

**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:	<b>2023/62/92859/E</b>
Site Address:	8, Heaton Road, Upper Batley, Batley, WF17 0AT
Description:	Demolition of existing dwelling and erection of one detached dwelling (Within a Conservation Area)
Recommending Officer:	Nicole Helliwell

**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.**

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 19 December 2023**

## **Officer Report**

### **Site Description**

The application site relates to 8 Heaton Road, a two storey detached property located in Upper Batley, Batley. The topography changes from the south-west to the north-east and the site is accessed via Heaton Road. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The surrounding dwellings are highly varied in age, size, style, and materials. There are no listed buildings or Public Rights of Way (PROW) within close proximity of the site. However, the site is located within the Upper Batley Conservation Area.

### **Description of Proposal**

The applicant is seeking retrospective planning permission for the erection of a two storey detached property. The existing property will be demolished to allow for the proposed works. The proposed dwelling would be faced in 65MM Chatsworth Antique brick and would incorporate a hipped roof finished in slate. It would have a width of approx. 26m, a depth of approx. 14.78m and an overall height of approx. 7.56m due to changes in topography. Three parking off road parking spaces are proposed to the front of the development and an area of private outdoor amenity space would be provided to the rear of the application site.

### **Relevant Planning History**

2020/93261: Erection of extensions and alterations (within a Conservation Area). [Planning application details | Kirklees Council](#) – **Conditional Full Permission**

### **Representations**

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 24<sup>th</sup> November 2023. Ten representations were received following the statutory publicity. The comments made have been summarised as follows:

- Claiming the walls were unstable is ridiculous, if the roof structure was removed this would make them so.
- The new design is totally unacceptable. The original house was an asset to the Conservation Area, a fine example of a 1930's Art and Craft design which made a positive contribution to the area. The new design is completely out of character with the area.
- The windows are out of proportion with the building and the large, glazed entrance is not at all in keeping with the character of the surrounding Conservation area.

- The glazed gable on what used to be the garage gives a modern appearance which, again, is not something which should be allowed in a Conservation area.
- Before purchasing the property did the new owners have a structural survey done, which most purchasers would do.
- Demolition started in May, well before planning permission was requested. It is an offence to commence demolition before Giving notice to the Council under section 80 of the Building Act 1984
- It is interesting that work on demolition of the existing property has already started, the work being hidden behind high fencing and out of view from the road so nobody could see what was happening and therefore being unable to observe work prior to this latest, retrospective application.
- The building now under construction is nothing like the one that would have resulted from implementing 2020/93261.
- While the exterior appears vaguely similar, the internal layout bears no resemblance to what was originally approved. This surely should have required a new planning application before construction began.
- The area is home to many bat species. There are no bat reports, probably down to the fact the original roof was not going to be touched.
- There are no structural reports, showing evidence that the existing house was of poor state previously. If, as the application states, the property became unstable during building, then this should have been made safe, not simply pulled down.
- Planning laws are there for a reason, and building at this property should be now stopped until this application is either approved or looked at in better detail.
- Although the brick and quoins used in the new built do seem pleasing to the eye, it is not of the same character that was there previously. A large picture window is also out of character for the area. The new plans also show a property totally out of scale to the original.
- There is also now no garage facility on the new plans. What will happen with secure vehicle parking? Will a new garage simply "pop" up at a later stage when no one else is looking, again adding to the scale of building on the plot?
- This property is being built seven days a week. Sand and other building wastes were being washed down the drive and blocking the public sewer drain on the main road. Obviously, these people do not care about containing anything and if this has been by design or simply rain fall this is not appropriate.
- Serious consideration needs to be made as to whether building works need to be halted whilst other reports have been carried out due to the run off of waste and potential contamination of land.

- Given the area that the house is in, I think it's a really good build and fits quite perfectly in the conservation area. All the houses in this area are very different to one another, and this one is just as attractive as the rest.
- I'm quite impressed with the bricks used, a real statement for the house. Definitely a lovely build, looking forward to seeing the house finished off.
- The house is in keeping with the rest of the neighbourhood and a huge improvement to the previous house that was there.
- I drive past every morning and the site is secure, safe and clean. The builders seem to have a good work ethic and the secure gate appears to be a good safety measure and I assume protects the equipment on site.

### **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Environmental Health – No objections subject to the recommended conditions

KC Highways Development Management – No objections

KC Ecology – No objections subject to recommended conditions

KC Conservation & Design – No objections

### **Planning Policy Background**

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 27<sup>th</sup> February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, the site is located within the Upper Batley Conservation Area. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 23** – Core Walking and Cycling Network
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy

- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 33** - Trees
- **LP 35** - Historic Environment
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - 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) updated 20th 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 5** - Delivering a Sufficient Supply of Homes
- **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
- **Chapter 16** - Conserving and Enhancing the Historic Environment

### **Other Guidance Documents:**

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021) - Nationally Described Space Standards
- National Design Guide
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

### **Assessment**

#### **1. Principle of Development**

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals,

the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

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

The Council's Housing Land Supply position has changed since the refusal of the previous application. The 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF Paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The Council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.

Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 69 of the NPPF recognises that: "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes."

The proposal seeks to erect a two storey property within Upper Batley and would assist in meeting the housing needs of the Council, albeit as a replacement dwelling. This would be 'in line' with the aims of Chapter 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring inter alia that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

The application site is also located within the Upper Batley Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is also mirrored in Chapter 16 of the National Planning Policy Framework and LP35 of the Kirklees Local Plan.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

#### **1. Impact on Visual Amenity and Historic Environment**

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 provides a principal consideration concerning design which states: *"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."*

Kirklees Local Plan Policies LP1, LP2 and LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by

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

Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Also relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Further to this, Principle 13 of the Housebuilders Design Guide states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.

Paragraph 130 of the NPPF sets out that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting. LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Paragraph 197 of the NPPF is also of relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- a) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;*  
*and*
- b) the desirability of new development making a positive contribution to local character and distinctiveness.*

The proposed dwelling would be two storeys in height and would be of a contemporary design. The property would be faced in 65MM Chatsworth Antique brick and would incorporate a hipped roof finished in slate. Although no details have been provided regarding the window materials, it is noted that the arrangement of fenestration and openings would be typical of this style of dwelling. Whilst the design and material palette would not be entirely in keeping with the neighbouring properties, it is considered that the dwelling would not appear discordant and would harmonise well into the surrounding townscape. The new dwelling would also be substantially set back from the highway which would limit views from public vantage points. Furthermore, the Council's Conservation Officer was consulted on the proposed scheme and did confirm that the development proposed would not be significantly different to that previously approved. Therefore, it is concluded that as such the proposal would not have an adverse impact on the setting of the Conservation Area.

Whilst the dwelling does not adjoin to an existing building line on site, it is noted that there is not a strong building line along Heaton Road. In terms of footprint and massing, although the proposed dwelling would be somewhat larger than the existing property, it is considered that the dwelling would not be out of keeping with the neighbouring properties given that the surrounding area lacks coherent character and there is already a degree of variation with regard to scale, design, and materials. The proposed dwelling, by virtue of its design, scale, massing and roof line, is considered to be in keeping with the existing development and as such, it is considered that the proposed dwelling would sit comfortably within the existing street scene and against the neighbouring properties.

The application site is also of a sufficient size to support a dwelling, as proposed with a parking area to the front and private outdoor amenity space to the rear. Furthermore, the development would not appear overly cramped, or cause any undue harm to the character and appearance of the area. Whilst the scale of the dwelling is deemed acceptable, it is considered appropriate to include a condition (should planning permission

be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

The submitted plans and application form provide limited information regarding the proposed boundary treatments. Therefore, in the interest of visual amenity and to ensure that a satisfactory appearance of development is achieved upon completion, a condition will be imposed requiring details of the position, height, and materials of all boundary treatments to be submitted to and approved in writing by the Local Planning Authority.

It is therefore considered that, subject to conditions, the proposal would not cause detrimental harm with regard to visual amenity and would accord with the aims of Policy LP24 and LP35 of the Kirklees Local Plan, Principles 2, 5, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 and 16 of the National Planning Policy Framework.

## **2. Impact on Residential Amenity of Neighbouring Residents**

Sections B and C of Policy LP24 state that alterations to existing buildings should:

*“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”*

The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

The submitted plans confirm that no properties located to the rear of the application site would be affected by the proposed works.

#### Impact on 6 Heaton Road

6 Heaton Road is a residential property located south-east of the application site. The proposed dwelling would occupy a position approximately 2.34m from the common boundary shared with no.6. It is noted that the neighbouring property contains fenestration at ground and first floor level within its side elevation. The approved plans relating to planning application reference no. 2017/91803 confirm that the neighbour's ground floor window serves the entrance and the first floor windows serve bedroom 5 and the entrance. Although some of the windows would serve habitable rooms, the plans confirm that the fenestration within the side elevation would be of secondary use and therefore would not warrant the same protection. Therefore, it is considered that there would be no significant harm with regard to overbearing, overshadowing or overlooking.

#### Impact on 10 Heaton Lodge

10 Heaton Lodge is a residential property located west of the application site and is orientated away from the proposed dwelling. It is noted that no.10 contains two modest windows within its gable end, both of which are known to be of secondary use or serve non-habitable rooms. The submitted plans demonstrate that a separation distance of approximately 14.8m would be retained between the side elevation of no.10 and the proposed dwelling in accordance with the SPD requirements. Furthermore, it is noted that the new dwelling would not be any taller or wider than the previously approved scheme (2020/93261) and would not surpass the rear elevation of the neighbouring dwelling due to the staggered building positions. Therefore, given the offset relationship, officers are satisfied that the proposal would not cause any undue harm to the neighbouring occupants with regards to overbearing, overshadowing or overlooking.

#### Impact on 19 Heaton Road

19 Heaton Road is a residential property located north-east of the application site. The plans confirm that the proposed dwelling would occupy a position approximately 44m from the front elevation of no.19. Given that the separation distance retained would be substantial, it is considered that there would be no significant detrimental impact on the residential amenity of 19 Heaton Road as a result of the proposed development.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, KDP 6 & 16 of the Housebuilders Design Guide SPD and Paragraph 130 (f) of the National Planning Policy Framework.

### **3. Impact on Residential Amenity of Future Occupiers**

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account Principle 16 of the Kirklees Housebuilders Design Guide SPD which sets out that:

*'All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations' and that 'All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24'.*

National described space standards require the following gross internal floor area for a two storey dwelling:

- 5 Bedroom, 6-person dwelling set over 2 storeys - 110 square metres
- 5 Bedroom, 7-person dwelling set over 2 storeys - 119 square metres
- 5 Bedroom, 8-person dwelling set over 2 storeys - 128 square metres

The proposed floor plans show that the dwelling would have five bed spaces and therefore is required to have an internal floor space of 128m<sup>2</sup>. The proposal is shown to have an internal floor space of 417m<sup>2</sup>, which would adequately meet basic lifestyle needs and provide a high standard of amenity for future occupiers. It is also noted that each of the habitable rooms would benefit from a sufficient amount of natural light. Furthermore, private outdoor amenity space is proposed to the rear and off road parking would be located to the front of the dwelling. For these reasons, it is considered that the proposal would provide an acceptable standard of living for future occupants and would accord with LP24(b) of the Kirklees Local Plan, Principles 6 and 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 130 (f) of the National Planning Policy Framework.

### **4. Impact on Highway Safety**

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 111 of the NPPF states that development should only be prevented or

refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

This application is for the erection of a detached dwelling at 8 Heaton Road. As such, KC Highways Development Management have been formally consulted as part of the application.

The submitted plans demonstrate that the proposed driveway would use the existing vehicle access to the site and off road parking is proposed for three vehicles which would meet parking guidelines. Internal turning has also been proposed to ensure vehicles can enter and leave the site in a forward gear. On this basis, the proposal is considered acceptable from a highways perspective.

A condition will be added to the decision notice to ensure that the vehicle parking areas will be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded.

Principle 19 of the Housebuilders Design Guide SPD outlines how provision for waste storage and recycling should be incorporated into the design of new developments. The submitted plans demonstrate that a bin storage area will be provided to the south-east of the site, which is considered acceptable.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21, LP22 and LP28 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

## **5. Other Matters**

### 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.

The proposal is for the erection of a detached dwelling. To ensure it contributes positively to mitigating the impact of climate change and air quality, a condition will be added to the decision notice requiring an electric vehicle recharging point be provided within the site for the future occupants of the dwelling. This is to comply with the aims of Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

#### Protected Trees

The site is located within the Upper Batley Conservation Area and therefore, the trees located within the curtilage of the site and its proximity are protected. There is an area of trees to the north-west of the site, which are protected by a Tree Preservation Order. However, a sufficient distance would be retained between the protected trees and the proposed dwelling to prevent there from being a harmful impact on their amenity. Therefore, the proposal is considered to comply with Policy LP33 of the Kirklees Local Plan.

#### Ecology

KC Ecology were formally consulted on the previous scheme as the site is located within a bat alert layer on the Council's GIS mapping system. No ecological information has been submitted; therefore, the assessment of the ecological impacts is based on the limited information available. As the surrounding area provides suitability for bats and the proposals include the demolition of the existing dwelling, there is a reasonable likelihood of disturbance to roosting bats. Whilst KC Ecology did initially confirm that a Preliminary Roost Assessment would need to be conducted and submitted prior to determination, given that the demolition has already taken place, Officers did consider that this information is no longer necessary. Although KC Ecology have no objections to the application, a condition has been recommended requiring a bat box to be installed to the exterior of the new dwelling.

#### Public Right of Way

Public Right of Way BAT/21/10 is located to the rear of the application site. Given the distance retained between the property and the footpath, it is considered that the proposal would not have a significant impact on the

amenity of the footpath or its users. As such, the proposal was not advertised as affecting a Public Right of Way in this instance as is considered to accord with Policy LP23 of the Kirklees Local Plan.

#### Drainage

Policy LP28 of the KLP establishes a hierarchy of drainage solutions with a Sustainable Urban Drainage System being the most preferable solution and Main Sewer the least preferable option. No information has been provided within the application form with regard to how surface water will be disposed of. Furthermore, no supporting justification has been submitted to confirm that the hierarchy of drainage solutions has been considered. In this instance, it is considered reasonable to impose a condition requiring the drainage strategy for the site to follow the hierarchy of sustainable drainage, in accordance with Policy LP28 of the Kirklees Local Plan.

#### Contaminated Land

The proposed development site is not shown to be on land identified as potentially contaminated by its previous use. However, given that the development involves groundworks, KC Environmental Health have recommended a condition in relation to unexpected contamination.

#### Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

There are no other matters considered relevant to the determination of this application.

### **6. Representations**

Ten representations were received during the course of the application. The comments made have been summarised and addressed below:

- The new design is totally unacceptable. The original house was an asset to the Conservation Area, a fine example of a 1930's Art and Craft design which made a positive contribution to the area. The new design is completely out of character with the area.

**Response:** The proposals impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.

- The windows are out of proportion with the building and the large, glazed entrance is not at all in keeping with the character of the surrounding Conservation area.

**Response:** The proposals impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.

- Planning laws are there for a reason, and building at this property should be now stopped until this application is either approved or looked at in better detail.

**Response:** Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.

- The glazed gable on what used to be the garage gives a modern appearance which, again, is not something which should be allowed in a Conservation area.

**Response:** The proposals impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.

- Before purchasing the property did the new owners have a structural survey done, which most purchasers would do.

**Response:** This matter is not a material planning consideration.

- Demolition started in May, well before planning permission was requested. It is an offence to commence demolition before Giving notice to the Council under section 80 of the Building Act 1984

**Response:** Any works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.

- It is interesting that work on demolition of the existing property has already started, the work being hidden behind high fencing and out of view from the road so nobody could see what was happening and therefore being unable to observe work prior to this latest, retrospective application.

**Response:** Any works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.

- The building now under construction is nothing like the one that would have resulted from implementing 2020/93261.

**Response:** The dwelling currently under consideration is different from the previously approved scheme and has been assessed under this application.

- There is also now no garage facility on the new plans. What will happen with secure vehicle parking? Will a new garage simply "pop" up at a later stage when no one else is looking, again adding to the scale of building on the plot?

**Response:** Three off street parking spaces are proposed as part of the application which is considered a sufficient provision for a five bedrooed property in accordance with the Housebuilders Design Guide SPD.

- This property is being built seven days a week. Sand and other building wastes were being washed down the drive and blocking the public sewer drain on the main road. Obviously, these people do not care about containing anything and if this has been by design or simply rain fall this is not appropriate.

**Response:** Impacts from construction are temporary and would not constitute material planning considerations. However, construction hours are recommended by KC Environmental Health and any nuisance can be addressed under separate legislation.

- The area is home to many bat species. There are no bat reports, probably down to the fact the original roof was not going to be touched.

**Response:** The site is located within a bat alert area. The proposal's impact on protected wildlife has been addressed within the 'other matters' section of the report.

- While the exterior appears vaguely similar, the internal layout bears no resemblance to what was originally approved. This surely should have required a new planning application before construction began.

**Response:** Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.

- There are no structural reports, showing evidence that the existing house was of poor state previously. If, as the application states, the property became unstable during building, then this should have been made safe, not simply pulled down.

**Response:** This matter is not a material planning consideration.

- Claiming the walls were unstable is ridiculous, if the roof structure was removed this would make them so.

**Response:** This matter is not a material planning consideration.

- Although the brick and quoins used in the new built do seem pleasing to the eye, it is not of the same character that was there previously. A large picture window is also out of character for the area. The new plans also show a property totally out of scale to the original.

**Response:** The proposals impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.

- Serious consideration needs to be made as to whether building works need to be halted whilst other reports have been carried out due to the run off of waste and potential contamination of land.
- **Response:** Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.

The following comments are noted:

- Given the area that the house is in, I think it's a really good build and fits quite perfectly in the conservation area. All the houses in this area are very different to one another, and this one is just as attractive as the rest.
- I'm quite impressed with the bricks used, a real statement for the house. Definitely a lovely build, looking forward to seeing the house finished off.
- The house is in keeping with the rest of the neighbourhood and a huge improvement to the previous house that was there.
- I drive pass every morning and the site is secure, safe and clean. The builders seem to have a good work ethic and the secure gate appears to be a good safety measure and I assume protects the equipment on site.

## 7. Negotiations

No amendments were sought or received during the course of the application.

## 8. 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 set out above, 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:** 2023/92859

**Officer Recommendation:** Approve

**Conditions and Reasons**

1. 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 ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP23, LP24, LP26, LP28, LP30, LP33, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2. The detached dwelling hereby approved shall be faced in 65mm Chatsworth Antique Brick for the external walls and slate for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Council's Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

3. Within 6 months of the decision, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

**Reason:** In the interest of visual and residential amenity, in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 13 of the National Planning Policy Framework.

4. Within 6 months of the decision, a scheme outlining the specific facilities for charging electric vehicles and other ultra-low emission vehicles at the premises must be submitted to and approved in writing by the Local Planning Authority. This scheme must meet the minimum requirements in the current West Yorkshire Low Emission Strategy (WYLES) document. The approved facilities for charging electric vehicles must be installed before occupation and retained for use thereafter.

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

5. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

6. The development shall not be brought into use until the areas to be used by vehicles and/or pedestrians have been 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 2009 (ISBN as amended or any successor guidance. The parking space shall be so retained, free of obstructions and available for the use thereafter.

**Reason:** In the interests of highway safety and to ensure satisfactory surface water drainage of the site in accordance with Policy LP21 and LP28 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no development included within Classes A through E of Part 1 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 visual amenity and to avoid overdevelopment in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

8. Notwithstanding the submitted details, the surface water drainage strategy for the site shall be developed in accordance with the hierarchy of drainage and where soakaways are proposed, testing shall be provided to demonstrate that they are a suitable option for the site. The drainage works shall be completed in full before the approved dwelling is first occupied and shall thereafter be satisfactorily retained at all times.

**Reason:** To ensure the provision of an adequate drainage system in the interests of amenity, environmental well-being, and to accord with Policies LP24, LP28 and LP52 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

**NOTE:** The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation. The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

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

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

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

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

**NOTE:** Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**NOTE:** Public footpath BAT/21/10 is located adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works. The Council's Public Rights of Way unit may be contacted by telephone on 01484 221000. Public rights of way are based at Flint Street, Fartown, Huddersfield HD1 6LG and the email address is [publicrightsofway@kirklees.gov.uk](mailto:publicrightsofway@kirklees.gov.uk)

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

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

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

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

**Plans and specifications schedule:**

<b>Plan Type</b>	<b>Reference</b>	<b>Revision</b>	<b>Date Received</b>
Location Plan	2037-D-20-031	-	25/09/2023
Existing and Proposed Site Plans	2037-D-20-032	-	25/09/2023
Existing Ground Floor Plan	2037-D-20-033	-	25/09/2023
Existing First Floor Plan	2037-D-20-034	-	25/09/2023
Proposed Ground Floor Plan	2037-D-20-035	-	25/09/2023
Proposed First Floor Plan	2037-D-20-036	-	25/09/2023
Existing Elevations	2037-D-20-037	-	25/09/2023
Proposed Elevations	2037-D-20-038	-	25/09/2023
Proposed Site Plan and Street Elevation	2037-D-20-039	-	11/12/2023

Design and Access Statement	-	-	25/09/2023
Planning and Heritage Statement	-	-	25/09/2023
Climate Change Statement	-	-	25/09/2023

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 Planning 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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

**Dated: 13/12/2023**