

**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>2023/62/93749/E</b>
Site Address:	77 , Latham Lane, Gomersal, Cleckheaton, BD19 4AP
Description:	Erection of detached dwelling with integral garage (amended house type)
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:** 12 April 2024

## **Officer Report**

**Reference No.** 2023/62/93749/E

**Site Address:** 77, Latham Lane, Gomersal, Cleckheaton, BD19 4AP

**Proposal:** Erection of detached dwelling with integral garage (amended house type)

## **Site Description**

The application site relates to a vacant parcel of land which was previously occupied by a detached dwelling (demolished between 2012 and 2018) known as 77 Latham Lane. The site is relatively level, sloping downhill slightly to the southern corner. The site is located within a semi-rural area, with residential properties on all sides. The surrounding dwellings are highly varied in age, size, style, and materials. The site is not within a conservation area or near any public Rights of Way (PROW). However, the site is located near to West House, a Grade II listed building.

## **Description of Proposal**

The applicant is seeking planning permission for the erection of a two-storey detached property. The proposed dwelling would be predominately faced in Branshaw Yorkstone coursed dressed (pitched face) stone for the external walls with Branshaw Yorkstone sawn ashlar building masonry for the feature walls. The dwelling would also incorporate a dual-pitched roof finished in natural grey slates and would include anthracite grey UPVC fenestration. The property would have a width of approx. 21.16m, a depth of approx. 31.9m and an overall height of approx. 8.5m. Off road parking spaces are proposed to the front of the development and within the proposed integral garage. Furthermore, an area of private outdoor amenity space would be provided to the rear of the application site.

## **Relevant Planning History**

- **2024/90200:** Discharge conditions 6, 7, 8, 9 (Phase II Intrusive Site Investigation Report) on previous permission 2023/90506 for erection of detached dwelling with integral garage. [Planning application details | Kirklees Council](#) – Pending Consideration
- **2023/92202:** Discharge conditions 5 and 6 (Phase 1 and 2 site investigation report) on previous permission 2023/90506 for erection of detached dwelling with integral garage. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Split Decision
- **2023/92049:** Discharge conditions 3 (materials) 4 (boundary treatments) 11 (integral bat box) and 12 (planting) on previous permission 2023/90506 for erection of detached dwelling with integral garage. [Planning application details | Kirklees Council](#) - Discharge of Condition(s) Approved
- **2023/90506:** Erection of detached dwelling with integral garage [Planning application details | Kirklees Council](#). – Conditional Full Permission

- **2021/94231:** Certificate of lawfulness to confirm valid commencement of development approved under 2018/92850 for demolition of existing dwelling and erection of detached dwelling (modified proposal) within the 3 year time limit given in condition 1. [Planning application details | Kirklees Council](#) – Cert of Lawful Use Refused
- **2019/90490:** Variation of conditions 2, 4 and 6 on previous application 2018/92850 for demolition of existing dwelling and erection of detached dwelling (Modified Proposal). [Planning application details | Kirklees Council](#) – Removal or Modification of Condition(s)
- **2018/92850:** Demolition of existing dwelling and erection of detached dwelling (modified proposal). [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2017/94026:** Demolition of existing dwelling and erection of detached dwelling (modified proposal). [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2016/90810:** Discharge of conditions 3. (samples) 4. (materials) & 7. (landscaping) on previous permission no. 2014/93830 for demolition of existing dwelling and erection of 2 dwellings. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Approved
- **2014/93830:** Demolition of existing dwelling and erection of 2 dwellings. [Planning application details | Kirklees Council](#) – Conditional Full Permission

### **Representations**

The application was advertised by neighbour letters, which expired on 13<sup>th</sup> March 2024. As a result of the above publicity, no representations have been received.

Although the site is located near to a Grade II Listed Building, the application was not publicised by site notice and press advertisement given that only minor amendments had been made to the proposal since the previously approved scheme (2023/90506). In addition, KC Conservation and Design raised no objections to the previous scheme. The development would not affect the setting of the Listed Building.

### **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 Conservation and Design](#) – No objection

[KC Ecology](#) – No objections subject to recommended condition

[KC Environmental Health](#) – No objection subject to recommended conditions

[KC Highways Development Management](#) - No objections subject to recommended condition

## **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. 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 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **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.

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

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 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.

The proposal seeks to erect a two-storey detached property within Gomersal and would assist in meeting the housing needs of the Council. 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. Furthermore, the principle of residential development has already been established via the granting of planning application reference no. 2023/90506, which could still be implemented on site.

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.

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**

### Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 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 133 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 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.

The proposed dwelling would be two storeys in height and would be of a contemporary design. The property would be predominately faced in Branshaw Yorkstone coursed dressed (pitched face) stone for the external walls with Branshaw Yorkstone sawn ashlar building masonry for the feature walls. The dwelling would also incorporate a dual-pitched roof finished in natural grey slates. The dwelling would also include anthracite grey UPVC fenestration and the arrangement of fenestration and openings would be typical of this style of dwelling. Although 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 dwelling would not be overly dominating and would generally respect the existing building line along Latham Lane. In terms of footprint and massing, the property would not be out of keeping with the neighbouring dwellings given that 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.

Details of the proposed boundary treatments have been provided with the application. The submitted plans confirm that the existing hedge would be retained to the south, west and northern boundaries of the application site. Furthermore, a 1.2m high boundary wall would be erected along the eastern boundary of the site. The submitted plans confirm that the wall would be constructed in natural stone with flat coping. The proposed

boundary treatment would be in keeping with the existing wall at the opposite site of the road and would not cause any significant harm to visual amenity.

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 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 of the National Planning Policy Framework.

### Historic Environment

Policy 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.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires, that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 202 of the NPPF goes on to state that:

*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

The application site is located near to West House, a Grade II Listed Building. KC Conservation & Design were consulted on the previous application (2023/90506) and confirmed that as a separation distance of over 55m would be retained between the application site and the neighbouring Grade II listed building by Latham Lane itself, amenity space and mature trees at the listed building it is considered that the proposed development would not result in any further harm to setting of the heritage asset. It is therefore considered that the proposed development would not cause any detrimental harm to the significance of the listed building and would comply with Policy LP35 of the Kirklees Local Plan, Chapter 16 of the NPPF and the requirements of Section 66 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990.

## 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 135(f) 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 front of the application site would be affected by the proposed works.

### Impact on 79 Latham Lane

79 Latham Lane is a residential property located north of the application site. The proposed dwelling would be located approximately 2m from the common boundary shared with no.79. However, the majority of the dwelling closest to the shared boundary would be one-and-a-half-storeys in height, with a dual-pitched roof form which would take the vertical emphasis away from the shared boundary. Furthermore, it is noted that there are no habitable room windows within the south-eastern side elevation of no.79, and a separation distance of approximately 7.7m would be retained. Therefore, on balance, it is considered that any overbearing impact would not be significant in this instance. Due to the height of the proposed dwelling, there may be some overshadowing impact on this neighbour. However, any overshadowing of the rear garden and habitable

room windows to the rear would be largely confined to the mornings in autumn and winter, and as such is considered not significantly detrimental.

Furthermore, there would be fenestration at ground and first floor level within the north-western elevation of the proposed dwelling. Whilst these windows would serve a dressing room, comms room, pantry, utility and W.C, which are not habitable rooms, a condition has been added requiring the windows to be obscure glazed to prevent any detrimental harm to the neighbouring occupants with regard to overlooking.

#### Impact on 81 Latham Lane

81 Latham Lane is a detached bungalow located north-west of the application site. The proposal development would occupy a position approx. 1m from the common boundary shared with no.81. Due to the height of the proposed dwelling, there may be some overshadowing impact on this neighbour. However, any overshadowing of the rear garden and habitable room windows to the rear would be largely confined to early mornings, and as such is considered not significantly detrimental. Furthermore, there would be fenestration at ground and first floor level within the north-western elevation of the proposed dwelling. Although these windows would serve a dressing room, comms room, pantry, utility and W.C, which are not habitable rooms, a condition has been added requiring the windows to be obscure glazed to prevent any detrimental harm to the neighbouring occupants with regard to overlooking. As such, Officers are satisfied that the proposal would have no significant impacts on the residential amenity of 81 Latham Lane.

#### Impact on 75 Latham Lane

75 Latham Lane is a detached bungalow located south-east of the application site. The proposed dwelling would be set back in the street scene relative to this neighbouring dwelling, such that the front elevation of the proposed dwelling would be roughly in line with the rear elevation of no.75. The existing and proposed dwellings would be separated by amenity space and the existing boundary hedge. The submitted plans confirm that the proposed dwelling would occupy a position approx. 5m to the common boundary and approx. 9m to the side elevation of the neighbouring dwelling. Given the position of the proposed dwelling in relation to no.75, it is considered that there would be no significant overbearing impact on this neighbour. There would also be no significant overshadowing impact as the proposed development would be located north of the neighbouring property. Given the relationship of the dwellings, there would be no overlooking impact on no.75 itself; however, there may be some overlooking of the garden of no.75 from fenestration within the south-eastern side elevation of the proposed dwelling. It is noted that

windows are proposed within the side elevation of the proposed dwelling at both the ground and first floor level which would serve two en-suites and a bedroom. Although these windows would serve non-habitable rooms and would be of secondary use, a condition requiring the windows to be obscure glazed will be added to the decision notice to prevent any detrimental harm to the neighbouring occupants with regard to residential amenity.

#### Impact on 331 Drub Lane

331 Drub Lane is a residential property located west of the application site. It is noted that the proposed development would occupy a position approximately 55m from the rear elevation of the neighbouring dwelling. Given that the separation distance retained would be substantial, it is considered that there would be no significant detrimental impact on the amenity of no.331 as a result of the proposed development

It is considered that once occupied the dwelling is unlikely to generate significant levels of noise. However, the site is surrounded by residential properties and the occupiers of these could potentially be disturbed by noise generated during the construction process. Therefore, should the application be approved, a footnote will be imposed limiting such works to between the hours of 7.30am and 6.30pm Monday to Friday, 8am and 1pm on Saturdays with no working permitted on Sundays or Public Holidays.

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 135 (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:

- 4 Bedroom, 5-person dwelling set over 2 storeys - 97 square metres
- 4 Bedroom, 6-person dwelling set over 2 storeys - 106 square metres
- 4 Bedroom, 7-person dwelling set over 2 storeys - 115 square metres
- 4 Bedroom, 8-person dwelling set over 2 storeys - 124 square metres

The proposed floor plans show that the dwelling would have four bed spaces and therefore is required to have an internal floor space of 97m<sup>2</sup>. The proposal is shown to have an internal floor space of 681m<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 135 (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 115 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 seeks approval for the erection of a detached dwelling with integral garage (amended house type) at 77 Latham Lane, Gomersal. This scheme is an amended proposal of the previously approved planning permissions. The most recently approved permission (2023/90506) was for the erection of a detached dwelling with integral garage and the access and internal parking remain the same as previously approved. Given the above, these proposals are considered acceptable from a highways point of view.

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. Furthermore, any works within the adopted highway would need to be completed via a Section 184 agreement with the Council.

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 adjacent to the proposed driveway, 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 and LP22 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.

KC Environmental Health note that parking is proposed at this development. Officers would encourage any electric vehicle charging points installed as part of this development to meet the requirements of the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. The applicant should note the information in the recommended Electric Vehicle Charging Points Footnote.

### Contaminated Land

This site has been identified on our mapping system as potentially contaminated land due to its proximity to a landfill site, within 250m (Site 79/2). The following documents have been previously reviewed by

Environmental Health as part of a separate application, and have been received in support of the current application:

1. A Phase 1 Qualitative Desk Study Report and Phase 2 Intrusive Site Investigation authored by GA Site Investigation Limited, dated 16th July 2023 (ref: GA1573.23. Combined)
1. A document titled 'Additional Soil Analysis: 77 Latham Lane, Gomersal dated 8th September 2023 (ref: GA1573.23) authored by GA Site Investigation Limited
2. Letters titled 'Site Investigation: 77 Latham Lane, Gomersal, BD19 4AD' authored by GA Site Investigation Limited, dated 9th September 2023 (ref: GA1573.23) and 7th November 2023 (ref: GA1573.23)

An additional document titled 'Environmental assessment of existing topsoil at 77 Latham Lane, Gomersal, West Yorkshire' authored by Abbeydale (dated 18<sup>th</sup> December 2023, ref: 131018-DQRA) has also been received in support of the application. The document described additional testing undertaken at the site. A further five hand excavated trial pits were excavated to retrieve samples for total arsenic analysis. Two samples (TS01 and TS05) were also sent for bio accessible arsenic analysis to facilitate a Detailed Quantitative Risk Assessment (DQRA). The results confirm all the measured concentrations are below the calculated SSAC and are therefore not considered to pose a potential risk to future receptors who could come into contact with the soils in the proposed garden areas.

KC Environmental Health have read the reports received and all documents listed above are accepted in support of the application. However, Officers have recommended a condition relating to unexpected contaminated and have asked for a footnote be applied to the permission.

Following KC Environmental Health's response dated 20<sup>th</sup> February, the applicant has confirmed that they do not plan to import soil onto the site as part of the development. On this basis, it is considered that a condition to characterise the materials prior to placement is no longer necessary.

#### Construction Hours

There is a potential for loss of amenity to the occupiers of nearby properties from noise and vibration from the construction phase of the development. Therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

#### Noise

The plans initially showed two heat source pumps on the proposed north-west elevation of the detached dwelling. KC Environmental Health did have concerns that the air source heat pumps may cause harmful noise pollution within neighbouring noise sensitive locations and therefore, recommended a condition requiring a noise report to be submitted. However, the two heat source pumps have since been removed from the application and therefore, it is no longer considered necessary to condition a noise report.

### Ecology

Prior to the most recent previous permission at the site, the updated application has incorporated a number of the proposed conditions into the submitted plans, including the placement of integral bat and sparrow boxes, along with planting of native species at the site. As such, the submitted plans should be strictly adhered to throughout the development. On this basis, KC Ecology have no objection to these proposals, and they will allow for an uplift in faunal provisions at the site. However, in order to ensure there are minimal impacts to ecological receptors a condition has been recommended in relation to site clearance works.

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

## **6. Representations**

No representations were received during the course of the application.

## **7. Negotiations**

Revised plans were received during the course of the application. The applicant's agent removed the two heat source pumps from the plans to prevent the requirement for a noise report.

## **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:** 2023/93749

**Officer Recommendation:** Approve

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

3. Notwithstanding the submitted plans and information, the detached dwelling hereby approved shall be faced in Branshaw Yorkstone coursed dressed (pitched face) stone for the external walls with Branshaw Yorkstone sawn ashlar building masonry for the feature walls. The roof of the dwelling shall also be constructed from natural grey slates. 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.

4. The 1.2m high boundary wall hereby approved along the eastern boundary of the site shall be constructed in natural stone with flat coping. 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.

5. No site clearance works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the site is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird

interest on site. Any such written confirmation should be submitted to the local planning authority.

**Reason:** To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with Policy LP30 and the requirements of section 15 of the National Planning Policy Framework.

6. If 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. 189 and 190 of the National Planning Policy Framework.

7. Prior to the development being brought into use, the approved vehicle parking areas shall 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; and thereafter retained throughout the lifetime of the development.

**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.

8. 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.

9. The proposed ground and first floor windows in the south-eastern and north-western side elevations of the dwelling shall be fitted with obscure glazing to at least Level 3 on the Pilkington Scale and non-opening to a height of no less than 1.7m above floor level and retained as such thereafter.

**Reason:** In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan, the Principles of the Housebuilders Design Guide Supplementary Planning Document and 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:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 414700) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**NOTE:** 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:** 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>
Site Block Plan As Proposed	22.1185/(AL)200	-	09/01/2024
Proposed Ground Floor Plan	22.1185/(AL)201	A	29/03/2024
Proposed First Floor Plan	22.1185/(AL)202	-	09/01/2024
Elevations as Proposed	22.1185/(AL)204	A	29/03/2024
Elevations as Proposed	22.1185/(AL)205	-	09/01/2024
Design and Access Statement	22-1185/D&A Statement	-	09/01/2024
Environmental Assessment	131018-DQRA	-	09/01/2024
Climate Change Statement	-	-	09/01/2024

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. Revised drawings were submitted by the applicant's agent which were considered acceptable.

**Dated: 11/04/2024**