity, Ecology Management Plan;
 - vii. Drainage Report;
 - viii. Structural survey and assessment of proposed retaining walls (we do not agree with the Council highways team that this can be addressed by way of condition given the significant impact this issue could have on the local area and adjacent properties);
 - ix. Vehicle tracker drawings for all parking spaces proposed, and for delivery and emergency vehicles who may need to access the site
 - x. Air Quality Assessment;
 - xi. Energy statement;
 - xii. Arboricultural Impact Assessment; and
 - xiii. Heritage Statement

Response: A contaminated land assessment, under the local Validation Requirements, is only deemed essential at the planning stage if the land is “very likely” to be “highly contaminated”. In the judgement of Environmental Health officers, this is not the case here. The site is not in a Coal Referral Area so the submission of a Coal Mining Risk Assessment is not required.

Vehicle swept paths have been submitted and found to be acceptable. The site is not adjacent or close to an Air Quality Management Area, so an Air Quality Impact Assessment is not required. An energy statement is not a standard requirement. According to the wording of the Validation Requirements, a tree survey is required if there are TPO trees on site or if development is within 2m of the crown spread of a tree; this is however generally understood to mean only mature trees, or those that are of a quality that make their preservation desirable. The Council Arboriculturalist has previously expressed the view that there are no trees of significant amenity value on site and a tree survey is therefore not required. Finally, a Heritage Statement is required where designated heritage assets (including their setting) would be affected). Where the development does not involve works to a Listed Building, within a Conservation Area or on a plot of land immediately adjoining a designated heritage asset, this will be a matter of

subjective judgement. In this case the Conservation Officer has already confirmed that no adverse impact on the nearest heritage assets would occur.

The current validation requirements do in fact state that an Ecological Impact Assessment (and by implication a Preliminary Ecological Appraisal) is required for all minor applications. In practice, this is not imposed where the development does not affect land that is known or likely to have significant ecological value since such a measure is usually disproportionate to any benefits that would be delivered. However, as the proposal is on semi-natural land, some of which would be retained, it would in this case be reasonable and proportionate to require an Ecological Design Strategy as a condition.

It is not standard practice to require a structural survey or assessment of retaining walls at the planning stage. Information of this nature might be required in cases of development on land that is already known to be unstable, or is likely to become so as a result of development, dependent on the scale of the development.

It is considered that a pre-development topographical survey is not essential to understand the implications of the development since the plans show finished floor level in the new dwellings. The submission of detailed drainage information is not mandatory, under the local validation requirements, for developments of five or fewer dwellings.

- Inaccurate or misleading information on the application form, including: Incomplete description; lack of details about materials; no information on cycle parking; implications of soakaway; no designated sites or biodiversity features affected (it is in the Valley Slopes Biodiversity Opportunity Zone); no details of foul drainage; lack of details on waste storage provision.

Response: The agent has subsequently confirmed that natural stone will be used as a walling material. It is considered that the description is sufficient for planning purposes – it does not explicitly mention the retaining walls but these are shown on the plan and are an inevitable requirement given the amount of excavation. It is considered that the description, plans and other supporting information contain enough information to allow the development to be understood. Cycle parking can be conditioned, as previously stated. The soakaway would be dealt with under the remit of Building Regulations. If it turns out that a soakaway would not work, then connection to mains can be used instead. Details of foul drainage are not usually requested for minor applications unless non-mains drainage is proposed. Waste storage and disposal provision is now shown. Finally, all land within Kirklees is classed as being within one or another “Biodiversity Opportunity Zone”. This does not imply that the land is of high or even moderate ecological value – it is not equivalent to, for example, the Wildlife Habitat Network or Sites of Special Scientific Interest – and does not imply that an ecological survey must be conducted before the application is determined.

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. This includes application of the tilted balance in favour of the development given that the Council cannot demonstrate a five-year supply of housing land.

Recommendation – CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2023/91261

Officer Recommendation: CONDITIONAL FULL PERMISSION

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 with Policies LP1, 2, 21, 22, 24, 28, 30, 35, 51, 52 and 53 of the Kirklees Local Plan and Principles 2, 5, 6, 8, 9, 12, 13, 14, 15, 17, 18, 19 of the Housebuilders' Design Guide Supplementary Planning Document (SPD) and Policies of the National Planning Policy framework.

3. External walling materials for the dwelling and for any new retaining walls shall be regular coursed natural stone. Samples of the stone to be used in external facing, and of the roofing materials to be used, shall be submitted to or inspected on site by, and approved in writing by, the Local Planning Authority, before work on the superstructure of the development commences and the development shall be implemented using the approved materials.

Reason: In the interests of visual amenity and to accord with the aims of Policy LP24 of the Kirklees Local Plan and Principle 13 of the Housebuilders' Design Guide SPD.

4. Prior to any new dwelling being brought into use, the sightlines of 2.4m x 43m along Lowergate, as shown on the approved site plan, shall be cleared of all obstructions to visibility exceeding 0.9 m in height and these shall be retained free of any such obstruction over 0.9m in height thereafter.

Reason: To ensure adequate visibility in the interests of highway safety and to accord with the aims of LP21 of the Kirklees Local Plan.

5. Prior to any new dwelling being brought into use, the areas indicated to be used for the parking, turning and manoeuvring of vehicles on the approved site plan 20.1127/(AL)40 Revision B shall be cleared of all obstructions to these uses and shall thereafter be retained as such. Any new or replacement hardstanding required shall be in accordance with the Communities & 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 any successor guidance before the dwelling

is first occupied, unless arrangements have been made for run-off water to drain to a soakaway within the site. The areas shall thereafter be retained as such and kept clear of all obstructions to their uses shown on the approved site plan.

Reason: To ensure a satisfactory layout in the interests of highway safety, and to accord with the aims of Policies LP21-22 of the Kirklees Local Plan and Principle 12 of the Kirklees Housebuilders Design Guide SPD.

6. Before any new dwelling is first occupied, the existing telegraph pole shall have been permanently moved to a location which does not obstruct vehicle movements into the proposed parking area as shown on the approved site plan 20.1127/(AL)40 Revision B shall and does not obstruct the sight lines referred to in Condition (4).

Reason: In the interests of highway safety and to achieve a satisfactory layout, and to accord with the aims of LP21 of the Kirklees Local Plan.

7. Before any new dwelling is first occupied, the access chamber located within the public footway shall have been permanently relocated in accordance with details that have been approved in writing by the appropriate authority, and evidence of such details having been approved (or confirmation that said authority does not require the chamber to be moved) submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the possibility of damage to local infrastructure in the interests of the safety of future occupants and highway users, and to accord with the aims of Policy LP21 of the Kirklees Local Plan.

8. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the car ports hereby approved shall be retained as open-fronted structures and no garage doors shall be formed within them.

Reason: To ensure the turning space as shown on 20.1127/(AL)40 Revision B remains unobstructed in interests of highway safety, and to accord with the aims of Policy LP21 of the Kirklees Local Plan.

9. The areas indicated to be used on the proposed site plan for the storage and collection of wastes shall be laid out with a hard surface and made available for use before the dwelling to which they relate is first occupied, and shall thereafter be retained as such, free from obstructions to the storage and collection of wastes.

Reason: To ensure that satisfactory facilities are provided and retained within the site for the separation, storage and disposal of wastes in a way that does not compromise highway safety and efficiency, in accordance with the aims of Policies LP21 and LP24(d) of the Kirklees Local Plan and Principle 19 of the Housebuilders' Design Guide SPD.

10. Before any new dwelling is first occupied, details shall be submitted to and approved in writing by the Local Planning Authority of secure cycle storage for

the new dwellings. The approved facilities shall be provided before the dwelling to which they relate is first occupied and thereafter retained as such.
Reason: In the interests of promoting methods of transport with low environmental impact, and healthy and active lifestyles, in accordance with the aims of Policies LP20, LP24(d) and LP47 of the Kirklees Local Plan, and Key Design Driver within the Highways Design Guide.

11. One electric vehicle recharging point shall be installed within the dedicated parking area for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

Reason: In accordance with the aims of Policy LP24(d & v) of the Kirklees Local Plan, Principle 18 of the Kirklees Housebuilders Design Guide SPD, and Chapter 14 of the NPPF, to promote infrastructure which encourages modes of transport with low carbon emissions.

12. Before development commences, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the early stages of groundwork required for the development, the parking of contractors' vehicles, deliveries and dispatches from the site and the provision of workers' facilities, will be achieved without affecting highway safety and will prevent or minimise inconvenience to highway users. The development shall be implemented in full accordance with the approved Construction Management Plan throughout the period of construction.

Reason: This is a pre-commencement condition to ensure that the construction process does not give rise to safety hazards and that inconvenience to highway users is minimised, and to accord with the aims of Policy LP21 of the Kirklees Local Plan.

13. Before the development commences a slope stability risk assessment report prepared by an appropriately qualified person assessing the adequacy of the steep embankment which will be surcharged by the new development, shall be submitted to, and approved in writing by, the Local Planning Authority. The details to be submitted shall include:

- (i) an assessment statement;
 - (ii) all necessary ground investigations on which assessment assumptions are based on;
 - (iii) method statements for the removal of any bulk excavation together with a full slope stability analysis and structural calculations to verify the structural adequacy of the embankment and the highway retaining wall on Lower Gate both in the short-term (i.e. during and immediately after construction) and in the long-term, subject to the results and the outcome of the ground investigation undertaken at this site.
 - (iv) any remedial/ mitigation measures required to deal with instability issues.
- The development, including all excavations of the existing embankment, shall thereafter be undertaken in full accordance with the approved slope stability risk assessment report, including the approved method statements and

remedial/mitigation measures and works required shall be thereafter retained as such.

Reason: This is a pre-commencement condition to ensure that the development does not give rise to land instability that could affect the safety of existing and future occupants or highway users, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and Paragraphs 174(f) and 183 of the National Planning Policy Framework.

14. Before development commences a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls/ building retaining walls, including any modifications to the existing retaining wall on C641 Lower Gate, shall be submitted to and approved by the Local Planning Authority in writing. The construction of new retaining walls/building retaining walls shall be completed in accordance with the approved scheme prior to any construction of the proposed dwellings being commenced and thereafter retained.

Reason: This is a pre-commencement condition to ensure that the development does not give rise to land instability that could affect the safety of future occupants or highway users, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and Paragraphs 174(f) and 183 of the National Planning Policy Framework.

15. Before development commences, details of insulation, on-site micro-generation, or other measures to be incorporated into the development to reduce carbon emissions associated with it shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development during construction and shall thereafter be retained as such.

Reason: This is a pre-commencement condition to ensure that the proposed development contributes to the Council's target of achieving 'net zero' carbon emissions by 2038 and thereby reducing the causes of climate change, and to accord with the aims of Policy LP24(d) of the Kirklees Local Plan, Principle 18 of the Kirklees Housebuilders Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

16. Before any new dwelling is first brought into use, a comprehensive scheme for the landscaping of the site including boundary treatments and an ecological design strategy (EDS) addressing mitigation and enhancement has been submitted to and approved in writing by the local planning authority, which shall include the following.

- a. Purpose and conservation objectives for the proposed ecological works.
- b. Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges. Habitat boxes to be integral to new structures where appropriate.
- c. Details of the design of all new and retained boundary treatments, including balustrades for the upper gardens, and demonstrating, where appropriate, that these will not obstruct the movement of hedgehogs.

- d. Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose.
- e. Details of maintenance.

The approved landscaping scheme and EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In the interests of enhancing the biodiversity of the site and to accord with the aims of Policy LP30(ii) of the Kirklees Local Plan, and Principle 9 of the Kirklees Housebuilders Design Guide SPD and the National Planning Policy Framework – Conserving and enhancing the natural environment.

17. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority before clearance begins.

Reason: to prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with policy LP30 and the requirements of Section 15 of the National Planning Policy Framework.

18. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework. This information is required pre-commencement so as to ensure that contamination can be properly investigated at an early stage.

19. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (18) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework. This information is required pre-commencement so as to ensure that contamination can be properly investigated at an early stage.

20. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (19) further groundworks shall not commence until a Remediation Strategy 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework. This information is required pre-commencement so as to ensure that appropriate remedial measures undertaken at an early stage.

21. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (20). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework.

22. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework.

23. Before construction work commences above foundation level, a report specifying the measures to be taken to protect the development from noise from nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:-

- a) Determine the existing noise climate
- b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

All works specified in the approved report shall have been carried out in full before the dwelling to which they relate is first occupied, and such works shall be thereafter retained.

Reason: To ensure that future occupants do not suffer from loss of amenity arising from noise, and to accord with the aims of Policy LP24(b) and LP52 of the Kirklees Local Plan.

Note – Vehicular access. 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 details required in respect of conditions (13) and (14) will require the approval of the Council's Highway Structures team and it is recommended that the submission be in the form of an Approval In Principle (AIP) to be completed before any submission of application to approval details reserved by planning condition.

Note – Contamination reports. All contamination reports shall be prepared in accordance with Model Procedures for the Management of Land Contamination – Contaminated Land report 11 (CLR11), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

Note – Noise assessments. All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants <http://www.association-of-noiseconsultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

Construction Site Working Times – Footnote

It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours Saturdays

With no noisy activities on Sundays or Public Holidays

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 notices served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			18-May-2023
Vehicle swept paths drawing	EC49-23-28-E-01		22-Sep-2023
Proposed site layout	(AL)40	B	24-Oct-2023
Proposed sections and elevations	(AL)41	A	22-Sep-2023
Proposed floorplans	(AL)42		27-Apr-2023
Proposed elevations	(AL)43		27-Apr-2023
Climate change statement			18-May-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 case officer requested further details of refuse collection and of vehicle access and turning arrangements during the application process. These were received and were considered to be satisfactory.

Report Dated:

14th November 2023

