

**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>2023/62/93295/W</b>
Site Address:	adj, 1, Oastler Avenue, Springwood, Huddersfield, HD1 4EU
Description:	Erection of detached dwelling
Recommending Officer:	William Simcock

**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.**

Julia Steadman

***AUTHORISED OFFICER***

**Date:** 13/03/2024

## **Officer Report – 2023/93295**

### **1 Oastler Avenue, Springwood**

#### **Site Description**

1 Oastler Avenue is a detached dwelling built on a corner plot. Its main frontage is to Oastler Avenue (to the west); its secondary frontage, which is also the means of vehicular access, is to the north, to Lynton Avenue. It is a typical Inter-War house, with features such as a hipped blue slate roof, prominent timber bargeboards, mock-Tudor detailing and a prominent semi-circular bay to its principal elevation. Surrounding development is of similar age but consists largely of semi-detached houses.

The site is bounded by a low, mortared stone wall. The garden is slightly raised above the level of Lynton Avenue and there is a gentle fall in ground levels from west to east along the street.

The dwelling has a driveway opening on to Oastler Avenue and an additional driveway on the Lynton Avenue frontage leading to a detached garage.

#### **Description of Proposal**

The proposal is for the erection of a single detached dwelling on land forming the eastern part of the curtilage of 1 Oastler Avenue, incorporating the detached garage, driveway and some associated landscaping. It would take access to Lynton Avenue.

The dwelling would measure 7.0m front to back, at its greatest extent, and 5.9m in width.

The roof would be double-pitched, walls 6.2m high to the eaves, and there would be a small front-facing gable of approximately half the width of the frontage, aligned to the right.

It would be placed so as to maintain an average of 750mm from the western boundary and 1.35m from the eastern boundary, 8.4m from the highway boundary (at its closest) and roughly 4m from the southern or rear boundary. Footprint would be 42sqm.

The previous proposal would have had 58sqm footprint, 7.6m and 3.4m from front and rear boundaries respectively and averaged 1.25m from eastern boundary, minimal distance from western boundary.

Proposed materials and finishes are described on the application form as “stone, white render with black painted strips” and tiles matching neighbouring properties for the roof. The white-and-black painted element presumably refers to the mock-Tudor element on the front gable, and the assumption is

that the rest will be stone. The Design & Access Statement however states that natural materials will be used for the roof.

### **History of negotiations/amendments received**

The case officer requested amendments in the interests of visual amenity and of ensuring suitable access and parking arrangements would be delivered.

### **Relevant Planning History**

2017/90778 – Erection of detached dwelling. Refused and appeal dismissed.

Reasons for refusal:

1. The proposed dwelling, by reason of its scale in relation to the plot size; the very limited amount of space that it would leave between the eastern and southern walls and their respective plot boundaries; its siting in relation to the highway boundary and established development on Lynton Avenue; the use of reconstituted stone in an area dominated by natural stone; and the proportions of the front elevation, would lead to the proposal appearing as an incongruous feature in the street scene that would fail to respect the character of surrounding development and would be harmful to visual amenity, contrary to the aims of Policies D2, BE1, BE2, BE11 and BE12 of the Kirklees Unitary Development Plan as well as the Core Planning Principles and Chapter 7 of the National Planning Policy Framework.

2. The proposed dwelling, by reason of its height and its close relationship with the southern plot boundary which it shares with no. 3 Oastler Avenue, would adversely affect the outlook from this property and give rise to overbearing impact upon it, contrary to the aims of Policies D2 and BE12 of the Kirklees Unitary Development Plan as well as the Core Planning Principles and Chapter 7 of the National Planning Policy Framework

In dismissing the appeal, the Inspector made the following observations:

- The overall sense of space around the property would not reflect the prevailing pattern of development in the locality. The gap between the proposed dwelling and the host property would be particularly narrow and would have the effect of significantly detracting from the regularity and rhythm of open gaps between buildings in Lynton Avenue.
- Owing to the proposed three floors the window alignment and proportions would be materially at odds with those that exist in the rest of the street, and in particular those to the neighbouring dwelling at No 33 Lynton Avenue. Furthermore, the window in the pitched roof part of the front roof slope would appear contrived and discordant in the immediate environment.
- The host corner plot property is dominant in the street-scene and the semidetached dwellings appear deliberately subservient given that they are set back further from Lynton Avenue and are smaller in scale. Whilst the front of the dwelling would align with the side elevation building line of No 1 Oastler Avenue, it would nonetheless be positioned forward of the front elevation building line of No 33 Lynton Avenue. Consequently, when travelling in an east-west direction the proposed dwelling would appear dominant and intrusive.
- Owing to the position and height of the proposed dwelling, I consider that it would have a significantly overbearing and dominant impact when viewed from the rear garden of No 3 Oastler Avenue. Furthermore, this negative impact would be evident from the rear windows of No 3 Oastler Avenue albeit at an oblique angle.

## **Representations**

Final publicity date expires: 18-Jan-2024. Publicity by neighbour notification letter only thereby fulfilling the requirements of the Development Management Procedure Order.

One representation made (support)

Summary of issues raised:

- The owner of the property 3 Oastler Avenue. I understand that previously the application to build a new dwelling has been declined due to various issues, including privacy. I have seen the new proposal and in relation to this, the dwelling proposed is based further forward rather than coming right back to my garage. My garage blocks light into my garden therefore the dwelling would not be blocking any light.
- Furthermore the windows proposed at the back are now privacy windows which makes it viable and does not affect my privacy.

- To replace the existing worn-down garage that currently exists would benefit the visual appearance of the road. I fully support the new planning application.

## **Consultation Responses**

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

- The Coal Authority – Substantive concern; do not object subject to pre-commencement conditions.

## **Policy**

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

The site lies within land that is without designation in the Local Plan Proposals Map.

### **Kirklees Local Plan (LP):**

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 11:** Housing mix and affordable housing
- **LP 20:** Sustainable travel
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 53:** Contaminated and unstable land

### **Supplementary Planning Documents:**

- KC Highways Design Guide 2019
- Housebuilders Design Guide Supplementary Planning Document, (HGD SPD)
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

These documents can also be viewed in [G:\Planning\SPDs & Guidance Notes](#).

## **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 5<sup>th</sup> September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

## **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

### 1 – Principle of development:

Policy LP1 of the 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 the NPPF. LP1 goes on further to stating that:

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

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land.

Under NPPF paragraph 76, 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 plan was adopted 27<sup>th</sup> February 2019 and is therefore over five years old. This means that Kirklees Council's inability to demonstrate a deliverable 5-year housing land supply is a material consideration.

The proposal will be further assessed according to the following policies:

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP11 – Housing must aim to provide a mix in terms of size and tenure.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – Development to incorporate biodiversity enhancement measures.
- LP52 – Impact of noise and air pollution on receptors.
- LP53 – Contamination and land instability to be given proper consideration at the planning stage.

The advice in the above-mentioned chapters of the NPPF will be given consideration where appropriate.

The site is not classed as “previously developed” within the meaning of the NPPF. This does not mean there is a presumption against development, but it also does not imply that a development making “efficient use” of land will necessarily be acceptable – this will be assessed having regard to its compatibility with local character (see part 2 below).

Whilst the achievement of a mix of size and tenure in a multi-unit scheme is desirable, Policy LP11 specifies that schemes of more than 10 units or those covering an area of greater than 0.4ha should provide a mix reflecting the proportions of households that require housing and achieve a mix of house

size and tenure. For a single-unit scheme such as this, it would be unreasonable to treat this requirement as being mandatory.

The previous appeal decision is also a factor that must carry considerable weight.

## 2 –Impact on visual amenity:

The proposal will be considered having regard to the aims of LP24a, and also those of the House Builders' Design Guide, in particular:

Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.

Principle 8 – Transition to open land to be carefully considered.

Principle 13 – Materials should be appropriate to the site's context.

Principle 14 – Design of windows and doors should relate well to the street frontage and other neighbouring properties.

The first reason for refusal of the 2017 application highlighted the following:

- scale in relation to the plot size;
- the very limited amount of space that it would leave between its outer eastern and southern walls and their respective plot boundaries;
- siting in relation to the highway boundary;
- siting in relation to established development on Lynton Avenue;
- the use of reconstituted stone in an area dominated by natural stone;
- the proportions of the front elevation.

Since that time, the UDP has been superseded by the Local Plan and the Housebuilders' Design Guide SPD has been adopted. The most recent version of the NPPF states (paragraphs 131 and 135) that decision makers must facilitate the creation of well-designed and beautiful places.

All of the above documents place an increased obligation on the local planning authority to ensure that permissions should only be granted for schemes that deliver good design.

Looking at the present proposal, the following changes from the refused scheme are apparent:

- Small reduction in roofline.
- Changes to proportions and fenestration so that it would now appear as a regularly-proportioned two-storey dwelling from the front, but three-storey from the rear.
- Asymmetrical roof.
- Reduction in footprint.
- Pushed back roughly 800mm into the site, relative to the highway boundary, but it has not been moved closer to the rear boundary.

In dismissing the appeal, the Inspector highlighted the following specific concerns over visual amenity and the street scene:

- The gap between the proposed dwelling and the host property would be particularly narrow having regard to the gaps between properties that can be seen on Lynton Avenue.
- Owing to the proposed three floors the window alignment and proportions would be materially at odds with those that exist in the rest of the street, and in particular those to the neighbouring dwelling at No 33 Lynton Avenue.
- The front of the dwelling would be positioned forward of the front elevation building line of No 33 Lynton Avenue. Consequently, when travelling in an east-west direction the proposed dwelling would appear dominant and intrusive.

The application would result in one dwelling in an application site extending to about 200sqm which would offer the equivalent of 50 dwellings per hectare, as opposed to that set out in Policy LP7 which looks to achieve 35 dwellings per hectare. Residential densities in the vicinity of the site are close to this figure – nos. 23-33 Lynton Avenue provide a density of 31 per hectare, for instance. In this context, the proposal would represent a relatively high-density form of development, or to put it another way, a high footprint to plot size ratio, albeit less so than the refused scheme. The Appeal Inspector, it is noted, did not cite built footprint relative to plot size as grounds for dismissing the appeal, and this, as previously noted, has been reduced. The appeal decision therefore should not be seen as automatically closing off the possibility of building a dwelling on the site, provided that the above issues (unacceptably narrow gap between new build and host property; fenestration; nearness to highway boundary) have been successfully addressed.

The proposed dwelling would have an eaves and ridge height similar to that of the neighbouring dwelling, no. 33, and its principal outer front wall would be set only marginally in front of the line formed by the main front wall of nos. 31-33, its front bay marginally behind. It would be placed so that the gap between its own western wall and the eastern wall of no. 1 Oastler Avenue would be 4m at the front and 1m at the rear, owing to the eastern elevation being stepped. In the other direction, the gap between the eastern side wall and the opposing wall of no., 33 would also be 4m. Gaps between facing side elevations on Lynton Avenue vary between 4.2m and 5.4m. It is therefore considered that the placement of the dwelling within the plot, its relationship to the side boundaries and to the building line formed by 31-33 Lynton Avenue, would not give rise to a non-conforming feature within the street scene.

The roof is asymmetrical, in the sense that the ridge would be placed closer to the rear than the front wall. The pitch of the front and rear roof slopes would be the same, however.

The earlier version of the plans for this application showed the dwelling being three-storey at the rear. Since it would be located within an area strongly dominated by two-storey development and would be possible to see it from the gap 48 and 50 Springwood Avenue, where a three-storey elevation would be seen to stand out noticeably from its surroundings, this was judged unacceptable. The plans have been modified so that the front wall and rear wall would be of the same height. The proportions of the house would still be different to surrounding development in that the distance between the top of the lintel to the first-floor front window and the eaves line would be up to 400mm, whereas for 33 Lynton Avenue it is approximately 150mm (the thickness of one course of stone). The main first-floor window in 1 Oastler Avenue facing on to Linton Avenue has no space between lintel and eaves, contrary to what the street-scene elevation shows. In the case of the rear elevation, the gap between the first-floor lintel and the eaves would be greater but it would also be less visually prominent. It is considered on balance however that the positioning of windows relative to eaves would not give rise to a strongly non-conforming appearance within the townscape, as overall wall height and most other design details would strongly resemble its surroundings.

Established development near to the site is mostly coursed stone, with occasional use of brick or render, and roof coverings are usually blue slate. The walling materials proposed are to be mainly coursed stone. Subject to samples of proposed roofing and walling materials being supplied for approval, the development would harmonise with its surroundings.

The layout of the driveway and parking spaces would leave approximately half the space in front of the house hard-surfaced, so that the frontage would not appear to be dominated by hardstanding.

In conclusion, it is considered that the new scheme has overcome the first reason for the refusal of the previous application, and the Inspector's reasons for dismissing the appeal in as far as these related to visual amenity. It would – subject to a sample of walling materials being approved, which can be conditioned – respect and enhance the townscape and visual amenity and accord with the aims of policy LP24(a) of the KLP and the relevant parts of the Housebuilders' Design Guide SPD, as well as chapter 12 of the NPPF.

### 3 – Impact on residential amenity:

The following principles within the Housebuilder Design Guide are of particular importance:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

- 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.

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not currently adopted in the Kirklees Local Plan. The council will seek to adopt such a policy in the future in accordance with evidence and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

In this case, the total internal floorspace would be 98sqm which is above the minimum required for a house with two single and one double bedroom.

The property would be provided with a rear garden of 38sqm. It would be overshadowed by the outbuilding located to the south, and by the side walls of the two neighbouring dwellings to the west and east. The additional amenity space to the front of the house would however go some way towards compensating for the limited provision at the rear. The amount, and quality, of outdoor amenity space is on balance considered satisfactory in relation to the size of the dwelling and having regard to the character and context of the site.

Most habitable rooms would have their principal outlook to the front, or north. They would be somewhat disadvantaged by this, in that whilst they would have an uninterrupted outlook they would receive no direct sunlight between the vernal and autumnal equinox. The rear-facing windows to the kitchen and to Bedroom 3 would however benefit from a south-facing window (which in the case of Bedroom 3 would need to be obscurely-glazed to prevent overlooking). It is considered on balance that whilst the placement of windows within the dwelling would not be ideal, in that the opportunity to receive direct sunlight would be limited, it would be difficult to substantiate a refusal on this factor alone. It is considered on balance that the overall standard of living for future occupants would be acceptable having regard to the relevant policies and guidance.

The rear wall of the new dwelling would on average be just over 4m from the main rear boundary, where it would be adjacent to an outbuilding within no. 3's curtilage. Compared to the refused scheme, the rear elevation would be slightly higher but also leave a larger gap before the boundary. It is

considered that the effect would not be overbearing towards no. 3 or towards any other residential property.

The elevations confirm that the first and second-floor rear-facing windows would be obscurely-glazed. These comprise a bathroom, landings and a secondary window to bedroom 3. To ensure that the privacy of other residents is not compromised, it should be conditioned that these windows are fitted with obscure glazing and be non-opening or top-opening, and to be so retained thereafter. This condition does not need to apply to the rooflight to Bedroom 3 since it would be more than 1.68m above internal floor level and would therefore not allow a view out over other residential properties. There are no windows in the side elevations. As a precautionary measure it is recommended it be conditioned that no windows are formed in the side elevations at ground level unless they have a sill at least 1.7m above floor level.

The site layout plan does not explicitly show retained or new boundary treatments, except for the retained front garden hedge on no. 1 Oastler Avenue's side of the western boundary. Any views to the south would be largely, but not wholly, blocked by the neighbouring garage. There is already a brick wall separating the application site from 33 Lynton Avenue; this would not be high enough to obstruct all views from the proposed rear garden into neighbouring land. Some further screening will be required. It is recommended that details of boundary treatments are incorporated into a planning condition so as to ensure that suitable standards of privacy are maintained.

In conclusion, it is considered that the new proposal has overcome the second reason for refusal set out within the previous decision notice. It is considered that the development would provide an acceptable standard of living for future occupants whilst not harming the amenities of neighbouring properties, thereby according with the aims of policy LP24(b) of the KLP.

#### 4 – Impact on highway safety:

The existing dwelling has its own driveway, sufficient to park two cars, with an access on to Oastler Avenue.

The proposed layout would provide space to park two vehicles. This would be in accordance with the aims of the Highway Design Guide, which recommends that as a general rule a house with up to three bedrooms should have two parking spaces unless a lower number can be clearly justified.

The driveway would be doubled in width and is wider than required for a single dwelling. The plans indicate that about half of the existing highway boundary wall is to be retained. Its height above the footway is approximately 800-900mm (it varies because it is stepped to compensate for the street gradient) and it is considered it does not need to be reduced in height any further. The plans appear to indicate that the privet hedge on the inner side of

the wall is to be removed to improve visibility. The standard condition sight lines of 2.0m x site frontage (the 'x' distance measured back from the carriageway edge) being formed is often applied to new developments in the interests of maximising intervisibility – this would be complied with because the footway is 2m wide. Highways Development Management also advise that sight lines of 2m x 2m (from each parking space, and with respect to the footway not carriageway boundary) are maintained in the interests of vehicle-pedestrian intervisibility. A sight line to the west has been shown on the latest version of the plan with respect to the left-hand parking space. This would not be possible with respect to the right-hand parking space as it would cross third-party land. Subject to the sight line and a strip 2m back from the driveway / footway boundary being kept free of obstructions, adequate vehicle-pedestrian intervisibility would be maintained.

The plans do not make provision for any form of cycle storage. There would however be no difficulty in providing a cycle shed or rack at the rear of the dwelling and it is considered on balance that, as this is a single dwelling, future provision can be left to the discretion of the applicant.

The arrangements would not allow internal turning provision but this is not deemed essential given that it would take access to a non-classified road of good layout and on which traffic volumes and speeds are likely to be low.

Subject to the above, the development would not prejudice the safe and convenient use of the highway and would support the aims of policies LP20-22 of the KLP.

## 5 – Other matters:

### *Removal of permitted development rights:*

Under permitted development rights there would be little opportunity to extend the building other than a single-storey rear extension, which it is considered would have minimal impact on neighbouring properties or visual amenity. Despite the small size of the plot, it is therefore considered on balance that a condition removing permitted development rights would not be justified in this instance.

### *Climate Change:*

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

The site is in a moderately sustainable location, being close to Huddersfield Town Centre and just over 200m from a bus stop with a frequent (more than hourly) service to the Town Centre.

A Climate Change Statement (CCS) has been submitted. This includes the following measures:

- Materials to be sourced locally and any unused materials re-sold;
- PIR lights (i.e. motion-detecting automatic lighting)
- LED lights

These are positive measures but it is considered that the potential exists for further measures to be incorporated into the development, including, but not restricted to, solar panels and insulation achieving a standard beyond the current statutory minimum. This should form the basis for a condition.

To promote sustainable means of transport in accordance with government guidance on air quality mitigation and reducing greenhouse gas emissions, in accordance with the aims outlined within Planning Practice Guidance, Policy LP20 and LP21(g) of the Local Plan and Chapter 15 of the National Planning Policy Framework, it should be conditioned that one new electric vehicle charging point be installed before the dwelling is occupied.

*Land contamination and stability issues:*

The site does not occupy land suspected of being contaminated owing to past uses. It is however in a Coal Referral Area.

Paragraph 180(e) and 189(a) of the NPPF state that planning policies and decisions should prevent new development from contributing to, or being put at risk from, land instability and that a site is suitable for its proposed use. Paragraph 190, however, states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

A Coal Mining Risk Assessment (CMRA) was submitted. The report goes on to recommend the undertaking of intrusive investigations to establish the shallow coal mining situation. The Coal Authority confirm that the level of detail in the report is satisfactory for planning purposes, subject to a scheme of intrusive investigations to establish the level of risk posed by past coal mining activities.

The standard conditions requiring intrusive investigations and a validation report should be applied, as requested by the Coal Authority. The condition should also make it clear that the investigation should consider the possible presence of mine gas, which the Coal Authority state is outside their remit but may have implications for the safety of future users.

Subject to the above, the aims of Policy LP53 of the KLP and the relevant parts of the NPPF.

*Ecology:*

The site is in the bat alert layer but the site in its present condition appears to have very limited ecological value and no potential to support a bat roost. Minor development is, under current Government guidance, exempt from the need to provide a demonstrable 10% Biodiversity Net Gain, but ecological enhancement should still be delivered where practicable. Enhancement in the form of a single bat roost feature will be sought and covered by a prescriptive condition. This would comply with the aims of Policy LP30, Principle 9 of the HDG SPD and NPPF Chapter 15.

*Refuse collection:*

A designated space for the storage of two standard bins is shown. This is positioned at the front of the house, 8m back from the highway. No screening or enclosure is indicated and it is recommended this should be conditioned in the interests of visual amenity, following the advice in Principle 19 of the Housebuilders' Design Guide SPD. The plans do not show a collection point, but there would be no difficulty in placing the bin at the entrance to the driveway on collection day since it is double-width and not required for parking.

The plans do not show a defined pathway along which bins can be dragged to their collection point – on the layout as shown, they would have to be dragged over the lawn, which is unacceptable. To ensure that the bin store is usable, it should also be conditioned that notwithstanding the layout shown, an amended plan be supplied showing a hard-surfaced path linking the bin store with the other hard-surfaced areas, allowing it to be moved to the front.

Subject to the above, the plans are therefore deemed acceptable having regard to the aims of Policies LP24(d)(vi), LP21 and Principle 19.

*Drainage:*

According to the relevant sections within the application form, it is proposed that disposal of foul sewage is by the main sewer, whilst disposal of surface water would be either by the main sewer or a watercourse. There is no evident surface or culverted watercourse anywhere near the site, so mains disposal is the most likely option. Following the approach that is usually taken with single dwellings, there would be no objection in planning terms to a mains connection, since the overall contribution to run-off for a single dwelling would be low and it would be disproportionate to compel the developer to incorporate flow restrictions.

6 – Representations:

One representation was made in support of the proposals.

A summary of issues raised along with the officer response is set out below:

- The owner of the property 3 Oastler Avenue. I understand that previously the

application to build a new dwelling has been declined due to various issues, including privacy. I have seen the new proposal and in relation to this, the dwelling proposed is based further forward rather than coming right back to my garage. My garage blocks light into my garden therefore the dwelling would not be blocking any light.

**Response:** This largely accords with the case officer's own assessment – it is considered that the impact on this property would not be overbearing.

- Furthermore the windows proposed at the back are now privacy windows which makes it viable and does not affect my privacy.

**Response:** As previously noted, it can be conditioned that windows be obscurely-glazed where appropriate.

- To replace the existing worn-down garage that currently exists would benefit the visual appearance of the road. I fully support the new planning application.

**Response:** The garage is not considered to detract strongly from the quality of the townscape, but it is considered on balance that the new development would enhance the area.

## 7. Conclusion:

To conclude, the proposal is considered acceptable and has addressed the previous reasons for refusing the historic planning application for the reasons set out in the main assessment above.

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

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

**Recommendation – CONDITIONAL FULL PERMISSION**

## Decision Authorisation - Delegated Powers

**Application Number:** 2023/93295

**Officer Recommendation:** CONDITIONAL FULL PERMISSION

### Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, 2, 21, 22, 24, 28, 30 and 53 of the Kirklees Local Plan and Principles 2, 5, 6, 8, 9, 12, 13, 14, 15, 17, 18, 19 of the Housebuilders' Design Guide Supplementary Planning Document, as well as the aims set out in the National Planning Policy Framework.

3. No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity, including the possible presence of mine gas; and

b) any remediation works and/or mitigation measures to address land instability

arising from coal mining legacy, as may be necessary, have been implemented on

site in full in order to ensure that the site is made safe and stable for the development proposed.

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

**Reason:** This information is required pre-commencement to ensure that the future occupants of the development are not exposed to the risk of land instability or other environmental hazards arising from coal mining legacy, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph 189(a) of the National Planning Policy Framework.

4. Prior to the occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site

investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

**Reason:** To ensure that the future occupants of the development are not exposed to the risk of land instability or other environmental hazards arising from coal mining legacy, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph 189(a) of the National Planning Policy Framework.

5. Samples of the stone to be used in external facing and the roofing materials to be used, shall be submitted to and approved in writing by the Local Planning Authority before work on the superstructure of the development commences and the development shall be implemented using the approved materials.

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

6. Prior to the dwelling being occupied, the areas for the parking or otherwise to be used by vehicles, as shown on the site plan as proposed, shall be surfaced and drained. Any new or replacement hard-surfacing shall be formed in accordance with the Communities and Local Government and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded, unless arrangements have been made to discharge run-off water from the parking spaces to a soakaway within the site. The areas used for the parking and turning of vehicles shall thereafter be retained and kept free of all obstructions to their use for the parking and turning of vehicles.

**Reason:** To achieve a satisfactory layout in the interests of highway safety, to minimise the contribution to flood risk arising from increased water run-off, and to accord with the aims of Policies LP21-22 of the Kirklees Local Plan, Principle 12 of the Housebuilders' Design Guide Supplementary Planning Document and Chapter 14 of the National Planning Policy Framework.

7. Before the dwelling is first occupied, the area within the sight line and all land within an area measured 2m back from the footway boundary along the full width of the driveway / parking spaces as shown on the approved site plan shall be cleared of all obstructions to visibility of over 900mm in height above the adjacent footway, and thereafter so retained.

**Reason:** In the interests of ensuring a satisfactory level of intervisibility for vehicles and pedestrians, to accord with the aims of Policies LP20-22 of the Kirklees Local Plan, Principle 12 of the Housebuilders' Design Guide Supplementary Planning Document.

8. Notwithstanding the details on the approved plans, details of the means of screening or enclosure for the proposed bin storage area shall be submitted to and approved in writing by the Local Planning Authority before the dwelling is first occupied. The areas indicated to be used on the proposed site plan for the storage of wastes shall be laid out with a hard surface and made available for use, and the approved screening or enclosure erected before the dwelling

is first occupied, all of which shall thereafter be retained as such, free from obstructions to its use for the storage of waste bins.

**Reason:** To ensure that satisfactory facilities are provided and retained within the site for the separation, storage and disposal of wastes in a way that does not compromise highway safety and efficiency, or visual amenity, in accordance with the aims of Policies LP21 and LP24(d) of the Kirklees Local Plan and Principle 19 of the Housebuilders' Design Guide Supplementary Planning Document.

9. Notwithstanding the details on the approved site plan, an amended site plan shall be submitted to and approved in writing by the Local Planning Authority showing a hard-surfaced path leading from bin store to the hard-surfaced area shown on the site plan as approved. The path shall be formed before the new dwelling is first occupied and thereafter so retained.

**Reason:** To ensure that the proposed bin store is accessible and that there are no obstacles to the disposal and collection of wastes, and to accord with the aims of Policies LP21 and LP24(d) of the Kirklees Local Plan and Principle 19 of the Housebuilders' Design Guide Supplementary Planning Document.

10. The first and second-floor windows in the rear elevation shall be non-opening or top-opening only and shall be fitted with obscure glazing to give a grade 5 degree of obscurity before the dwelling is first occupied.

Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), these windows shall be retained as such thereafter.

**Reason:** So as not to detract from the amenities of adjoining properties or land by reason of loss of privacy and to accord with Policy LP24(b) of the Kirklees Local Plan and Principle 6 of the Kirklees Housebuilders Design Guide Supplementary Planning Document.

11. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), no window or other openings shall be formed in the side elevations of the new dwelling at ground floor level unless they have a sill at least 1.7m above internal floor level.

**Reason:** So as not to detract from the amenities of adjoining properties or land by reason of loss of privacy and to accord with Policy LP24(b) of the Kirklees Local Plan and Principle 6 of the Kirklees Housebuilders Design Guide Supplementary Planning Document.

12. Before the new dwelling is first occupied, a full scheme of new and retained boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be erected or constructed before the dwelling is first occupied and thereafter retained.

**Reason:** To protect the privacy of existing and future residents and to accord with Policy LP24(b) of the Kirklees Local Plan and Principle 6 of the Kirklees Housebuilders Design Guide Supplementary Planning Document.

13. One electric vehicle recharging point shall be installed within the dedicated parking area for the approved dwelling before it is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

**Reason:** In accordance with the aims of Policy LP24(d & v) of the Kirklees Local Plan, Principle 18 of the Kirklees Housebuilders Design Guide SPD, and Chapter 14 of the NPPF, to promote infrastructure which encourages modes of transport with low carbon emissions.

14. Before the dwelling is first occupied, a single artificial bat roost feature shall be

installed, integral to the fabric of the building, a minimum of 4m from the ground on the south-western or south-eastern elevation and not placed directly above a window or door. This shall be retained thereafter.

**Reason:** To ensure that biodiversity net gain is delivered in accordance with the aims of Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders' Design Guide SPD, and Chapter 15 of the National Planning Policy Framework.

15. Before development above foundation level commences, details of insulation, on-site micro-generation, or other measures to be incorporated into the development to reduce carbon emissions associated with it shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development during construction and shall thereafter be retained as such.

**Reason:** To ensure that the proposed development contributes to the Council's target of achieving 'net zero' carbon emissions by 2038 and thereby reducing the causes of climate change, and to accord with the aims of Policy LP24(d) of the Kirklees Local Plan and Principle 18 of the Kirklees Housebuilders Design Guide Supplementary Planning Document.

#### **NOTE – Bin enclosures**

It is recommended that the bin enclosure referred to in Condition (8) is built in a durable, weatherproof material (not timber) for ease of maintenance.

#### **NOTE - Construction Site Working Times**

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 notices served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

It is recommended that noisy construction related activities should not take place outside the hours of:  
07.30 to 18.30 hours Mondays to Fridays  
08.00 to 13.00hours Saturdays  
With no noisy activities on Sundays or Public Holidays

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form			06-Nov-2023
Coal mining report			06-Nov-2023
Design & access statement			06-Nov-2023
Climate change statement			04-Mar-2024
Site plan as proposed	UD-556 – 01		11-Mar-2024
Elevations as proposed	UD-556 – 02		11-Mar-2024
Proposed floorplans	UD-556 – 03		06-Nov-2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer requested amendments in the interests of visual amenity and of ensuring suitable access and parking arrangements would be delivered. This decision is based on those amended plans.

**Report Dated:**

12-Mar-2024