

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2023/62/93761/E
Site Address:	Bylands, 11A, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EL
Description:	Demolition of existing dwelling and erection of one dwelling (part within a Conservation Area)
Recommending Officer:	Nicole Helliwell

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 03 September 2024

Officer Report

Reference No. 2023/62/93761/E

Site Address: Bylands, 11A, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EL

Proposal: Demolition of existing dwelling and erection of one dwelling (part within a Conservation Area).

Site Description

The application site relates to Bylands, a two-storey detached property located in Upper Hopton, Mirfield. The dwelling is constructed in natural stone and incorporates a dual-pitched roof finished in natural blue slate. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The surrounding area is characterised by stone built properties of a traditional style. To the north of the application site is the Upper Hopton Conservation Area and the land south of the site is allocated as Green Belt. The site is not located near any listed buildings or Public Rights of Way (PROW).

Description of Proposal

The applicant is seeking planning permission for the erection of a two-storey detached property. The existing property will be demolished to allow for the proposed works. The proposed dwelling would be faced in reclaimed natural stone and would incorporate a dual-pitched finished in natural blue slate. The property would have a width of approx. 31.85m, a depth of approx. 20.7m and an overall height of approx. 9.3m (excluding the chimney) due to changes in topography. Off road parking would be provided within the integral garage and the driveway to the front and an area of private outdoor amenity space would be provided to the rear of the application site. Furthermore, solar panels would be installed within the rear roof plane of the dwelling.

Relevant Planning History

- **2023/93407:** Discharge conditions 4 (site boundaries), 6 (drainage), 7 (Phase I Ground Investigation), 8 (Phase II Ground Investigation), 9 (Remediation Strategy) on previous permission 2022/94042 for variation condition 2 (Plans) on previous permission 2021/92937 for demolition of existing stable and erection of detached dwelling (part within a Conservation Area). – Split Decision
- **2023/93022:** Variation condition 2 (plans) on previous permission 2022/94042 for variation condition 2 (plans) on previous permission 2021/92937 demolition of existing stable and erection of detached dwelling (part within a Conservation Area). [Planning application details | Kirklees Council - Removal or Modification of Condition\(s\)](#)

- **2022/94042:** Variation condition 2 (plans) on previous permission 2021/92937 for demolition of existing stable and erection of detached dwelling (part within a Conservation Area). [Planning application details | Kirklees Council](#) - Removal or Modification of Condition(s)
- **2021/92937:** Demolition of existing stable and erection of detached dwelling (part within a Conservation Area). [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 15th March 2024. As a result of the above publicity, one representation has been received. The comments have been summarised below:

- It is very important that building work does not cause too much disturbance for people living nearby some of whom work from home. So far builders working on the stable at this property have been considerate and this must continue.
- It would be best if the stable conversion was finished before work starts on the Bylands house so that people living nearby are not having to cope with too much work going on.
- Bylands is an attractive house built of local stone and it is important that the new house fits into the space well and is appropriate to the Conservation Area.
- It is also important that any materials such as asbestos are treated with great care when demolishing the house. This was commonly added to plaster until the mid-1980's as well as being used for insulation

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](#) - No objection subject to recommended conditions

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

[KC Highways Development Management](#) - No objection

[KC Ecology](#) – Two dusk emergency bat surveys shall be undertaken at the house and one dusk emergence survey shall be undertaken at the garage in accordance with the recommendations outlined within the Preliminary Bat Roost Assessment (reference no. 1956a rev.1, dated May 2024).

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 27th February 2019).

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

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 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 December 2023, 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 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
- b) 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 update of the five year housing land supply position for Kirklees shows 3.96 years of housing land, and the 2022 Housing Delivery Test (HDT) which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3 year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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 taken in this Framework as a whole".

The Council's inability to demonstrate a five year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the Officer's report.

The proposal seeks to erect a two-storey detached property within Upper Hopton, Mirfield 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.

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

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.

Paragraph 135 c) of the NPPF sets out that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting. LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Paragraph 203 of the NPPF is also of relevance and states that in determining applications, local planning authorities should take account of:

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

The proposed dwelling would be two storeys in height and would be of a traditional design with some contemporary elements. The property would be constructed from reclaimed pitch face natural stone with natural stone ashlar dressed quoins, features and surrounds. The dwelling would incorporate a dual-pitched roof finished in reclaimed natural blue slates from the existing dwellinghouse. The dwelling would also include white UPVC windows and the arrangement of fenestration and openings would be typical of this style of dwelling. On this basis, it is considered that the dwelling would not appear discordant and would harmonise well into the surrounding townscape.

Whilst the proposed dwelling would not adjoin to an existing building line on site, it is noted that there is not a strong building line within this grouping of properties. In terms of footprint and massing, the property would not be out of keeping with the neighbouring dwellings given that the surrounding area lacks coherent character and there is already a degree of variation with regard to scale, design, and materials. Therefore, the proposed dwelling would sit comfortably within the existing street scene and against the neighbouring properties.

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

include a condition (should planning permission be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

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

The application site is partially located within the Upper Hopton Conservation Area. However, KC Conservation and Design were not formally consulted on the proposed scheme given that the proposed dwelling would occupy a similar building position to the existing dwellinghouse and would be set back from the Conservation Area such that it would have limited views from public vantage points. Therefore, it is concluded that as such the proposal would not have an adverse impact on the setting of the Upper Hopton Conservation Area.

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 and 16 of the National Planning Policy Framework.

2. Impact on Residential Amenity of Neighbouring Residents

Sections B and C of Policy LP24 state that alterations to existing buildings should: *“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

Further to this, Paragraph 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 and rear of the application site would be affected by the proposed works.

Impact on 11 Hopton Hall Lane

11 Hopton Hall Lane is a two-storey detached property located to the north-east of the application site. The submitted plans confirm that the proposed dwelling would occupy a position approximately 13.4m from the side elevation of no.11. Whilst it is noted that the neighbouring property contains several windows within its gable end, the plans confirm that the dwellings would not have a direct relationship due to the offset building positions. Therefore, Officers are satisfied that the proposal would not cause any further undue harm to the neighbouring occupants with regard to overbearing, overshadowing or overlooking.

Impact on The Coach House

The Coach House is a detached bungalow located west of the application site. The submitted plans confirm that a distance of approximately 14.8m would be retained between the side elevation of the neighbouring property and the side elevation of the proposed dwelling. Due to the staggered building positions, the proposed dwelling would surpass the rear elevation of the Coach House. However, the proposed dwelling would occupy a similar position to the existing dwelling and would accord with the 45 degree rule in relation to the neighbour's rear fenestration. On this basis, it is considered that there would be no significant detrimental overshadowing or overbearing impact on the neighbour's residential amenity.

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:

- 6 Bedroom, 7-person dwelling set over 2 storeys - 123 square metres
- 6 Bedroom, 8-person dwelling set over 2 storeys - 132 square metres

The proposed floor plans show that the dwelling would have six bed spaces and therefore is required to have a minimum internal floor space of 123m². The proposal is shown to have an internal floor space of 661m², 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 south and off road parking would be located to the north 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 is for the demolition of the existing dwelling and the erection of a 6 bedroomed replacement dwelling with an integral garage at Bylands, 11A Hopton Hall Lane. As such, KC Highways Development Management have been formally consulted as part of the application, as the proposal would intensify the domestic use at the site.

The submitted plans confirm that access to the property will be via the existing access onto Hopton Hall Lane which is shared with 11 Hopton Hall Lane. The proposed dwelling is also shown to utilise the existing driveway. Given that this is a replacement dwelling, sufficient off-street parking is proposed, and this proposal utilises an existing access, KC Highways Development Management have no objection to these proposals.

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. Although it is unclear where the bins would be stored, the application site is of a sufficient size to provide bin storage without it impacting upon visual amenity. Furthermore, it is expected that waste/recycling collections will be made as currently carried out.

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.

Officers note that parking is proposed at this development. KC Environmental Health 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.

Drainage

Policy LP28 of the Kirklees Local Plan establishes a hierarchy of drainage solutions with a Sustainable Urban Drainage System being the most preferable solution and Main Sewer the least preferable option. The site is within flood zone 1, with no known flood risks or watercourses. The applicant has stated in the application form that the surface water is to be discharged via the main sewer; however, no supporting justification has been provided to confirm that the hierarchy of drainage solutions has been considered.

Coal Mining Legacy

The application site falls within the defined Development High Risk Area and a Surface Coal Resource Zone. The Coal Authority records indicate that the site is underlain by recorded shallow coal workings and probable unrecorded underground shallow coal workings. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases. The Coal Authority concurs with the recommendations of the submitted Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. On this basis, the Coal Authority has no objection to the proposed development subject to the imposition of the recommended conditions.

Contaminated Land

A Coal Mining Risk Assessment by Rogers Geotechnical Services Ltd (dated 10th August 2021, ref: C1969/21/E/3016) and a Phase I Preliminary Contamination Risk Assessment authored by Geol Consultants Ltd (dated September 2023, ref: GEOL23-7915) have been received in support of the application.

The coal mining risk assessment considers that Linfit Lousey Coal/Low Silkstone Coal and Shertcliffe Coal seams may underlie the site. From this, the authors assign a moderate risk from shallow coal workings and mine gas. The report then concludes that an intrusive investigation is required to establish the coal mining legacy at the site. The Phase I report assesses the environmental setting of the site and historical land use information. Several potential pollutant linkages have been identified and the report concludes that a site investigation is necessary, including the retrieval of soil samples for chemical analysis and a ground gas risk assessment.

KC Environmental Health accept the reports and agree that further investigation is required. Should the investigation identify any evidence suggestive of shallow coal and/or workings are found, then ground gas monitoring may be required because a credible risk of mine gas exposure to endusers may exist. Any ground gas monitoring provided must be undertaken following CIRIA C665 guidance. Combustibility may also need to be considered if coal is found close to the surface. For the reasons detailed above, Officers have confirmed that contaminated land conditions are necessary.

Construction Hours

Construction works can have a negative impact on residential amenity. Therefore, given that the proposed development would be in close proximity to residential properties, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

Ecology

KC Ecology were formally consulted on the proposed scheme. Officers initially asked for a Preliminary Bat Roost Assessment to be provided to determine the buildings suitability for roosting bats. This document was later submitted by the Applicant's Agent. KC Ecology reviewed the document and did confirm that a minimum of two dusk emergency bat surveys will need to be undertaken at the house and a minimum of one dusk emergence survey will need to be undertaken at the garage in accordance with the recommendations outlined within the Preliminary Bat Roost Assessment (reference no. 1956a rev.1, dated May 2024). As such, a pre-commencement condition has been added to the decision notice to secure the surveys.

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

6. Representations

One representation was received during the course of the application. The comments made have been summarised and addressed below:

- It is very important that building work does not cause too much disturbance for people living nearby some of whom work from home. So far builders working on the stable at this property have been considerate and this must continue. **Response:** Impacts from construction are temporary and are not material planning considerations

- It would be best if the stable conversion was finished before work starts on the Bylands house so that people living nearby are not having to cope with too much work going on.

Response: This matter would be a private matter and would not constitute a material planning consideration.

- Bylands is an attractive house built of local stone and it is important that the new house fits into the space well and is appropriate to the Conservation Area.

Response: *The proposal's potential impact on the appearance and character of the street scene has been assessed within the 'visual amenity' section of the report.*

- It is also important that any materials such as asbestos are treated with great care when demolishing the house. This was commonly added to plaster until the mid-1980's as well as being used for insulation

Response: *If Asbestos is found during demolition, it will be the applicant's responsibility to employ a specialist to safely remove it.*

7. Negotiations

No amendments or additional plans have been sought or received during the course of the application.

8. Conclusion

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

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation - Delegated Powers

Application Number: 2023/93761

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. The detached dwelling hereby approved shall be faced in natural stone for the external walls and natural blue slates for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.

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

4. Prior to development commencing on the superstructure of the dwelling hereby approved, details of all the external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such.

Reason: In the interest of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

5. Notwithstanding the submitted plans and information, before development commences on the superstructure of the dwelling hereby approved, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Reason: In the interest of visual and residential amenity, in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design

Guide Supplementary Planning Document and Chapters 12 and 13 of the National Planning Policy Framework.

6. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is necessary 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. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6, further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: This pre-commencement condition is necessary 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.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks 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 shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

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.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of)

the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures 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.

10. Prior to the occupation of the development, or it being taken into beneficial use, 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 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.

11. No development shall commence (other than the demolition of the existing dwelling) until;

- a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, 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.

Reason: This pre-commencement condition is necessary 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.

12. Prior to development commencing on the superstructure of the dwelling hereby approved, a minimum of two dusk emergency bat surveys shall be undertaken at the house and a minimum of one dusk emergence survey shall be undertaken at the garage in accordance with the recommendations outlined within the Preliminary Bat Roost Assessment (reference no. 1956a rev.1, dated May 2024). The surveys should be undertaken during the optimal period of early-May to mid-August and spaced at least 2 weeks apart. The development shall then be carried out in accordance with the approved details and retained thereafter.

Reason: To ensure that the proposal does not result in significance ecological harm in accordance with the requirements of Policy LP30 of the Kirklees Local Plan, Principle 9 of the Council's Housebuilders Design Guide SPD, the Council's Biodiversity Guidance Note, and Chapter 9 of the National Planning Policy Framework.

13. Prior to the commencement of development, a plan detailing the specification, positioning and location of one integrated bat box (Ibstock Enclosed Bat Box 'C' or suitable alternative) and one integral swift box (Vivara pro woodstone swift box or suitable alternative) shall be submitted to and approved in writing to the local authority.

Reason: This pre-commencement condition is necessary to provide an enhancement to biodiversity in line with LP30 and the requirements of section 15 of the National Planning Policy Framework.

14. 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.

NOTE: It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning and Development Team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

NOTE: It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

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: 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: 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: 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: 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:

Plan Type	Reference	Revision	Date Received
Existing Site Plan	01	-	08/01/2024
Existing Plan and Elevations Site Location Plan	02	-	08/01/2024
Existing Site Sections	03	-	08/01/2024
Proposed Site Plan	04	A	08/01/2024
Proposed Plans	05	A	08/01/2024
Proposed Elevations	06	A	08/01/2024
Proposed Site Sections	07	A	08/01/2024
Preliminary Bat Roost Assessment	1956a	1	27/06/2024
Planning Statement	JM230120_PS_01	-	08/01/2024
Design and Access Statement	-	-	08/01/2024
Phase 1 Preliminary Contamination Risk Assessment	GEOL23-7915	-	08/01/2024
Percolation Report	23020-PR-001	-	08/01/2024
Coal Mining Risk Assessment	C1969/21/E/3016	-	08/01/2024
Solar Panel Specification	-	-	08/01/2024
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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter. The Applicant's Agent has agreed to the pre-commencement conditions.

Dated: 29/08/2024