

**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:	2023/62/91483/E
Site Address:	adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY
Description:	Demolition of garage and erection of detached dwelling
Recommending Officer:	Nina Sayers

DECISION – FULL CONDITIONAL 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 21 MAY 2024

Officer Report

Site Description

Land adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY.

The application site is located south-east of 33a Church Lane in Clayton West. The site currently serves a single storey garage and domestic garden associated with no.33a. It is apparent from historic imagery that the site has previously served garages. The surrounding area is predominantly residential dwellings which vary in terms of design and materials.

The site is unallocated within the Kirklees Local Plan but is located within the Strategic Green Infrastructure Network. There are protected trees within, and directly adjacent to the application site.

Description of Proposal

The application is seeking planning permission for the demolition of a garage and erection of a detached dwelling.

The proposed dwelling would be a two-storey detached structure with a garden area to the north and west. The proposal would have a pitched roof design with a gable feature on the side elevation. The dwelling would be finished in stone and the roofing materials have not been specified by the applicant. There would be off-street parking for two vehicles provided to the west of the dwelling.

The property would serve a 3-bedroom dwelling with associated living accommodation and amenity space.

History of Negotiations

Additional information was requested regarding the impact of the proposed development on the adjacent protected trees. A revised Arboricultural Impact Assessment and site plan were submitted following discussions with the agent. This was not readvertised as no additional harm was considered to be caused to residential amenity as a result of the proposed changes.

Relevant Planning History

91/05298 Erection of detached bungalow with garage. Conditional full permission.

91/01862 Outline application for erection of detached bungalow. Conditional outline permission.

2016/92432 Erection of one dwelling. Refused. Appeal dismissed.

Representations

The application has been advertised by neighbour notification letters, in the press and by a site notice. Publicity expired on 25th July 2023.

7 representations (from 5 individuals) were received in response to the above publicity, all in objection to the scheme. The following concerns were raised:

- Highways safety and access concerns
- Nearby school requires access
- Increased noise
- Overlooking harm
- Overdevelopment in area
- Loss of green space
- Impact of construction on amenity and highways
- Poor design
- Loss of trees
- Historic refusal and appeal decision
- Harm to wildlife

Denby Dale Parish Council object to the proposal due to “traffic issues and parking at the property, and the proximity to other properties. Over Development and access issues onto a small plot. Vehicle access during the development and subsequently. Public safety as the road in front is used as a footpath and is used as by school pupils to reach local school.”

Officers will respond to these comments in section 6 of the report.

Consultation Responses

KC Environmental Health – no objections subject to conditions.

KC Highways – no objections.

KC Trees – concerns raised.

The Coal Authority - no objections subject to conditions.

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 within the Kirklees Local Plan but is located within the Strategic Green Infrastructure Network.

Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP11 – Housing mix and affordable housing
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity
- LP35 – Historic Environment
- 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 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 and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

- Chapter 16 – Protecting and enhancing the historic 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 a residential area. The application site is recorded as being located within the Strategic Green Infrastructure Network on the Kirklees Local Plan.

LP31 of the Kirklees Local plan states that proposals should ensure that the function and connectivity of green infrastructure networks and assets are retained, replaced or provided where appropriate, incorporating or providing new walking, cycling and ecological links. The proposed development would be built on existing greenery, however as part of the proposal additional greenery and planting would occur on existing hardstanding and therefore the scheme is considered to comply with LP31 of the Kirklees Local Plan.

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 officers 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 in theory, could accommodate one dwelling. One dwelling is proposed in this instance, which is considered appropriate. 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:

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 development is for a two-storey detached dwelling which would front Holmfield, the adjacent highway. The proposal would have a pitched roof form with a gable end feature on the side elevation. Holmfield currently serves a variety of residential properties with a staggered building line. Principle 5 of the Housebuilder’s Design Guide SPD which highlights the importance of buildings following a coherent building line. In this instance there is no coherent building line, but the proposed dwelling would align with an existing detached dwelling located to the east of the site, complying with Principle 5.

The design of the southern elevation, which fronts the highway, would serve three openings and a doorway. Whilst the design in isolation would be unsymmetrical and leaves a section of wall with small openings and little detailing, this is considered acceptable as the dwelling would somewhat mirror the existing dwelling to the east and therefore clearly draws on the design of the existing development and would therefore not appear

incongruous in the street scene. This would be in accordance with Principle 2 of the Housebuilders Design Guide SPD.

The proposal would include a large flat roofed car port, it is noted that this was added in response to KC Trees comments to prevent tree leaves dropping on the cars. It would have a parapet style wall to the front elevation which would be finished in stone and a clear polycarbonate roof to the rear. Whilst officers have some concerns regarding the proposed car port, this would be in keeping with the general design and materials of the area and would somewhat reflect the detailing in the front elevation. It is noted that this is essential to ensuring the scheme would not cause indirect harm to the protected trees, as discussed in section 5 of this report. Therefore, on balance, the proposed design is considered acceptable in terms of visual amenity.

The application site currently partially serves domestic curtilage with a detached garage. The garage would be removed as part of the proposal to allow for sufficient amenity space to the rear of the property. This garage provides little in the way of visual interest and therefore no harm would occur as a result of this being removed.

No details of boundary treatment have been provided as part of the proposal. This could be secured by condition should approval be recommended.

It is therefore considered that the proposed dwelling would not cause significant harm to the visual amenity of the surrounding. The proposal is therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders 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 33a Church Lane, Retreat, and 3 and 5 Holmfield. 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.

No.33a Church Lane

33a Church Lane is a moderate bungalow located due north of the application site. It has a single storey, flat-roofed garage to the rear. It is noted that the property is within the applicant's ownership, however the impact on the amenity of any future occupiers must be taken into consideration.

The proposed dwelling would be set to the south-east of no.33a, set behind the rear elevation. The relationship of the two dwellings would not result in significant overbearing or overshadowing harm to the occupants of no.33a. There would be openings proposed in the northern elevation of the proposed dwelling which would face the rear amenity space of no.33a. There would remain a separation distance of >7 metres between the openings and the amenity space and it must be noted that the occupants of no.33a are the applicant and any future occupiers would be aware of this relationship prior to occupying the property. On this basis the relationship with no.33a is considered acceptable on balance.

Impact on Retreat, Holmfield

Retreat, Holmfield is a two-storey, detached dwelling located due east of the application site. The proposed dwelling would align with Retreat. There are no openings in the side elevation of Retreat and therefore no significant harm is considered to be caused to the occupants as a result of the proposed development.

Impact on 3 Holmfield

3 Holmfield is located south-east of the application site. The proposed dwelling would not be directly opposite no.3 but it is noted that the additional openings in the southern elevation may result in some additional overlooking harm to the occupants of no.3. Whilst this is noted, the properties would be at an angle and would not directly face one another and this harm is considered to be lesser than the existing relationship between no.3 and Retreat.

Therefore, on balance the proposed development is considered to not cause any significant harm over and above the existing arrangements on site.

Impact on 5 Holmfield

5 Holmfield is located approximately 11m south of the application site. No.5 is angled slightly towards the north-west. There are openings in the front of no.5 which serve primary inhabited spaces.

The separation distances between the properties is considered sufficient to prevent any significant overshadowing or overbearing harm. It is noted that there would be openings proposed in the southern elevation of the proposed dwelling and concerns have been raised in representation regarding overlooking harm. All the openings in the western part of the southern elevation, which would face no.5, would be obscurely glazed to prevent any overlooking harm. Should approval be recommended it would be conditioned that these openings must remain obscurely glazed to prevent any overlooking harm in the future.

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 an adequate size for a dwelling of this scale. It is considered that the proposed windows would have sufficient outlook and natural light for the amenity of future occupants.

KC Environmental Health were consulted on the proposal who raised concerns regarding the potential for loss of amenity to the occupiers of nearby properties from noise and vibration from the construction phase of the development. Whilst it is noted they recommended a condition restricting the construction times, this can be controlled under separate environmental legislation. Therefore, a condition is considered unnecessary however, a footnote would be added advising the applicant of the relevant environmental legislation which they must comply with.

Therefore, 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.

A 3-bedroom dwelling is proposed at the site, and the Kirklees Highways Design Guide SPD states that at least 2 on-site spaces are required for dwellings with 2-3 bedrooms. The proposed plan shows a covered parking area for two vehicles adjacent to the dwelling. This would be approximately 5.8m wide and 5.7m deep which is sufficient for two vehicles.

It is noted that representations have raised concerns regarding the additional traffic and the impact on the existing highway. The creation of one additional dwelling, onto an adopted highway, is not considered to result in significant additional highway movements and would therefore not cause significant harm to the safety of the highway. It is also noted that historically this site has served as garages which would have resulted in more vehicle movements than the proposed dwelling.

KC Highways DM were consulted on the proposal. They requested that the applicant provides a plan showing a swept path to demonstrate that vehicles could enter and exit the parking safely. This has not been provided by the applicant. As such, in the event that planning permission is approved, this could be secured by condition. This would need to be provided prior to development of the dwelling as it may impact on the stages of construction.

A bin collection and storage has been demonstrated on the submitted site plan adjacent to the proposed parking. This is considered acceptable.

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 primarily 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. The proposal would include the demolition of the existing garage. This is a flat roofed structure of a relatively new build which does not appear to have any cracks which could have served as a bat roost. Therefore, it is unlikely that any harm would be caused to a protected species as a result of the proposed development. Notwithstanding this, a footnote would be added to any decision notice informing the applicant of the regulations regarding protecting bats during development.

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 bat and bird boxes on the proposed dwelling is to be recommended as a condition should permission be granted.

Trees

Within the site are two protected trees (TPOs) which would be impacted by the proposed development. The applicant submitted a tree survey and then a revised Arboricultural Impact Assessment following initial comments from KC Trees. The initially submitted Tree Survey outlined that one of the protected trees (T1) had visual signs of basal damage and decay and that further basal decay analysis should be carried out. It stated that the other tree (T2) should be removed. Officers were concerned regarding the proximity of T1 to the proposed dwelling, particularly the openings on the side elevations, and the indirect impact that this may have on future occupants wanting the tree to be cut down. Therefore, officers recommended the applicant carried out the basal analysis, as if the tree were decaying and would therefore need to be removed, this would overcome these concerns.

KC Trees also raised concerns regarding the proposed parking for the new dwelling which would be under the cover of T1. It will also restrict the parking of the current dwelling (33a) to being under the Lime tree and Horse Chestnut. Lime trees can drop a large amount of debris (i.e. twigs, epicormic growth and dead wood of various sizes) which could result in pressure to remove/undertake works to T1. To overcome this issue, the applicant proposed a car port above the car parking for the proposed dwelling.

Following this, the applicant submitted an arboricultural impact assessment (AIA) which conflicted with the submitted tree survey. It stated that both trees were to remain. A revised AIA was then submitted which states that T2 would be removed regardless of if the development goes ahead. Therefore, officers have made their assessment on the basis that T1 will remain. The proposed car parking would be within the root protection area (RPA) of T1. The submitted AIA outlines that the parking area covers less than 20% of any root protection area and can therefore be constructed using a cellular confinement system. The car port requires a single post to be installed within the root protection area of T1. This will be fixed to a screwpile to avoid any disturbance to tree roots.

Amended plans were also received which changed the internal layout and openings to ensure that the primary inhabited openings would not be overshadowed by T1.

KC Trees were informally re-consulted on the proposal based on the above information and do not have any objection to the proposal on the condition that a detailed Arboricultural Method Statement and Tree Protection Plan are submitted prior to development commencing to ensure no harm is caused to the protected tree during development.

Contaminated Land and Coal Mining Legacy

KC Environmental Health officers were consulted on the proposed scheme. A Coal Mining Risk Assessment by Rogers Environmental Geotechnical Specialists (ref: J3596/16/EDS) (dated: August 2016) has been submitted in support of the application. The report concludes that there is the potential for shallow coal workings beneath the site and recommends further investigation to determine the presence of such workings.

Part of the proposed development site has historically been occupied a single timber and asbestos structure comprising of 4 garages and unused allotment gardens. Due to the potential of shallow coal workings beneath the site and the use of the garages for storage of oils and paints etc in addition to asbestos, ground contamination will need to be considered. Therefore, it is necessary for contaminated land conditions which would be added to any positive decision notice.

The application site falls within the defined Development High Risk Area for coal mining. As such the applicant was required to submit a Coal Mining Risk Assessment and The Coal Authority were consulted. The Coal Authority concurs with the conclusions of the Coal Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. This would be secured by condition should planning permission be granted. The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

Climate Change

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

Due to the nature of the scheme, this being a proposal providing one new residential unit within the site, it is considered that one electric vehicle charging point for this dwelling should be provided to aid in the contribution to climate change. This matter could be conditioned should planning permission be granted.

6 – Representations:

7 representations (from 5 individuals) were received in response to the publicity of this application, all in objection to the scheme. The following concerns were raised and have been responded to by officers.

- Impact of construction on amenity and highways
- Highways safety and access concerns

Officer response: This is a material planning consideration which has carefully been considered in the highway safety section of this report.

- Nearby school requires access

Officer response: The proposed development would be ~44m away from the proposed school and would not interfere with access.

- Increased noise
- Overlooking harm

Officer response: This is a material planning consideration which has carefully been considered in the residential amenity section of this report.

- Overdevelopment in area

Officer response: This is a material planning consideration which has carefully been considered in the principle of development section of this report.

- Loss of green space

Officer response: This site forms part of the domestic curtilage of an existing dwelling and is not protected by any land allocations or other protections.

- Poor design

Officer response: This is a material planning consideration that has been carefully considered in the visual amenity section of this report.

- Harm to wildlife
- Loss of trees

Officer response: This is a material planning consideration which has carefully been considered in the other matters section of this report.

- Historic refusal and appeal decision

Officer response: This is a material planning consideration which has carefully been considered during the assessment of this proposal. However, all applications are assessed on their individual merits.

Denby Dale Parish Council object to the proposal due to “traffic issues and parking at the property, and the proximity to other properties. Over Development and access issues onto a small plot. Vehicle access during the development and subsequently. Public safety as the road in front is used as a footpath and is used as by school pupils to reach local school.”

Officer response: These concerns have been taken into consideration and addressed within the officer’s assessment above.

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: 2023/91483

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 LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14, and 15 of the National Planning Policy Framework.

3. 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.

4. Prior to occupation of the dwelling, one electric vehicle recharging point shall be installed. The scheme shall meet at least the following minimum standard for numbers and power output:

- A Standard Electric Vehicle Charging point providing a continuous supply of at least 16A (3.5kW) for each residential unit that has a dedicated parking space

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

5. A bat and bird box shall be incorporated into the dwelling during the construction phase; the bird box shall be long-lasting Schwegler 'woodcrete' type 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 be 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. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatments 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 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.

7. The development shall not be occupied until the obscure glazing, as demonstrated on the approved Proposed Plans and Elevations (ref.100(03) rev.B), has been installed (to a minimum Grade 4). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the obscure glazing (to a Grade 4) shall thereafter be retained for the lifetime of the development.

Reason: To prevent overlooking to the neighbouring properties and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

8. No development shall commence (excluding the demolition of existing structures and site clearance) until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

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.

9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

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.

10. 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.

11. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 10 groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: 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.

12. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 11 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

13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 12. 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

13. 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

14. No development shall commence until a detailed Arboricultural Method Statement and Tree Protection Plan have been submitted to, and approved in writing by, the Local Planning Authority. The method statement shall include details of foundation design and how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. Thereafter, the development shall be carried out in complete accordance with the approved detail.

Reason: So as to protect to viability of the protected mature trees within close proximity to the application site and to accord with Policy LP33 of the Kirklees Local Plan. This is pre-commencement as it could affect the method of construction of the garden room.

15. Prior to development of the superstructure hereby approved, a swept path analysis must be submitted to, and approved by, the Local Planning Authority. The swept path analysis must demonstrate that all turning manoeuvres into and of the site with a large family car can be made in a safe and efficient manner.

Reason: To ensure adequate parking provision is provided in the interest of highway safety and to accord with LP21 and LP22 of the Kirklees Local Plan.

NOTE: A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof

- Standard charging points for single residential properties that meet the requirements specified in the latest version of "Minimum technical

specification - Electric Vehicle Homecharge Scheme (EVHS)" by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 socket outlet would be acceptable.

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation

NOTE: Due to its location, a bat roost may be present on site. Bats are a European species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether bats are present or not. If bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

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: 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
Location Plan	LOC		30/05/2023
Existing Site Plan	100(01)		30/05/2023
Proposed Site Plan	100(02)	Rev. A	16/02/2024
Proposed Plans and Elevations	100(03)	Rev. B	12/03/2024
Planning Statement	2844		30/05/2023
Coal Mining Risk Assessment	J3596/16/EDS		30/05/2023
Tree Survey	230329		30/05/2023
Arboricultural Impact Assessment	230329a AIA		16/02/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local 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.

Additional information was requested regarding the impact of the proposed development on the adjacent protected trees. A revised Arboricultural Impact Assessment and site plan were submitted following discussions with the agent. This was not readvertised as no additional harm was considered to be caused to residential amenity as a result of the proposed changes.

Report Dated: 30/04/2024