

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:	2023/62/92751/W
Site Address:	rear of, 19, Helme Lane, Meltham, Holmfirth, HD9 5PF
Description:	Erection of detached dwelling
Recommending Officer:	John Holmes

DECISION – Conditional Full Permission

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

Teresa Harlow

AUTHORISED OFFICER

Date: 20th December 2023

OFFICER REPORT – 2023/92751

THE SITE

The application site relates to an area of garden land to the rear of properties 19 – 27 Helme Lane. The site is accessed from an existing vehicle access point to the eastern boundary of the site which is adjacent to Helme Lane and to the north of no.27.

The site is surrounded by dwellings to the north, east, south and west which are of varying type, age and design. The site hosts a number of mature trees adjacent to the northern boundary.

THE PROPOSAL

The Scheme

The applicant is seeking permission for the erection of a part single storey and part two storey detached dwelling.

One part of the dwelling would be single storey at 4.2m in height to the topmost part of the roof and 2.5m to the eaves. This element would be of a lean to design and located the south eastern (side) of the proposal. The two storey element would be 5m in height to the eaves and 7.2m in height to the ridge.

The proposal would be a 3 bed dwelling with a floorspace of 108m²

Amenity space which is private is located to the west of the dwelling and would comprise approximately 140m² with other areas of amenity space to the north, south and west of the dwelling also forming part of the development.

Parking is proposed to the east of the dwelling with a driveway of a depth of 9m proposed, to the west of the driveway is an area of land which could accommodate parking. It is considered that three usable off street parking spaces could be achieved within this area / upon the driveway. An existing building annotated 'Stone Garage' is located to the north eastern part of the site and relates to an existing building which was clearly in use as a store / garage at the time of the Case Officer site visit.

PLANNING HISTORY

The most relevant planning history relates to the following planning applications

2021/93886 - Erection of detached dwelling – **Refused** 28th June 2023 for the following reasons:

1. By virtue of the proximity of the dwelling to the rear elevations of nos. 21 – 27 Helme Lane, raised land level upon which the dwelling would be sited, and the design of the dwelling, the development would have a detrimental overbearing impact which would be unacceptably oppressive to occupiers of these adjacent dwellings. In addition, the development would detrimentally impact upon the outlook and general residential amenity the occupiers of nos. 21 – 27 Helme Lane currently enjoy. The development would be contrary to policy LP24b of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Policies within Chapter 12 of the National Planning Policy Framework.
2. As a result of the proximity of the development to existing trees, the development would threaten the viability of trees of significant amenity, including protected trees. This would lead to a high likelihood of tree loss to the detriment of the visual amenity of the locality. This would be contrary to Policies LP24(j), LP33 of the Kirklees Local Plan and Policy within Chapter 12 of the National Planning Policy Framework.

Whether these reasons for refusal have been overcome is discussed in the 'Assessment' section of this report.

2012/92755 – Erection detached garden/implements store and demolition of existing garage – **Approved** 13th November 2012

2013/92291 – Erection of detached garden/implements store – **Approved** 17th September 2013

92/00977 – Erection of detached bungalow with single garage – **Refused** 17th June 1992 for the following reason: -

The proposed siting of the dwelling would be detrimental to the amenities of the occupiers of nearby residential property and would be prejudicial to the development of adjoining land.

This was for a single storey dwelling which was proposed to be 5.3m in height to the ridge, with small hips to either side (4.5m high). It was proposed that additional access would be created to the rear of 21 – 27 Helme Lane to provide access to a integral garage and a turning area was also proposed. The single storey dwelling proposed as part of this 1992 application was to the corner of the site with a 2m strip from the north eastern elevation from the shared boundary.

A subsequent appeal to this refusal was dismissed by the planning Inspectorate on 23rd October 1992.

Within the 1992 appeal decision letter of the Inspectorate (dated 23rd October 1992) paragraph 4 sets out the following:

'Bearing in mind the functions of those rooms in the adjacent cottages which face the application site – downstairs kitchens and first floor bathrooms - I do not foresee overlooking and loss of privacy from bungalow to cottages becoming unreasonable. Windows would not face windows and the end walls of the bungalow would be windowless. Neither do I consider that the physical impact of the bungalow on, existing residents would be unacceptable for it would be single storey, albeit slightly higher than the ground floor of the cottages, and all but a small corner of it would conform to the council's 12.2 metre guideline. However, in siting the bungalow to conform with the Council's guidelines for distances between dwellings the bungalow would be very close to the south-west and north-west boundaries of the site, overlapping the canopies and, most likely, the root spread of the boundary trees. I must take account of the outline planning permission for residential development granted on the adjoining site to the south-west of your client's site. The main windows of the bungalow would face towards that site. They would be only about 2.5 - 4 metres from the boundary fence and inevitably would be overlooked if houses were to be built on the adjoining site notwithstanding the proposed 2m fence - which, in itself, would constrict severely the outlook from the bungalow. As you know, the Council's standards require a distance of 21 metres between the main elevations of dwellings in order to maintain reasonable standards of privacy. In my experience, that is neither unreasonable nor unusual. Though the details of the development of the adjoining site are unknown to me, I consider it to be unreasonable for your client's site to contribute such a small amount of the privacy distance and I agree with the Council that, where positioned, the bungalow could prejudice the development of the adjoining site.'

In addition to the above the 1992 application saw the access to the site run to the rear of the row of dwellings 21 – 27, and also include a turning area in this location. The current proposal would see access taken from existing areas already utilized by vehicles and no additional access created.

Whether the current proposal is acceptable in relation to the amenities of neighbouring occupiers, in light of the 1992 decision, is taken into account within the 'Assessment' section of this report.

REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application was initially publicised on the Council's website and by neighbour notification letter. The expiry date of the publicity period was the 30th October 2023. No representations have been received.

Meltham Town Council – were notified with no comments received.

HISTORY OF NEGOTIATIONS

During the previous (2021) application the following constitutes a summary of negotiations during the processing of the application:-

- 18th October 2021 email, requesting block plan and confirmation in relation to parking for no.27.
- 19th October 2021 email proving confirmation in relation to parking and with attached block plan.
- 7th February 2022 email confirming further information in relation to the response of the Tree Officer would be submitted, raising concern in relation to the impact of the development to neighbouring occupiers in light of the planning history of the site and also requesting confirmation in relation to some discrepancies within submitted drawing 2020/063/03
- 17th February 2022 email confirming request of Highways for amended block plan to be submitted
- Email 22nd August requesting how wish to proceed, subsequent emails 12th and 30th September agreeing a further extension of time to 15th November
- Email received 8th February 2023 from applicants' agent with attached amended plans, Arboricultural Impact Assessment and Tree Survey
- Email 8th April requesting confirmation as to how wish to proceed in light of emails dated 7th and 17th February 2022 – subsequent emails agreeing an extension of time to 30th May.
- Email exchange 23rd May agreeing to a target of 30th June

This application has been submitted in light of the above and the decision upon the 2021 application.

CONSULTATIONS

The following consultations have been undertaken for this application with the summarised responses listed below.

Kirklees Council Arboricultural Team – No objection subject to conditions

Kirklees Council Highways Team – No objection

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

It is noted that the Council's Ecology Team, within their consultation response to the 2021 application raised no objection subject to condition requiring the detail and position of a sparrow nest box.

ALLOCATION AND POLICIES

The site is unallocated land as identified within the Kirklees Local Plan (adopted 2019). The site is located within an area at low risk of ground movement resulting from former mining activity, an area with a known presence of radon gas and an area with a known presence of twite birds.

The following legislation, policy and guidance is considered relevant to the determination of this application:-

Kirklees Local Plan

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP3 Location of new development
- LP7 Efficient and effective use of land and buildings
- LP11 Housing Mix and Affordable Housing
- LP21 Highway and Access
- LP22 Parking
- LP24 Design
- LP30 - Biodiversity
- LP33 Trees
- LP51 Protection and Improvement of Local Air Quality
- LP53 Contaminated and Unstable land

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. In this case the Technical housing standards – nationally described space standard guidance document (dated March 2015) is considered to be of relevance

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

- Chapter 2 Achieving sustainable development
- Chapter 9 Promoting sustainable transport
- Chapter 11 Making effective use of land
- Chapter 12 Achieving well-designed places
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conserving and enhancing the natural environment

Supplementary Planning Documents

- Kirklees Highway Design Guide (adopted November 2019)
- Housebuilders Design Guide SPD (adopted June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.
The Conservation of Habitats and Species Regulations 2017

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Impact upon the character and appearance of the area (including impact upon historic environment)
2. Impact upon residential amenity
3. Impact upon highway safety
4. Climate Change
5. Impact upon Trees
6. Impact upon Ecology
7. Impact upon Drainage / Flood Risk
8. Impact upon Land Quality
9. Impact upon Land Stability
10. Conclusion

1 – Principle of Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Policy LP3 of the Kirklees Local Plan is also of relevance insofar as it requires development to deliver homes in a sustainable way. Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved.

The site is 700m² which would see a density of development of approximately 14 dwellings per hectare. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

In this case the access and parking arrangements, in relation to surrounding properties as well as the proximity of the site to surrounding dwellings, and mature trees, is such that it would be unlikely that any higher density of development of the site could be achieved. It is therefore considered that to require a higher density of development would lead to issues in relation to other considerations which are material to the determination of this case and in this instance the lower density of development can be accepted.

Policy LP11 of the Kirklees Local Plan requires that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.

Paragraph 76 of the NPPF sets out the following:

'Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.'*

The Council's local plan is less than 5 years old and identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations, which are addressed within the following report.

2 – Impact on character and appearance of the area

Visual Amenity

Policies within chapter 12 of the NPPF seek to ensure development has an acceptable visual impact. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Policy LP11 sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. To avoid dominating the street, principle 12 states parking to the front will need creative design solutions to be incorporated. Consideration of the use of locally prevalent materials is required by principle 13. The design of windows and doors to relate well to the street frontage and neighbouring properties is required by principle 14. Principle 15 sets out that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.

The proposal would introduce a new dwelling in a rear the amenity space, which is behind the rear of neighbouring dwellings. The locality is a mix of house type and design.

It is considered that to introduce a further house type in this locality would not have a significant visual impact and the overall design of the proposal would suitably integrate into the wider locality taking account of the design of the dwelling and that of neighbouring residential developments which are of varying ages, house type and design.

The submitted plans show that dwellings to the south / east of the site have a ridge height of 212.2m above ordnance datum (AOD). The site is between 206m and 207m AOD in the location where the dwelling would be sited. The dwelling is such that it would be partially visible from some distant viewpoints in the street although it is considered this would not be viewed as significantly out of character for the locality.

It is recommended that any grant of permission is subject to condition requiring the materials of construction to be natural stone and blue slates. The submitted plans show a section through which details the dwellings which back on to the site (nos. 21 – 27) given that AOD heights are provided for these in relation to the eaves height it is considered that the finished slab level of the dwelling is clearly shown in the submitted plans and subject to condition requiring the finished levels to be in accordance with this plan the proposal is acceptable in this regard.

The submitted plans detail the boundaries of the site, and that they would largely remain as in place already. It is recommended that any grant of permission requires these to be in place.

Subject to conditions the overall design of the proposal is, with regard to visual impact, considered to be acceptable having regard to the aforementioned policies.

3. Impact on Residential Amenity

A core planning principle as set out in the Chapter 12 of the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the House Builders Design Guide sets out 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 NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development. Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Chapter 12 of the NPPF sets out that *'Planning policies and decisions should ensure that developments... f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'*

Principle 17 of the Council's adopted Housebuilders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015), noting this is not an adopted Policy of the LPA but is a good starting point by which to assess a good standard of residential amenity.

No.s 14 and 16 Berry Road are at distances of between 13.7 and 18.1m from the northern elevation of the dwelling. These properties are at a higher land level and whilst they have main habitable rooms facing the site, these would face the largely blank elevation of the proposal (other than a window serving a bathroom). It is not considered a significant impact as a result of overlooking or the development being unduly oppressive / overbearing would arise in relation to no.s 14 and 16 as a result of the development.

The dwelling would be 5.7m from the shared boundary with nos.1 and no.2 Heritage Court with the rear of the dwelling being a total distance of 12m from no.2 and 18m from no.1. Mature trees and planting separate the proposal and these properties from being able to overlook one another.

There are main habitable rooms at the ground floor of no.2 and bedroom windows at the first floor of no.2 which would face the proposed dwelling (albeit currently separated by mature planting).

Within the elevation of no.1 facing the dwelling are main habitable rooms at ground floor and bedroom windows at the first floor. No.1 has a large addition to the rear which appears to be over 4m projection, although has been in place since at least 2018 and is therefore lawful development. As such the distance of the proposals' western elevation to the eastern elevations of nos.1 and 2 would be approximately 10.8m from no.2 and 19m from no.1.

Within the elevation of no.1 facing the dwelling are main habitable rooms at ground floor and bedroom windows at the first floor. No.1 has a large addition to the rear which appears to be over 4m projection, although has been in place since at least 2018 and is therefore lawful development. As such the distance of the proposals' western elevation to the eastern elevations of nos.1 and 2 would be approximately 10.8m from no.2 and 19m from no.1.

At the ground floor are main habitable rooms / openings facing no.1 and no.2 and at the first floor would be a bathroom and also a bedroom window. The boundary is indicated to be a 1.2m high wall on the submitted plan. It is clear from the site visit that screening appears to be in place with fences and also planting. It is noted a 2m high fence could be erected within the curtilage of no.1 and no.2 and it appears this is the case already.

Taking account existing screening which is in place and the distances of the of the proposal and nos. 1 and 2, it is considered overlooking resulting from ground floor windows between these properties would not be significant. In addition it is considered that, taking account of the slightly oblique angle of the proposal in relation to no.2 and the distances, the impact of the first floor bedroom window would not be of such significance to warrant refusal and the proposal is acceptable in this regard.

Furthermore, taking account of the distances of the proposal between nos. 1 and 2 it is considered that the proposal would not have a detrimental impact upon daylight for these properties and would not have an unduly oppressive / overbearing impact such that the proposal is concluded as acceptable in this regard also.

The submitted plans show that the dwelling would be between 7.2m and 10.4m from no.s 21 – 27 Helme Lane. Although the submitted drawing shows the rear of these properties as a straight line, analysis of OS maps and aerial photographs shows these dwellings to feature recessed elements.

The submitted plans only demonstrate the first floor rear wall and not the additions to these properties which have been added at a later date. As such, whilst the distances shown on the submitted drawing indicate the distance of the proposal would be between 10.4m – 14m from the rear of properties 21 – 27 this distance decreases to between 6.2m and 10.29m when taken from the rearmost parts of these properties.

Nos. 21 – 27 have limited areas for amenity space, these dwellings are also at a lower land level. The submitted plans indicate the land level of the site at 207m AOD on average. However, the land level at which 21 – 27 sit at is between 204.5 and 205.5 (approx). As such the site is at an elevated position of almost 1.5m above the ground level of nos. 21 – 27.

During the consideration of the previous application it was considered that the design of the dwelling was such that it would have a detrimental impact to the occupiers of nos. 21 – 27 Helme Lane by virtue of the proximity of the dwelling to the rear of these properties, and the resultant impact it would have in relation to being an overbearing and oppressive building which would impact upon the outlook and enjoyment the dwellings which face the southern elevation of the proposal.

The proposal has seen the scheme reduced in terms of overall scale and also through the creation of a single storey element closest to these dwellings (rather than partially smaller two storey element with a room in the roof-space and dormer roof as previously proposed). The scheme is considered to have been suitably revised down in scale such that it would not lead to a detrimental impact on the amenities of occupiers of neighbouring properties. Notwithstanding this conclusion, it is noted that the construction of further extensions which detrimentally impact on neighbouring properties could be undertaken under permitted development rights and it is considered that in the event of any approval exceptional circumstances exist in this case to justify the removal of householder permitted development rights.

The existing boundary treatment at the site on the boundary with nos. 21 - 27 is mature planting and it is considered that subject to condition that the boundaries are retained as per the submitted plans the proposal would not have a significant impact on neighbouring occupiers as a result of boundary treatments. To ensure none which are of a significant size are subsequently erected it is recommended that permitted development rights for the erection of fences are removed as a condition of any grant of permission.

The development is considered to be of a size that would accord with the NDSS space standards. The level of amenity space provision is considered to be acceptable for use by the occupiers of the host property and would accommodate areas of private space. As such it is considered that the proposal would have an acceptable impact for the future occupiers of the dwelling, in accordance with principles 16 and 17 of the Housebuilders Design Guide SPD.

With regard to construction noise and dust, given the scale of the development and fact separate legislation can control nuisance operations during the construction phase, it is considered it would be unreasonable of the LPA to require submission of a Construction Environmental Management Plan as part of this application.

It is considered that the impact of the proposal upon neighbouring occupiers has been overcome by the scheme put forward as part of this application through the reduction in the size / scale of the dwelling and the part single storey element which would be closest to properties to the south of the site. Subject to conditions it is concluded the proposal is acceptable in this regard.

The 1992 application is noted, although it is considered there are significant differences which is such limited weight can be afforded that application in this case, in particular the subsequent development of neighbouring land and the access arrangements for the 1992 application. The proposal is therefore considered to have suitably addressed this previous reason for refusal also.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF 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 Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

The Council's Highways Team have stated they have no objection to the proposal.

The submitted plans set out that 3.no spaces would be provided for the dwelling. The site would also allow for bin storage within the curtilage of the dwelling and away from the street / public view.

It was queried as to whether there would be an impact to parking for the property adjoining the access (no.27). It was subsequently confirmed there would be no impact to the current parking provision for no.27.

It is concluded that, taking account of the further submitted detail and response of the Highways Team, the proposal would have an acceptable impact upon access and highway safety and would accord with the aforementioned policies.

5. 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.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The proposal would, as part of the construction phase, have an impact / carbon footprint through use of materials / natural resources. Notwithstanding this point it is considered that suitable mitigation for the development, given its scale, would be the provision of an electric vehicle charging point (as a condition of any approval) to contribute / encourage the use of low emissions vehicles and contribute to improving air quality in the district overall.

6. Impact upon Trees

Policy LP24(j) requires that proposals ensure good design by the retention of valuable or important 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 stating the following: -

'The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity'

A Tree Survey and an Arboricultural Impact Assessment (ref: 211205 AIA) and Tree Survey (ref: 211205a) have been submitted. The submitted AIA is accompanied by a plan which details the location of tree protective fencing and also the root protection areas (RPA's) of the trees close or within the site which are mature trees and a number of which are protected. An area shaded green on the plan submitted as part of the AIA details an area to be protected by suitable boards over a non compressible layer during the construction phase of the development.

Following review of the submitted detail the Council's Arboricultural Team advise they have no objection subject to the following conditions:

- A final plan be agreed that specifies the formation of the fencing, signage and states when the tree protection measures will be installed and removed during the development following the guidance in BS5837:2012.
- Agreement of the position and routing of above and underground services.
- That new hard surfaces within the RPAs of retained trees be constructed with a "no dig" cellular confinement system.

It is considered that as there is no realistic reason for hard surfacing in root protection areas being required given the layout of the site which is proposed,

in the interests of protection of trees, any grant of permission requires no hard surfacing in the areas shaded grey and / or green in the submitted plan titled 'Tree Protection Plan' within Appendix 2 of the submitted AIA. It is recommended this is ensured by a condition upon any grant of permission. Furthermore, it is noted that works undertaken by utilising pd rights in terms of outbuildings or extensions could have a significant impact upon trees and it is recommended these are removed as a condition of any permission to ensure the continued protection of the trees once the proposal is brought into use. It is recommended the other conditions recommended by the Council's Arboricultural Team are included upon any grant of permission. Subject to condition, taking account of the re siting of the dwelling within the site, and the reduced scale of the proposal which is being applied for in this case, the proposal would have an acceptable impact upon trees and the previous reason for refusal has been overcome in this regard. It is considered that, taking account of the submitted detail and the response of the Council's Tree Officer, as well as the requirements of policies LP24 and LP33, the proposal has overcome the previous reason for refusal in relation to trees and subject to inclusion of the recommended conditions is acceptable in this regard.

7. Impact upon ecology

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 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. Which seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided.

The proposal would see redevelopment of the garden space which would impact upon biodiversity. The Council's ecologist was consulted regarding the previous proposal and stated that they consider the impact to be minimal and recommended that a low level form of mitigation from the inclusion of a sparrow nest box be included as part of the development, and secured by condition.

Taking account of the scale of the proposal and response of the Council's ecologist it is considered the proposal would be acceptable in this regard, and subject to condition, would meet the requirements of the aforementioned policies.

8. Impact upon Drainage

Policy LP28 of the Kirklees Local Plan, Section 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage.

The site is in an area at low risk of flooding. The proposal would likely tie into the existing drainage infrastructure with regard to foul and seek to use sustainable drainage methods, such as soakaways, in the event they would be suitable. Given this is a requirement of gaining building regulations consent it is considered it is unnecessary in this case to require the submission of further detail in relation to drainage / flood risk.

9. Impact upon Land Quality

With regard to land quality, the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

The site is within an area with a known presence of radon gas, notwithstanding this point it is considered that it would be unreasonable of the LPA to require an assessment of land quality given that radon would be addressed at the building regulations stage. As such the proposal is concluded to be acceptable in this regard, in accordance with the aforementioned policy.

10. Impact upon Land Stability

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.

12. 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.

As detailed within sections 3 & 6 of this report, the proposal is considered to have overcome the previous reasons for refusal of application 2021/93886 and approval is therefore recommended.

The principle of development is considered to be acceptable and there are considered to be no site specific reason(s) to withhold planning permission in this case. The proposal is concluded to have overcome previous reasons for refusal for residential development of the site and conditional approval is therefore recommended.

Recommendation: Approve

Decision Authorisation – Delegated Powers

Application Number: 2023/92751

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 (as amended).

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 to accord with Policies LP01, LP02, LP3, LP7, LP11, LP21, LP22, LP24, LP30, LP33, LP51 & LP53 of the Kirklees Local Plan, principles 4, 6, 7, 13, 14, 16, 17, 18 and 19 of the Housebuilders Design Guide SPD, and Policies within Chapters 2, 9, 11, 12, 14 and 15 of the National Planning Policy Framework

3. The external materials of construction of the development hereby approved shall be coursed natural stone walls and natural blue slate roofing materials which shall be thereafter retained.

Reason: In the interests of visual amenity to accord with Policies LP11 & LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

4. The finished floor and slab levels of the development shall be in accordance with those shown on submitted drawing ref: 2020/063/04. The development shall not be brought into use until the finished floor and slab levels approved by this condition have been completed. The approved finished floor and slab levels shall be so retained for the lifetime of the development.

Reason: In the interests of visual amenity to accord with Policies LP11 & LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

5. The boundary treatments of the development shall be in accordance with those detailed within submitted drawing ref: 2020/063/04. The development shall not be brought into use until the boundary treatments details upon submitted drawing ref: 2020/063/04 have been completed. The boundary treatments approved by this condition shall be thereafter retained.

Reason: In the interests of visual amenity to accord with Policies LP11 & LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

6. 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) no development included within Class(es) A, B and E of Part 1 and within Class A of Part 2 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of residential amenity and the protection of trees to accord with policies LP24 and LP33 of the Kirklees Local Plan, principle 6 of the Council's adopted Housebuilders Design Guide and policies within Chapters 12 and 15 of the National Planning Policy Framework.

7. Development shall not commence until a Tree Protection Plan indicating the location and a specification of Tree Protective Fencing has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the formation of the fencing, signage and state when the tree protection measures will be installed and removed during the development following the guidance in BS5837:2012. The Local Planning Authority shall be notified in writing of the erection of the tree protection fencing and notified in writing that the tree protection plan has been implemented in accordance with the approved details. The approved protective fencing and measures shall be retained and maintained for the duration of the construction period.

Reason: A pre commencement condition is necessary to ensure trees are protected during the construction period, in the interests of visual amenity, and to safeguard the visual amenity provided by the trees on the site to accord with Policy LP33 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

8. Construction of the dwelling hereby approved shall not proceed above slab level until a scheme detail the position and routing of above and underground services has been submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. The approved scheme shall thereafter be retained.

Reason: To ensure trees are protected during the construction period, in the interests of visual amenity, and to safeguard the visual amenity provided by the trees on the site to accord with Policy LP33 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

9 There shall be no hard surfacing undertaken in the areas shaded grey and / or green in the submitted plan titled 'Tree Protection Plan' within Appendix 2 of the submitted Arboricultural Impact Assessment (ref: 211205 AIA).

Reason: To ensure trees are protected during the construction period, in the interests of visual amenity, and to safeguard the visual amenity provided by the trees on the site to accord with Policy LP33 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

10 The development shall not be brought into use until a scheme has been submitted to and approved in writing by the Local Planning Authority which details the positioning, specification and location of a Sparrow Nest Box within the site. The development shall not be brought into use until the approved scheme has been completed and which shall be retained thereafter.

Reason: to provide an enhancement to biodiversity to accord with policy LP30 of the Kirklees Local Plan and the requirements of section 15 of the National Planning Policy Framework.

11. Before the occupation of the hereby approved dwelling, one electric vehicle recharging point shall be provided either within the dedicated parking space. 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 point 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 in Chapter 9 and Chapter 15 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies LP24 and LP51 of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed Plans	2020/063/04	-	15 th September 2023
Location Plan	LP01	-	15 th September 2023
Application Form	-	-	15 th September 2023
Tree Survey	211205a		21 st September 2023
Arboricultural Impact Assessment	211205 AIA		21 st September 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. No further information or amended plans were requested in this case on the basis the application was considered acceptable.

Report Dated:

20th December 2023

Coal – low

