

**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:	2023/62/91272/E
Site Address:	Land Adj, 170, Penistone Road, Shelley, Huddersfield, HD8 8HZ
Description:	Erection of detached dwelling
Recommending Officer:	Nina Sayers

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.

Emma Thompson

AUTHORISED OFFICER

Date: 28-Oct-24

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Officer Report

Site Description

Land Adj, 170 Penistone Road, Shelley, Huddersfield, HD8 8HZ

The application site includes the existing dwelling at 170 Penistone Road and the associated domestic curtilage. The site is located south of Penistone Road and due to the topography is set significantly lower than the highway. The site is in a predominantly residential area with residential dwellings to the north and east. To the west and south of the site is a dense woodland which forms the boundary of the Green Belt as allocated within the Kirklees Local Plan.

Description of Proposal

The application is seeking permission for the erection of a detached dwelling. The proposed dwelling would be set north-west of 170 Penistone Road. It would appear single storey to the front with a pitch roof design and a gable end porch projecting out the front. Due to the steep topography of the site the dwelling would be two storeys to the rear with a single storey flat roofed element with a balcony above. The dwelling would be finished in coursed stone under slate roofing with solar panels to the southern roof face. The dwelling would be accessed via the existing access off Penistone Road which would be widened as part of the proposal and parking would be provided to the front of the property.

History of Negotiations

Officers raised concerns regarding the scale of the proposal and requested the scheme was reduced in scale. Amended details were also requested by KC Highways. The requested information was provided and amended plans were received. These did not include the visibility splay so a final amended scheme was requested and provided.

Pre-application advice was sought by the applicant.

Relevant Planning History

2022/90462 Erection of two storey side, first floor rear extension and detached garage. Conditional full permission (at 170 Penistone Road).

Representations

The application has been advertised by neighbour notification letters and on the website. Publicity expired on 22nd June 2023. No representations were received.

Consultation Responses

KC Environmental Health – no objections subject to conditions.

KC Highways Development Management – no objections.

KC Highway Structures – no objections.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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.

Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and Effective Use of Land and Buildings
- LP11 – Housing mix and affordable housing
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. 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 follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Housebuilders Design Guide
- Biodiversity Net Gain Technical Advice Note

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 December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 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, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

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

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy LP1 goes on further to stating that: “The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.

In this case, the application site is unallocated land in a residential area. As such, it is appropriate to consider the Local Planning Authority’s overall housing position.

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 up-date 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 in this case is set out in the officer's assessment.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site, which includes the existing dwelling, in theory, could accommodate three to four dwellings. One new dwelling is proposed in this instance, in addition to the existing dwelling within the site, which is considered appropriate given the constraints of the site due to the steep topography and requirement for access and as more dwellings on the site would likely result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality.

Paragraph 68 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”.

In respect of the above, the quantum of development is considered acceptable although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

2 – Impact on visual amenity and historic environment:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed and beautiful places) whereby 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

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

LP24 states that proposals should promote good design by ensuring:

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

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD, 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.”

Principle 15 states that the design of the roofline should relate well to site 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.

The proposed dwelling would be visible from the street and would be set forward and above the existing 170 Penistone Road, however it is noted within the wider street scene the building line is staggered. It is also noted that a detached garage has been approved under application 2022/90462 which has a pitched roof design and sits forward of the proposed dwelling, adjacent to the boundary.

Officers initially had concerns regarding the scale of the proposed dwelling and the overbearing impact this would have on no.170. Amended plans have been received which significantly reduce the scale of the proposed development. The scheme now proposes a modest single storey structure to the front, facing Penistone Road. The footprint of the dwelling is not dissimilar to nos.170 or 168. The dwelling has been sunk into the hillside which reduces the overall bulk and massing of the proposal, particularly when viewed from the side.

It is noted that there is currently significant soft landscaping and planting to the front of the site, along the boundary with Penistone Road, which significantly reduces the prominence of the site from the street. As such, it is considered that the planting should be retained, or replaced with like-for-like planting to ensure no harm is caused to visual amenity as a result of the proposal in the future.

The proposed dwelling would be in keeping with the surrounding properties in terms of materials and design although it is noted that the rear of the property is more contemporary in design however this is not in a prominent location and would not be visible from Penistone Road and as such is considered acceptable.

It is therefore considered that, subject to condition, the proposed dwelling would not cause significant harm to the visual amenity of the surrounding area. The proposal is therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan, the aims of the House Builders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of LP24 states that alterations to existing buildings should: “...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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 residential property mostly likely to be affected by the proposed development is considered to be 170 Penistone Road. The impact upon this property 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 other properties near the site, the proposed dwelling would be ~21 metres from the surrounding properties.

Impact on 170 Penistone Road

170 Penistone Road is within the application site, set south-east and at a lower elevation to the proposed dwelling. It is two-storey in height and has recently had a two storey extension erected. The garden space wraps around the existing property and there are openings in the side elevation facing the proposed dwelling which serve a secondary window for a bedroom.

The proposed dwelling would be set at a higher elevation to the proposed dwelling and would be set forward, closer to Penistone Road. It is noted that the proposed dwelling has been sunk into the hillside, which significantly reduces the overbearing impact of the proposal and retains valuable garden space for no.170. There are no primary inhabited openings on the side elevation of the proposed development so no significant overlooking harm is considered to be caused and significant garden would be retained.

Amenity of the Proposed 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 exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed side garden is considered to be a good size for a dwelling of this scale. It is considered the proposed window would have sufficient outlook and natural light for the amenity of future occupants.

Therefore, in the absence of representation, it is considered the proposed development would not cause significant harm to the residential amenity of the existing or neighbouring occupiers and is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), the Housebuilders Design Guide SPD and Chapter 12 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.

The scheme proposes a four bedroomed dwelling. The Kirklees Highways Design Guide SPD states that at least 3 on-site spaces are required for dwellings with 4+ bedrooms. The proposed site plans show off-street parking provision for at least three vehicles on the driveway, and sufficient parking space for parking of two vehicles for no.170 and space for turning within the site. This is considered sufficient parking provision.

The existing access on to Penistone Road is to be widened to 5 metres wide and a level area of driveway provided for the first 6 metres into the site. KC Highways Development Management have been consulted on the proposal and raised no objection however they outlined that the following comments. If any gates are to be proposed, these should be set back 5 metres from the edge of the adopted highway and shall be hung as to only open inwards. Visibility splays of 2.4m x 43m are also required along Penistone Road. KC HDM requested a revised layout showing the required visibility splays to ensure that the minimum visibility can be provided for vehicles leaving the site. They also requested details of the location of a waste collection/presentation point should be provided with the point being clearly marked on a drawing.

An amended plan was received showing adequate visibility splays. A bin collection point can be secured by condition.

The proposed development would result in a significant retaining structure within close proximity to Penistone Road (A629). Therefore, KC Highways Structures were consulted on the proposal, and they recommended a number of conditions relating to additional information on the demolition and erection of retaining walls through an AIP, formal technical approval of full dimensioned cross-sections and dilapidation surveys. These would all be recommended as pre-commencement conditions should approval be recommended. This would be pre-commencement as it could effect the method of construction.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

The application site is located within a Bat Alert layer. The site consists of domestic curtilage with managed lawn and an area of hardstanding. It is therefore considered that this site is likely to have low potential for ecological or protected species given the current use of the land as domestic curtilage and as the proposal would not include any demolition.

Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of a bird and bat boxes on the proposed dwelling is to be recommended as a condition should permission be granted.

Contaminated Land

KC Environmental Health officers were consulted on the proposed scheme. The Council's records indicate that the site is close to land identified as potentially contaminated land due to its historic use. It is important to assess the possible contaminated land legacy at the application site to ensure the safety of future occupiers, therefore conditions would be added to any positive decision notice in relation to contaminated land.

The application site falls within the defined Development Low Risk Area. As such the applicant was not required to submit a Coal Mining Risk Assessment and The Coal Authority were not consulted.

The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

6 – Representations:

No representations were received.

7 – Conclusion:

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

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

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2023/91272

Officer Recommendation: Approve

Conditions:

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, LP2, LP7, LP11, , LP21, LP22, LP24, LP30, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 2, 5, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. The external materials of the dwelling hereby approved shall be finished in coursed natural stone walls with slate roof tiles and thereafter retained.

Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

4. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas are laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

Reason: In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

5. A bat and bird box shall be incorporated into the dwelling during the construction phase; the boxes shall be long-lasting bat box (Schwegler Bat Wall System 3FE or similar) and bird box (Schwegler 1B or similar) and shall be located away from sources of light and be sited at least 4 metres above ground level. The boxes shall be provided prior to first occupation of the dwelling and thereafter retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders SPD and Chapter 15 of the National Planning Policy Framework.

6. Before development commences, details of suitable bin presentation points for collection of wastes from the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interest of highway safety and waste management and to accord with LP24 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

7. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Reason: In the interests of visual amenity in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

8. Before the development commences, the proposed partial demolition and modification to the existing highway retaining wall supporting A629 Penistone Road, together with the design and construction details for the new retaining walls around the driveway, shall be submitted (via the submission of an AIP) and approved by the Local Planning Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

9. Before the development commences, a scheme detailing the exact location and fully dimensioned cross-sectional information, along with the proposed design and construction details for the new building/s adjacent to the existing highway retaining wall supporting A629 Penistone Road, shall be submitted (via the submission of AIP) to the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: So as to determine whether the proposed works will be liable to a formal technical approval and to ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation,

should any be necessary, is implemented at the appropriate stage of the development.

10. Before the development commences, a full structural dilapidation survey of the existing highway retaining wall supporting A629 Penistone Road shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Highway Structures team for record purposes.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

11. Following the completion of the works related to conditions 8-10, a further structural dilapidation survey of the retaining wall shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Highway Structures team for record purposes. Any defects arising in the highway retaining wall due to the works associated with the proposed development shall be made good to the satisfaction of the Council's structures team, at the developer's expense.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan.

12. 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) by a suitably competent person 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 nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

13. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (12) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

14. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (13). 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 nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

15. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

16. This development shall not be brought into use until the visibility splays, as shown on approved plan ref: 2204-01 Rev. B, have been cleared of all obstructions to visibility. They shall remain clear from all obstructions for the lifetime of the development.

Reason: In the interests of highway safety, and to accord with Policies LP21 of the Kirklees Local Plan and the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the

Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

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

NOTE: All noise assessments should be carried out by a competent person. The applicant 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.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00hours, Saturdays.
- With no working Sundays or Public Holidays.

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Plans, Elevations and Views	2204-01	Rev.B	27/08/2024
Design and Access Statement		April 2023	10/05/2023

Biodiversity Report			10/05/2023
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority has, 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.

Officers raised concerns regarding the scale of the proposal and requested the scheme was reduced in scale. Amended details were also requested by KC Highways. The requested information was provided and amended plans were received. These did not include the visibility splay so a final amended scheme was requested and provided.

Report Dated: 28/08/2024

Officer Report

Site Description

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Description of Proposal

The application is seeking permission for the erection of a detached dwelling. The proposed dwelling would be set north-west of 170 Penistone Road. It would appear single storey to the front with a pitch roof design and a gable end porch projecting out the front. Due to the steep topography of the site the dwelling would be two storeys to the rear with a single storey flat roofed element with a balcony above. The dwelling would be finished in coursed stone under slate roofing with solar panels to the southern roof face.

The dwelling would be accessed via the existing access off Penistone Road which would be widened as part of the proposal and parking would be provided to the front of the property.

History of Negotiations

Officers raised concerns regarding the scale of the proposal and requested the scheme was reduced in scale. Amended details were also requested by KC Highways. The requested information was provided and amended plans were received. These did not include the visibility splay so a final amended scheme was requested and provided.

Pre-application advice was sought by the applicant.

Relevant Planning History

2022/90462 Erection of two storey side, first floor rear extension and detached garage. Conditional full permission (at 170 Penistone Road).

Representations

The application has been advertised by neighbour notification letters and on the website. Publicity expired on 22nd June 2023. No representations were received.

Consultation Responses

KC Environmental Health – no objections subject to conditions.

KC Highways Development Management – no objections.

KC Highway Structures – no objections.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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.

Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and Effective Use of Land and Buildings
- LP11 – Housing mix and affordable housing
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. 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 follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Housebuilders Design Guide
- Biodiversity Net Gain Technical Advice Note

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 December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 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, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 7) Principle of development
- 8) Impact on visual amenity
- 9) Impact on residential amenity
- 10) Impact on highway safety
- 11) Other matters
- 12) Representations
- 13) Conclusion

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy LP1 goes on further to stating that: “The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.

In this case, the application site is unallocated land in a residential area. As such, it is appropriate to consider the Local Planning Authority’s overall housing position.

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 up-date 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 in this case is set out in the officer’s assessment.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site, which includes the existing dwelling, in theory, could accommodate three to four dwellings. One new dwelling is proposed in this instance, in addition to the existing dwelling within the site, which is considered appropriate given the constraints of the site due to the steep topography and requirement for access and as more dwellings on the site would likely result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality.

Paragraph 68 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”.

In respect of the above, the quantum of development is considered acceptable although a more detailed assessment of the proposal’s design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

2 – Impact on visual amenity and historic environment:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed and beautiful places) whereby 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

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

LP24 states that proposals should promote good design by ensuring:

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

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD, 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.”

Principle 15 states that the design of the roofline should relate well to site 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.

The proposed dwelling would be visible from the street and would be set forward and above the existing 170 Penistone Road, however it is noted within the wider street scene the building line is staggered. It is also noted that

a detached garage has been approved under application 2022/90462 which has a pitched roof design and sits forward of the proposed dwelling, adjacent to the boundary.

Officers initially had concerns regarding the scale of the proposed dwelling and the overbearing impact this would have on no.170. Amended plans have been received which significantly reduce the scale of the proposed development. The scheme now proposes a modest single storey structure to the front, facing Penistone Road. The footprint of the dwelling is not dissimilar to nos.170 or 168. The dwelling has been sunk into the hillside which reduces the overall bulk and massing of the proposal, particularly when viewed from the side.

It is noted that there is currently significant soft landscaping and planting to the front of the site, along the boundary with Penistone Road, which significantly reduces the prominence of the site from the street. As such, it is considered that the planting should be retained, or replaced with like-for-like planting to ensure no harm is caused to visual amenity as a result of the proposal in the future.

The proposed dwelling would be in keeping with the surrounding properties in terms of materials and design although it is noted that the rear of the property is more contemporary in design however this is not in a prominent location and would not be visible from Penistone Road and as such is considered acceptable.

It is therefore considered that, subject to condition, the proposed dwelling would not cause significant harm to the visual amenity of the surrounding area. The proposal is therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan, the aims of the House Builders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of LP24 states that alterations to existing buildings should: “...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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 residential properties mostly likely to be affected by the proposed development are considered to be 170 Penistone Road. 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 other properties near the site, the proposed dwelling would be ~21 metres from the surrounding properties.

Impact on 170 Penistone Road

170 Penistone Road is within the application site, set south-east and at a lower elevation to the proposed dwelling. It is two-storey in height and has recently had a two storey extension erected. The garden space wraps around the existing property and there are openings in the side elevation facing the proposed dwelling which serve a secondary window for a bedroom.

The proposed dwelling would be set at a higher elevation to the proposed dwelling and would be set forward, closer to Penistone Road. It is noted that the proposed dwelling has been sunk into the hillside, which significantly reduces the overbearing impact of the proposal and retains valuable garden space for no.170. There are no primary inhabited openings on the side elevation of the proposed development so no significant overlooking harm is considered to be caused and significant garden would be retained.

Amenity of the Proposed 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 exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed side garden is

considered to be a good size for a dwelling of this scale. It is considered the proposed window would have sufficient outlook and natural light for the amenity of future occupants.

Therefore, in the absence of representation, it is considered the proposed development would not cause significant harm to the residential amenity of the existing or neighbouring occupiers and is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), the Housebuilders Design Guide SPD and Chapter 12 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.

The scheme proposes a four bedroomed dwelling. The Kirklees Highways Design Guide SPD states that at least 3 on-site spaces are required for dwellings with 4+ bedrooms. The proposed site plans show off-street parking provision for at least three vehicles on the driveway, and sufficient parking space for parking of two vehicles for no.170 and space for turning within the site. This is considered sufficient parking provision.

The existing access on to Penistone Road is to be widened to 5 metres wide and a level area of driveway provided for the first 6 metres into the site. KC Highways Development Management have been consulted on the proposal and raised no objection however they outlined that the following comments. If any gates are to be proposed, these should be set back 5 metres from the edge of the adopted highway and shall be hung as to only open inwards. Visibility splays of 2.4m x 43m are also required along Penistone Road. KC HDM requested a revised layout showing the required visibility splays to ensure that the minimum visibility can be provided for vehicles leaving the site. They also requested details of the location of a waste collection/presentation point should be provided with the point being clearly marked on a drawing.

An amended plan was received showing adequate visibility splays. A bin collection point can be secured by condition.

The proposed development would result in a significant retaining structure within close proximity to Penistone Road (A629). Therefore, KC Highways Structures were consulted on the proposal, and they recommended a number of conditions relating to additional information on the demolition and erection

of retaining walls through an AIP, formal technical approval of full dimensioned cross-sections and dilapidation surveys. These would all be recommended as pre-commencement conditions should approval be recommended. This would be pre-commencement as it could effect the method of construction.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

The application site is located within a Bat Alert layer. The site consists of domestic curtilage with managed lawn and an area of hardstanding. It is therefore considered that this site is likely to have low potential for ecological or protected species given the current use of the land as domestic curtilage and as the proposal would not include any demolition.

Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of a bird and bat boxes on the proposed dwelling is to be recommended as a condition should permission be granted.

Contaminated Land

KC Environmental Health officers were consulted on the proposed scheme. The Council's records indicate that the site is close to land identified as potentially contaminated land due to its historic use. It is important to assess the possible contaminated land legacy at the application site to ensure the safety of future occupiers, therefore conditions would be added to any positive decision notice in relation to contaminated land.

The application site falls within the defined Development Low Risk Area. As such the applicant was not required to submit a Coal Mining Risk Assessment and The Coal Authority were not consulted.

The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

6 – Representations:

No representations were received.

7 – Conclusion:

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

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

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2023/91272

Officer Recommendation: Approve

Conditions:

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, LP2, LP7, LP11, , LP21, LP22, LP24, LP30, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 2, 5, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. The external materials of the dwelling hereby approved shall be finished in coursed natural stone walls under slate roof tiles and thereafter retained.

Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

4. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas are laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

Reason: In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

5. A bat and bird box shall be incorporated into the dwelling during the construction phase; the boxes shall be long-lasting bat box (Schwegler Bat Wall System 3FE or similar) and bird box (Schwegler 1B or similar) and shall be located away from sources of light and be sited at least 4 metres above ground level. The boxes shall be provided prior to first occupation of the dwelling and thereafter retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders SPD and Chapter 15 of the National Planning Policy Framework.

6. Before development commences, details of suitable bin presentation points for collection of wastes from the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interest of highway safety and waste management and to accord with LP24 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

7. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Reason: In the interests of visual amenity in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

8. Before the development commences, the proposed partial demolition and modification to the existing highway retaining wall supporting A629 Penistone Road, together with the design and construction details for the new retaining walls around the driveway, shall be submitted (via the submission of an AIP) and approved by the Local Planning Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

9. Before the development commences, a scheme detailing the exact location and fully dimensioned cross-sectional information, along with the proposed design and construction details for the new building/s adjacent to the existing highway retaining wall supporting A629 Penistone Road, shall be submitted (via the submission of AIP) to the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: So as to determine whether the proposed works will be liable to a formal technical approval and to ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation,

should any be necessary, is implemented at the appropriate stage of the development.

10. Before the development commences, a full structural dilapidation survey of the existing highway retaining wall supporting A629 Penistone Road shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Highway Structures team for record purposes.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that any risk to highway safety is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

11. Following the completion of the works related to conditions 8-10, a further structural dilapidation survey of the retaining wall shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Highway Structures team for record purposes. Any defects arising in the highway retaining wall due to the works associated with the proposed development shall be made good to the satisfaction of the Council's structures team, at the developer's expense.

Reason: To ensure the stability of the A629 Penistone Road in the interest of highway safety in accordance with LP21 of the Kirklees Local Plan.

12. 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) by a suitably competent person 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 nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

13. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (12) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

14. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (13). 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 nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

15. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

16. This development shall not be brought into use until the visibility splays, as shown on approved plan ref: 2204-01 Rev. B, have been cleared of all obstructions to visibility. They shall remain clear from all obstructions for the lifetime of the development.

Reason: In the interests of highway safety, and to accord with Policies LP21 of the Kirklees Local Plan and the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the

Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

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

NOTE: All noise assessments should be carried out by a competent person. The applicant 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.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00hours, Saturdays.
- With no working Sundays or Public Holidays.

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Plans, Elevations and Views	2204-01	Rev.B	27/08/2024
Design and Access Statement		April 2023	10/05/2023

Biodiversity Report			10/05/2023
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority has, 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.

Officers raised concerns regarding the scale of the proposal and requested the scheme was reduced in scale. Amended details were also requested by KC Highways. The requested information was provided and amended plans were received. These did not include the visibility splay so a final amended scheme was requested and provided.

Report Dated: 28/08/2024