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:	**2023/62/91868/W**
Site Address:	121, Wakefield Road, Fenay Bridge, Huddersfield, HD8 0BJ
Description:	Formation of vehicular access, engineering operations to form parking space with associated retaining walls
Recommending Officer:	Laura Yeadon

DECISION – CONDITIONAL FULL PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

John Holmes

AUTHORISED OFFICER

Date: 13-Nov-2023

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91868

Site Description

121 Wakefield Road is a two storey semi-detached dwelling located within the Green Belt as defined within the Kirklees Local Plan. The property is set in an elevated position above Wakefield Road and is set back from the roadside, separated by a tiered garden set behind and above a low dry stone wall. The house itself is constructed from brick and render and hosts a two storey flat roof extension to the rear elevation. To the rear of the property is larger garden area. There is currently no off-street parking for the property however parking spaces have been created within the front garden areas of the neighbouring properties.

Surrounding development consists of semi-detached properties on both sides of Wakefield Road with an area of woodland subject to TPO beyond the rear boundary.

Description of Proposal

The application is for the formation of vehicular access, engineering operations to form parking space with associated retaining walls.

It is proposed that a section of front garden, including the front boundary wall to allow for a parking space of 2.8m x 6.8 metres to be created. the access steps would be relocated to the east of the plot. It is proposed that a red facing brickwork finished retaining wall would be constructed at a height of 1.485 metres with a 1.1 metre high guardrail above. Behind the red brick would be dense concrete blocks which would act as a retaining structure to land to the north / east of this wall.

The submitted plans indicate that the finish of the parking space would be porous tarmac and that land drains would be incorporated into the design.

History of negotiations/amendments received

No negotiations have taken place with the applicant/agent due to the application being acceptable in its submitted format.

Relevant Planning History

None

Representations

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

Final publicity date expired 15th September 2023 – no representations received

Kirkburton Parish Council – Stated they have no comments to make

Consultation Responses

K.C. Highway Structures – Recommends a condition relating to the submission of an AIP to be approved by the Highway Authority be included.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is within the Green Belt on the Kirklees Local Plan and also falls in an area with a known presence of bats.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and improvement of environmental quality
- **LP 53** – Contaminated and unstable land
- **LP 57** – The extension, alteration or replacement of existing buildings

Supplementary Planning Documents:

- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21st July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Assessment

The following matters are considered in the assessment below –

1) Principle of development and the Green Belt
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 and the Green Belt:

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. LP1 goes on further to stating that:

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

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of

the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – that "extensions and alterations to residential properties should be in keeping with the appearance, scale, design, and local character of the area and the street scene."

- Principle 2 – that "extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and detail."

With specific regard to the House Extensions and Alterations SPD the key designs principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 7: Outdoor space
- Key design principle 9: Construction materials
- Key design principle 11: Water retention
- Key design principle 12: Natural environment
- Key design principle 14: Drainage and flood risk
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage
- Key design principle 17: Access for all users

The above listed policies and guidance within the SPD are taken into account within sections below of this report.

In this instance, the creation of an off-street parking, engineering operations and with associated works including retaining walls can be stated as being acceptable in principle, subject to the assessment of the impact on the Green Belt and on visual and residential amenity, as well as highway safety and any other impacts that may arise. These will be discussed below:

Green Belt

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in Paragraphs 149 and 150.

Paragraph 150 (b) of the NPPF sets out that engineering operations are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.

Further to this, Policy LP57 of the Kirklees Local Plan states that development in the Green Belt will normally be acceptable provided that:

c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard surfacing, curtilages and enclosures and means of access; and d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

The proposal is to excavate part of the garden and erect retaining wall to create a parking space is considered to be 'engineering operations' as set out within paragraph 150 (b) of the NPPF. In this instance and in terms of this application, the engineering operations described are considered to be appropriate development in the Green Belt as they would preserve its openness and would not conflict with the purposes of including land within the Green Belt designation. The works, with the exception of the dropped kerb are confined to the domestic garden of the property within a landscape where significant changes in level are evident. Similar works have been undertaken at the neighbouring properties to the east at No's 125, 127, 129, 131 and 133 Wakefield Road.

It is considered that the works would not result in a greater impact on openness in the treatment of outdoor areas. The remaining garden landscaping would be retained and no other works are proposed that would affect the openness of the Green Belt. The formation of the guardrail above the retaining wall is likely to be permitted development.

When taking into account the visual appearance of the overall works, it is considered that the excavation works and retaining walls would visually be in keeping with their external setting to the principal elevation of 121 Wakefield Road and the adjacent semi-detached properties which have undertaken similar works. The development would not materially detract from its Green Belt setting by virtue of design or materials.

It is therefore considered that the proposal does not constitute inappropriate development in the Green Belt and would accord with policies within Chapter 13 of the NPPF and Policy LP57 of the Kirklees Local Plan.

<u>2 – Impact on visual amenity:</u>

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the

House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

The proposal is for excavation works to the garden area and the installation of retaining walls to retain the front garden area and the creation of a parking space and dropped kerb. Given that there would be no additional built form other than the retaining walls, steps and guardrail, the works would be subservient to the host property and the original principal elevation read as such. The finish of red brickwork to the retaining walls would match that on the host property and is considered to be appropriate, in accordance with Key Design Principles 1, 2 and 9 of the House Extensions and Alterations SPD and Policy LP24 of the Kirklees Local Plan.

it is therefore considered that the proposal would not cause detrimental harm to the visual amenities of the host property of wider locality and is considered to comply with Chapter 12 of the NPPF, policy LP24 of the Kirklees Local Plan and Key Design Principles 1 and 2 of the House Extensions and Alterations SPD.

<u>3 – Impact on residential amenity</u>:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

Given the principle of development, excavation works and retaining walls, it is concluded that the proposal does not result in undue levels of overbearing or overshadowing for the occupiers of any neighbouring properties. It is not considered that a 1.1 metre high guardrail would cause significant harm from overshadowing or being overbearing.

As the remaining garden area would be retained with lawns and soft landscaping it is not considered that the proposed woks would have a significant impact on the amenity of neighbouring properties over and above the existing situation. No works are proposed to the rear of the property and therefore a sufficient amount of garden space would remain in accordance with Key Design Principle 7 of the SPD.

It is therefore considered that the proposed works would cause undue harm to the amenity of neighbouring properties and therefore the works would comply with Key Design Principles 3, 4, 5, 6 and 7 of the SPD, Policy LP24 of the Kirklees Local Plan and advice within the NPPF.

<u>4 – Impact on highway safety</u>:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

In this case the works would not increase the bedroom provision of the property. There is currently no off-street parking to the front of the property and therefore, to provide a space would be of benefit to both the highway and parking provision in accordance with Policies LP21 and LP22 of the Kirklees Local Plan. Access would be provided off Wakefield Road whereby permission will also be required from the Highway Authority under a separate consent regime.

It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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 pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Biodiversity – Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Principle 12 of the Kirklees House Extensions and

Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the fact that albeit the extension will connect into the existing roof, the property in this case appears to be well sealed and maintained with little opportunity for bats.

Land stability –

Policy LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

A large amount of excavation works have taken place in order to construct part of the superstructure of the building. Paragraph 18.2 of the Kirklees Local Plan states that *…"To prevent unacceptable risks from pollution and land stability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health and the natural environment or general amenity, and the potential sensitivity of the area of proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or land owner."* This is also reflected in paragraph 185 of the National Planning Policy Framework.

The Council's Highways Structures Team have been formally consulted regarding the retaining wall and have requested that a condition is included upon any grant of permission requiring design and construction details via the submission of an scheme to be approved in writing by the LPA. Due to the proximity of the proposed retaining walls to the Highway, and removal of an existing retaining structure in proximity to the highway, this is considered to be an appropriate condition to impose. In addition, and for clarity purposes it is considered reasonable and necessary to include a note on the decision notice stating that in terms of land stability and excavation works, it is the developer and/or land owners responsibility for securing a safe development.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous

mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

6 – Representations:

None

7 – Conclusion:

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

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

Recommendation **APPROVE**

Decision Authorisation - Delegated Powers

Application Number: 2023/91868

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 51 of the Planning and Compulsory Purchase Act 2004.

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, LP21, LP22, LP24, LP30. LP51, LP52 and LP57 of the Kirklees Local Plan, Key Design Principles 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 15, 16 and 17 of the Council's adopted Supplementary Planning Document on House Extensions and Alterations and to accord with Policies within Chapters 2, 4, 9, 12, 13, 14 and 15 of the National Planning Policy Framework.

3. Prior to construction of the retaining structures, a scheme shall be submitted to, and approved in writing by, the Local Planning Authority which details the design and construction details of the retaining walls. The construction of the retaining structures shall be undertaken in accordance with the approved scheme and thereafter retained.

Reason: In the interest of the protection of the structural stability of the adjacent public highway in the interests of highway safety and to accord with policies LP21 & LP53 of the Kirklees Local Plan and policies within Chapter 15 of 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: 0800 7318765) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: Please note that it is the developer and/or land owner's responsibility to secure a safe development in relation to land stability and the proposed excavation works.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location plan	TQRQM23066204743524		28th June 2023
Existing site plan and section	(LDS) PD 01		7th August 2023
Proposed site plan and front elevation	(LDS) PD 02		7th August 2023
Proposed sections	(LDS) PD 03		7th August 2023
Proposed block plan	TQRQM23066204743524		22nd June 2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The Case Officer did not undertake any negotiations with the applicant due to the application being considered acceptable in its submitted format.

Report Dated: 8th November 2023

Coal – low