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:	**2023/60/92436/W**
Site Address:	adj, 14, Netheroyd Hill Road, Fixby, Huddersfield, HD2 2LP
Description:	Outline application for erection of detached dwelling
Recommending Officer:	Laura Yeadon

DECISION – Grant Outline Planning Permission

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

Teresa Harlow

AUTHORISED OFFICER

Date: 13-Nov-2023

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92436

Site Description

14 Netheroyd Hill Road is located within an area without notation on the Kirklees Local Plan. The site forms part of the domestic curtilage to the east of No. 14 and is currently used as a lawned garden area with mature landscaping and set on a lower ground level than the floor level of No. 14. A stone wall bounds the site frontage and the area to the east beyond the site boundary is a Council owned woodland. Surrounding development is predominantly residential to the north, south and west and is comprised of mainly semi-detached and detached residential dwellings.

Description of Proposal

Permission is sought for Outline Planning Permission for the erection of one dwelling with all matters reserved. The submitted application form indicates that the property would be a three bedroom dwelling for market housing. An indicative drawing has been submitted which demonstrates that the dwelling would sit centrally within the plot with vehicular access taken from Netheroyd Hill Road. The access incorporates internal turning provision and the plans also indicates that 2 no. trees which would need to be removed within the Council-owned woodland which encroach onto the eastern site boundary.

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

2002/92208 Outline application for erection of detached dwelling
Conditional Outline Permission

2005/93052 Renewal of unimplemented outline permission for erection of detached dwelling
Conditional Outline Permission

2008/92666 Outline application for erection of 1 detached dwelling
Conditional Outline Permission

2011/91994 Outline application for one detached dwelling
Conditional Outline Permission

2014/92650 Outline application for one detached dwelling
Conditional Full Permission

2017/92689 Outline application for erection of detached dwelling
Conditional Outline Permission

2020/92388 Outline application for erection of detached dwelling
Conditional Outline Permission

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 9th November 2023 – no representations received

Parish/ Town Council – not applicable

Consultation Responses

K.C. Arboricultural officer – no objection

K.C. Highways Development Management – no objection subject to conditions relating to sightlines, parking and layout scheme and surfacing and drainage being imposed on the decision notice

Policy

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

The site is unallocated on the Kirklees Local Plan Proposals Map.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 20** – Sustainable Travel
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 43** – Waste Management Hierarchy
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- Housebuilders Design Guide 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 5th September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 8** – Promoting Healthy and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **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 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 (NPPF). Policy LP1 goes further, 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.”

The Local Plan identifies that a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

The 2023 update of the five-year housing land supply position of 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 to 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 (NNPF 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 demonstrates a five-year supply of housing and weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement for application, where applicable, will be set out in the officer's assessment.

As outlined above, the site has been historically established as an acceptable site for development given the numerous approvals of Outline Planning Permission. Previous reports have cited that:

….."The proposal is considered to be sustainable because:

- *The site is considered to be in a sustainable location which offers good access to jobs, key services and infrastructure;*
- *The proposal would make an effective use of the site and would assist in the delivery of housing within the district;*
- *The indicative layout of the dwellings would also be similar to the pattern of development in the local area and would be of similar density."*

It was also previously considered that the value of site as a green space (garden area) does not outweigh the benefits of housing provision within a sustainable area. This is currently of consideration especially given the lack of a five-year land supply and the 'tilted balance' in favour of development.

Under Chapter 11 of the NPPF, planning decisions should support development that makes "efficient use of land" taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, "Achieving well-designed places", should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise

the potential of the site to accommodate development and create safe and accessible environments.

It is considered that the principle of development is acceptable in accordance with the sustainability principles of the NPPF and also LP1 of the Kirklees Local Plan. Guidance within the Housebuilders Design Guide SPD will also inform the decision.

Impact on amenity:

The principle of the development has been established under a number of previous applications and the current submission is identical to the previous submission in 2020. Since the approval of the previous application, the Council has adopted a Housebuilders Design Guide SPD (June 2021) whereby Principles have been identified which assists and considered good design which supports the Kirklees Local Plan.

Whilst it is noted that all matters are reserved under this application, the following Principles are considered relevant:

- Principle 2 – new development should take cues from the character of the built and natural environment within the locality, complements the surrounding built form of development and illustrates how landscaping opportunities have been used
- Principle 8 – transition from urban to open land should be carefully considered
- Principle 9 – provision of net gains in biodiversity with ecological enhancements integral to the design of the development

The previous Officer Report considered that the size of the site was sufficient to accommodate a dwelling and that a dwelling could be designed to harmonise with the host property and also the wider pattern of development in the wider street scene. There have been no material changes to planning policies that would alter this view and, subject to taking into account the relevant Principles of the SPD, a detailed scheme would continue to align with adopted Policy.

There is a Council owned woodland to the side of the site and the proximity of the woodland will need to be taken into consideration as part of any future application.

It is considered that a dwelling could be sensitively designed to have an acceptable impact on both visual and residential amenity. All issues in relation to the final layout of the site, access, scale, design and appearance would be considered at either Reserved Matters stage or should an application for Full Permission be submitted.

As with the previous assessment, the adjacent property, No. 14 is constructed in stone and to ensure that the materials are in keeping, a condition will be attached to the decision notice regarding the submission of samples should the development site progress with a further application.

In line with previous approvals, it is considered that the application site can accommodate a dwelling without undue detriment to the surrounding area. The proposal would accord with policy LP24 of the Kirklees Local Plan, the SPD and advice within the National Planning Policy Framework.

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees 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."*

Officers consider that there is adequate room on the site to accord with Principles 16 and 17 of the Kirklees Housebuilders Design Guide SPD so that the future occupiers benefit from an adequate standard of amenity. Whilst the proposal would result in the loss of garden space for No.14, given the amount of private garden retained, it is considered that No.14 would benefit from a good standard of external amenity space too.

Given the above, in respect of future residential amenity, it is considered that the proposed development complies with Local Plan Policy LP24 (b), and Chapter 12 of the National Planning Policy Framework.

Trees:

Policy LP33 of the Kirklees Local Plan states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. This Policy goes on to note that proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks.

Whilst the principle of the development is considered acceptable, the location of the Council Woodland to the east of the site is a material consideration when assessing the development potential of the site. The Council's Tree Officer has raised no objection to the principle of the erection of a dwelling. As there are no proposed alterations to the indicative plans submitted from the previous approval, it is considered reasonable and necessary to reimpose the condition requiring details of the works to the trees to be submitted prior to work being carried out on site. This would accord with Policy LP33 of the Local Plan, Principles enshrined within the SPD and the NPPF.

Highways:

Paragraph 109 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. Policy LP21 (b) goes on to note that all proposals shall, where needed, provide new infrastructure or improvements on or off site to ensure safe access from the highway network for pedestrians, cyclists, public transport users and private vehicles.

Formal comments have been received from the Highways Team as part of this application process. Officers consider that their views have not changed from the latest 2020 permission in terms of highway safety. Conditions are requested in relation to the submission of details for layout and parking, sight lines and permeable surfacing and also a note to advise the developer that further consent would be required for a dropped crossing. This is in line with previous recommendations for the development site. Therefore, subject to the imposition of these conditions, the proposal would accord with Policies LP21 and LP22 of the Kirklees Local Plan, the SPDs and Policies within the NPPF.

Other matters:

Climate Change – Principle 18 of the Housebuilders Design Guide SPD sets out the expectations of how a development would respond to the Climate Change emergency.

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.

A Climate Change Statement has been submitted which indicate that the maximum thermal insulation levels will be achieved wherever possible and that the materials and contractors would be locally sourced. This is considered acceptable in this instance for an outline application, further details would be required when assessing the details of a full application or approval of reserved matters.

Air Quality – In accordance with government guidance on air quality mitigation, outlined within the NPPG, NPPF, together with the West Yorkshire Low Emissions Strategy, SPD and Policy LP24 of the Kirklees Local Plan it is considered reasonable and necessary to condition that the proposed dwelling has an electric vehicle charging point. The purpose of this is to promote modes of transport with low impact on air quality.

Biodiversity –

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

The site mostly consists of managed lawn, but there are some trees within/adjoining the site..

In addition to this, and as noted above, 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. Officers consider there is scope to provide net gains at the site and this can be dealt with at the reserved matters stage/through the EDS highlighted in the following paragraph.

The site does not support important ecological features other than the trees however as the site is located within a bat layer and adjacent to the Habitat Network further consideration is required with regards to biodiversity mitigation and enhancement and thus satisfying LP 30(i) and the SPD. In order to demonstrate a biodiversity net gain required under LP 30 (ii) and (v) a condition is considered necessary in respect of an Ecological Design Strategy to encompass all aspects of mitigation in respect of the sensitive location of the site.

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.

Representations:

None

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: 2023/92436

Officer Recommendation: Approve

Conditions:

1. Approval of the details of the layout, access, scale, appearance and landscaping of the site (hereinafter called the 'reserved matters') shall be obtained from the Local Planning Authority in writing before development is commenced.
   Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

1. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the layout, access, scale, appearance and landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.
   Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

2. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
   Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

4. The superstructure of the dwelling shall not commence until samples of all facing and roofing materials have been left on site for the inspection and approved in writing by the Local Planning Authority, and the development shall thereafter be constructed of the approved materials.
   Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principles set out in the Council's Housebuilders Design Guide SPD and Policy within Chapter 12 of the National Planning Policy Framework.

5. Sightlines of 2m x site frontage shall be cleared of all obstructions to visibility exceeding 1 m in height before the dwelling is first occupied and these shall be retained thereafter free of any such obstruction.
   Reason: To ensure adequate visibility in the interests of highway safety and to accord with Policies LP21 and LP22 of the Kirklees Local Plan and Policy within Chapter 9 of the National Planning Policy Framework.

6. Prior to the development being brought into use, vehicle parking areas shall be surfaced and drained 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 (ISBN 9781409804864) as amended or superseded; and thereafter retained as such.
   Reason: In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements, to avoid an increase in surface water run-off increasing flood risk and parking and in accordance with Policy LP24 of the Kirklees Local Plan and Policy within Chapter 14 of the National Planning Policy Framework.

7. All work on trees, pursuant to this permission shall be carried out to British Standard 3998. Details of all such work shall be submitted to and approved in writing by the Local Planning Authority prior to the work being carried out and the works shall be carried out in accordance with the approved details.
   Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Kirklees Local Plan, Principle 8 of the Housebuilders Design Guide SPD and Policy within Chapter 12 and 15 of the National Planning Policy Framework.

8. Notwithstanding the details shown on the approved plan, which are for illustrative purposes only, no development shall take place until reserved

matters of the detailed arrangements and specification for access and layout of car parking have been submitted to and approved in writing by the Local Planning Authority. Before the dwelling is occupied the development shall be completed in accordance with the details shown on the approved plans and retained thereafter.
Reason: To ensure and suitable access and layout in the interests of highway safety and to accord with Policies LP21, LP22 and LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

9. Before the first occupation of the dwelling, one electric vehicle recharging point shall be provided in the integral garage or parking areas for the dwelling. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.
Reason: To encourage ultra-low emission vehicles in the interests of air quality and accord with the guidance contained the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies LP 21 and LP24 of the Kirklees Local Plan and Principle 18 of the Housebuilders Design Guide SPD.

10. Any application for the reserved matter of 'landscape' and 'appearance' shall include an ecological design strategy (EDS) addressing mitigation and enhancement of biodiversity.

    The EDS shall include the following.

    a. Purpose and conservation objectives for the proposed ecological works.
    b. Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges. Habitat boxes to be integral to new structures where appropriate.
    c. Details of how the design of boundary treatments will not obstruct the movement of hedgehogs.
    d. Details on how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not have negative impacts on the Kirklees Wildlife Habitat Network.
    e. Planting schedule and planting plan, including timetable for works, showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose.
    f. Details of maintenance.

    The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
    Reason: To ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net

gain in accordance with policy LP 30 of the Kirklees Local Plan and Principle 9 of the Housebuilders Design Guide SPD.

NOTE: The details of tree removal on the indicative layout plan are treated as illustrative only.

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, (Kirklees Street Scene: 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: 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 13.00 hours, Saturdays
With no working on Sundays or Bank Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60, Kirklees Environmental Services are able to control noise on construction sites by serving a Notice which may include specifying the hours during which the works may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Covering letter	HG/JC/2366		15th August 2023
Location plan	2366-LOC		15th August 2023
Proposed site plan	2366-01A		15th August 2023
Climate Change Statement	Appendix A		18th August 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 acceptable in its submitted format.

Report Dated: | 13th November 2023

Coal – low