

**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:	2024/62/90273/E
Site Address:	adj, 53, Garden Place, Dewsbury Moor, Dewsbury, WF13 4EP
Description:	Erection of two semi detached dwellings
Recommending Officer:	Elenya Jackson

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: 06 May 2025

Officer Report

Site Description

The enquiry site comprises a brick built, two-storey middle terrace dwelling at 53 Garden Place in Dewsbury. The application site is to the rear of this dwelling. The dwelling fronts onto Garden Place, an unadopted road which leads off Church Lane to the north. There is pedestrian access to the rear of the terrace row which is taken from Garden Place. There is an area of amenity space immediately to the rear of the dwelling which sits in line with the rear amenity space of the properties immediately adjacent.

To the south of the pedestrian access to the rear of the terrace row, there is a larger garden area. This is now under separate ownership from the dwelling of no.53. Within this area of land, land levels slope upwards towards the east. A garage formerly occupied the site to the boundary of 26 Church Lane, however this has been demolished.

The surrounding area is predominantly residential nature. Whilst the terrace row on which the application dwelling is located are of a similar appearance, the wider area comprises properties which vary in terms of their character, style and design.

It is understood that the road associated with Garden Place is under shared ownership with other dwellings in the street.

Planning Permission has previously been granted for a single dwelling.

Description of Proposal

The proposal would face west, with a width of 10.5 (the previous scheme was 9.8m) with a height of 9.1m (the previous scheme was 8.2m and 9.1m including chimney) and an eaves height of 5.8m (previously 5.5m)

The property would have a depth of approximately 9m with an additional 1.5m projection on the rear (This was previously 9.4m).

The plans indicate the proposed materials and outline the materials would feature stone to the principal elevation with a red brick side and rear elevations and stone detailing.

Each dwelling would benefit from two parking spaces.

History of negotiations/amendments received

During the course of the application, revisions were required in response to land ownership disputes.

Relevant Planning History

2022/92405: Erection of detached dwelling with linked garage. Conditional full permission.

Representations

The application was advertised by two periods of public consultation via neighbour notification letters, which expired on 1/01/2025

Four objections were received which raised the following concerns:

- Highway safety
- Visual impact
- Trees
- Restrictions on working hours
- Incorrect boundaries on plans
- Concerns with coal reports
- Location of watercourses
- Crime

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 Highways DM: Following alterations to the layout, no further comments subject to the imposition of conditions.

KC Environmental Health: No objections subject to the imposition of conditions relating to contaminated land.

The Mining Remediation Authority: No objections subject to conditions.

Policy

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

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan:

- LP 1 – Achieving Sustainable Development
- LP 2 – Place Shaping
- LP 3 – Location of New Development

- LP 7 – Efficient and Effective Use of Land and Buildings
- LP 20 – Sustainable Travel
- LP 21 – Highways Safety and Access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity and Geodiversity
- LP 33 - Trees
- LP 43 – Waste Management Hierarchy
- 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) published December 2024, 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.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 9 – Promoting Sustainable Transport
- Chapter 11 – Making Efficient Use of Land
- Chapter 12 – Achieving Well-Designed places
- Chapter 13 – Protecting Green Belt Land
- Chapter 14 – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- Chapter 15 – Conserving and Enhancing the Natural Environment

Supplementary Planning Guidance

Housebuilders Design Guide SPD (2021)

Kirklees Council has adopted supplementary planning guidance on new housing development which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing development.

Highway Design Guide SPD (2019)

Kirklees Council has adopted supplementary planning guidance on highway design which carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding highway design and layout, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to highway design

Assessment

Principle of development:

NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan outline 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 supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement 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 in this Framework taken 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.

Having visited the site, officers are of the opinion that the site is within a residential strip of development in a sustainable location, where the principle of new residential development has previously been established to be acceptable. The location of the dwellings has limited amenity or environmental value as the site has previously been cleared and as such, the principle of erecting two new dwellings in this location may be acceptable, meeting the requirements of Policies LP1 of the Local Plan and Chapters 2, 5 and 9 of the NPPF in this regard.

Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also 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. 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...”

The NPPF states that design guides and codes can be prepared at an area-wide, neighbourhood or site specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents.

In addition to this, the NPPF outlines 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.

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 and illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”

Principle 15 of the Kirklees Housebuilders Design Guide SPD states that the design of the roofline should relate well to site context. Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.

As previously highlighted, the site is currently undeveloped and is adjacent to existing dwellings.

There is not established building line within the street scene for properties that currently utilise Garden Place as their access.

The proposal would not be situated forward of any of the properties to the north or the south of the application site which would reduce the proposal's prominence as a later addition in the street scene.

The proposal has been increased in height compared to the previous application on site by approximately 1m. Officers have reviewed this in the context of the neighbouring dwellings, it is considered that due to the proposal being set back from the dwellings to the south, this increase in height would be mitigated and not result in the dwelling appearing overly prominent from the street scene.

The proposal is described to have a stone frontage with a red brick side and rear elevations. Samples of the materials or specific details have not been provided to support the application; however, officers consider that the material palette is reflective of the area. A condition will be added should the application receive permission to ensure the proposed materials integrated with the context of the site.

It is considered that due to the spacing in the site, it is considered necessary to remove permitted development rights for extensions and outbuildings to the building so as to prevent further increases in scale to the development which would alter its integration with the surrounding area.

The design of the proposal draws characteristics from the dwellings to the south. In terms of scale and details.

As the dwelling would be located within a collection of properties that are not uniform in appearance but it is considered that the use of sympathetic

materials and similar characteristics would suffice for the dwellings to integrate in the street scene as a pair.

Given the above, the proposal is considered to be in accordance with Policy LP24 of the Kirklees Local Plan and Chapters 12 of the NPPF.

Residential Amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings. Further to this, 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."

In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Builder's Design Guide SPD goes into further detail with respect to Key Design Principle 6 on maintaining high standards of residential amenity.

Impact on 26 Garden Place: adjoins the application site to the south. The plans indicate a 1.8m timber fence is to be erected between the dwellings. Overlooking: The proposal would feature any side facing windows and therefore no significant concerns would be raised regarding overlooking. Overshadowing/loss of light: The proposal would be situated to the north of no.26, the main dwelling would be set 3m away from the shared boundary between the dwellings (this was previously 3.6m) Therefore, no significant issues would arise regarding overshadowing/Loss of light. Overbearing: The main dwelling would be set away from the private amenity space of no. 26 by 3m. Therefore, no significant issues would arise regarding overbearing.

Impact on 51 Garden Place: The proposed development would be situated approximately 20m away from the side elevation of this dwelling.

Overlooking: The proposal would not have any side facing windows at first floor level and such, no overlooking would occur to this property.

Overshadowing/loss of light/overbearing: The proposal would have an offset relationship with no.51 and be situated 20m away from the rear of no.51.

Therefore, no significant issues would arise regarding overshadowing/loss of light/overbearing

Impact on No.53 Garden Place: would be situated approximately 18.9m away from the proposal.

Overlooking: The proposal would not have any side facing windows and as such would not result in overlooking to this property.

Overshadowing/loss of light/overbearing: The proposal would have an offset relationship with no.53 and be situated 18.9m away from the rear of no.53.

Therefore, no significant issues would arise regarding overshadowing/loss of light/overbearing

Impact on No.55 Garden Place: would be situated approximately 16m away from the proposal.

Overlooking: The proposal would not have any side facing windows at first floor level and therefore no significant issues would be raised regarding overlooking.

Overshadowing/loss of light/overbearing: The proposal would be situated 16m from no.55. Therefore, no significant issues would arise regarding

Overshadowing/loss of light/overbearing

Impact on 57-63 Garden Place: These properties would be situated approximately 22m away from the proposal.

Overlooking: The proposal would not have any side facing windows and as such would not result in a loss of privacy to these properties.

Overshadowing/loss of light/overbearing: The proposal would be situated a sufficient distance from these dwellings . Therefore, no significant issues would arise regarding Overshadowing/loss of light/overbearing

Impact on No 6 Staincliffe Close: no.6 would adjoin the rear of the proposed dwellings and there would be approximately 19m (this was previously 25m) between the two dwellings and 10.5m between the proposed dwellings and the shared boundary (this was previously 16m).

Overlooking: The proposal would be set approximately 21m at first floor level from the rear of no.6 and 19m at ground floor level due to the single storey rear projection. It is considered that as the first floor would retain 21m between the properties, and there would be an offset relationship between the dwellings which would reduce the impact on the ground floor, this relationship would not result in a significant detrimental impact from overlooking.

Overshadowing/loss of light/overbearing: It is considered that due to the separation distance between the dwellings and the offset relationship, no significant issues would arise regarding overshadowing/loss of light/overbearing.

Impact on 8 Staincliffe Close: would adjoin the rear of the proposed dwelling approximately 20m to the north east.

Overlooking: The proposal would be set approximately 20m away from the main dwelling at no.8 and have an offset relationship. Therefore, no significant issues would arise regarding overlooking.

Overshadowing/loss of light/overbearing: It is considered that due to the separation distance between the two dwellings, no significant issues would arise regarding overshadowing/loss of light/overbearing

It is considered that once occupied the development 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 (an objection to the development has been received on these grounds). To avoid this, it is recommended that in this instance a footnote is 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.

In view of the above, it is considered that the development will be acceptable in neighbour amenity terms reasonably meeting the requirements of Policy LP24 of the Local Plan and of the Housebuilders Design Guide SPD (2021) in this regard.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: "All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers.

Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan."

Notwithstanding the above, National space standards require the following gross internal floor area for a three storey dwelling:

- 3 Bedroom, 4-person dwelling set over 3storey's- 90 square metres
- 3 Bedroom, 5-person dwelling set over 3 storey's- 99 square metres
- 3 Bedroom, 6-person dwelling set over 3 storey's- 108 square metres
-

The proposed floor plans show the proposal would have three bedrooms and therefore is required to have an internal floor space of a minimum of 90m², which the development would comfortably exceed due to having an internal floor space of 115m² of internal floor space over three floors.

The proposed development, subject to conditions, is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policies LP24 and Chapter 12 of the National Planning Policy Framework.

Impact on Highway Safety:

With regards to Highways Safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options.

KC Highways DM have been formally consulted as part of this application, as the proposal would intensify the domestic use at the site.

Officers raised concerns regarding width of the access for emergency vehicles. Amended plans were received as a result and conditions have been requested should the application receive permission.

It is considered necessary to impose conditions to ensure that the driveway is appropriately surfaced and drained in accordance with standard guidance to ensure the additional hard surface does not result in an increase in surface water run-off and flood risk, details of how the alterations to the access will be provided.

Details of bin storage have also been presented on the proposed plans in which have been considered acceptable. Therefore, having taken into account the above, KC Highways Development Management consider the off street parking to be acceptable and therefore the application can be supported subject to the aforementioned conditions. This is to accord with Policies LP21 and LP22 of the KLP and the Councils Highways Design Guide.

In view of the above it is considered that the proposal will be acceptable in highway safety terms reasonably satisfying the requirements of Policies LP21 and LP22 of the Local Plan and of the Highway Design Guide SPD (2019) in this regard.

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 pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The proposal is for the erection of a semi-detached pair off dwellings. The details provided in the climate change statement are considered sufficient This would comply with the aims of Policies LP24 and LP51 of the KLP and

chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Bats/ Ecology

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity and outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

The site is not known to have previously been the habitat of any protected flora and fauna; however, the site is located within a Bat Alert Layer within the LPA's GIS system. As such it is deemed necessary to add a condition requiring the installation of a bat box and a sparrow box in order to provide enhancement, the development should incorporate measures to improve biodiversity opportunity, and as such conditions are imposed. In view of this it is considered that the proposal will reasonably satisfy the requirements of Policy LP30 of the Kirklees Local Plan and of Chapter 15 of the National Planning Policy Framework in ecological terms.

There have been updates to [Schedule 7A of the Town and Country Planning Act 1990 \(inserted by the Environment Act 2021\)](#), which result in biodiversity net gain being a statutory requirement. However, the application was received prior to the adoption of this legislation and therefore no further action is required in this respect.

Contaminated land/Coal Mining Legacy:

The site is located in a high risk coal area, in response to this, the Council's Environmental Health Service have recommended that conditions are imposed on any approval requiring the developer to submit details relating to contaminated land. A condition to this end is therefore recommended.

The site is located within a High Risk Coal area and a Coal Mining Risk Assessment has been provided to support the application.

This has been reviewed by The Coal Mining Remediation Authority and its details concurred.

Further intrusive investigations are considered necessary with additional gas monitoring.

As a result, conditions are requested by The Mining Remediation Authority to ensure that the site would be safe for development and later occupation.

Subject to the imposition of conditions, it is considered that the proposal will reasonably satisfy the requirements of Policy LP53 of the Council's adopted Local Plan and of Chapter 15 of the National Planning Policy Framework in land contamination terms.

Representations:

Three objections were received which raised the following concerns:

- Highway safety
Officer response: KC Highways have been consulted on the application and subject to conditions relating to how the access will be widened.
- Visual impact
Officer response: Officers have reviewed the application and consider that there would be an acceptable amount of spacing between the application property and neighbouring dwellings and a reasonable amount of non-developed land would be retained should the proposal receive permission and the design of the application is considered in-keeping with the wider character of the area.
- Impact on Trees
Officer response: Officers have reviewed the application and consider that there are no trees within the site boundary and there are no trees that benefit from a TPO within the vicinity. Therefore, the matters would be civil between the applicant and surrounding property owners.
- Restrictions on working hours
Officer response: Section 60 of the Control of Pollution Act 1974 regulates noise and environmentally related disputes. Therefore, no further comments
- Incorrect Boundaries
Officer response: Amended plans have been received during the course of the application which reduce the redline boundary of the site.
- Concerns regarding coal reports
Officer response: The Mining Remediation Authority has been consulted on the above application and requested further conditions.
- Location of watercourses
Officer response: The site is not within a known flood zone, there are no culverts identified on site. Therefore officers have no further comments.
- Crime

- Officer response: Perceived increase in crime as a result of the development would not be a material planning consideration in this instance.

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.

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: 2024/90273

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 so as to ensure the satisfactory appearance of the development on completion, LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP47, LP51, LP52 and LP53 of the Kirklees Local Plan, Chapters 2, 5, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD (2021) and Highway Design Guide SPD (2019).

3. Prior to development commencing, a detailed scheme for the widening of Garden Place between the proposed site access and Church Lane shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, and surface finishes. Unless otherwise agreed in writing by the Local Planning Authority, all the agreed works shall be implemented before any part of the development

is first brought into use. and shall thereafter be retained and maintained for the lifetime of the development.

Reason: This is a pre-commencement condition to ensure that a suitable access can be formed to serve the development, In the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

4. No development shall commence until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past 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 safe and stable for the development proposed.

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

Reason: This is a pre-commencement condition to enable the legacy of past coal mining activity to be adequately mitigated at an appropriate time, and to ensure the site is safe and stable for occupation in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. 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 site is safe for occupation in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that potential land contamination is assessed at an appropriate time, in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (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 is a pre-commencement condition to ensure that potential land contamination is assessed at an appropriate time to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (7) 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 is a pre-commencement condition to ensure that potential land contamination is assessed at an appropriate time to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework

9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (8) 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 is a pre-commencement condition to ensure that potential land contamination is assessed and remediated at an appropriate time to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework

10. 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 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.

11. Notwithstanding the submitted details, development above slab/foundation level shall not commence until details of all external materials including walls, roofs, doors, windows, surfacing, rainwater goods and colour finishes to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. No materials other than those

approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.

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

12. 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 Agency's '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, to achieve a satisfactory layout and to accord with Policy LP22 of the Kirklees Local Plan.

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

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

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any subsequent legislation revoking or superseding that Order, no windows, doors or other openings, other than those shown on the approved plans, shall, at any time, be formed within any elevation of the approved dwelling.

Reason: To safeguard the privacy of the adjoining properties, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan. and the provisions of the Housebuilders Design Guide SPD (2021).

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A - E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary of the site.

Reason: To ensure that unsatisfactory extensions and outbuildings do not have an unacceptable impact on the amenities of surrounding properties, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan and the provisions of the Housebuilders Design Guide SPD.

16. Development shall not commence on the superstructure of the development hereby approved until a scheme detailing landscaping,

tree/shrub planting, including the indication of all existing trees and hedgerows on and adjoining the site, details of any to be retained, together with measures for their protection in the course of the development, has been submitted to and approved in writing by the Local Planning Authority . The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with national policy in Chapter 11 of the National Planning Policy Framework.

17. A bat box shall be installed to the exterior of the new dwellings before the dwellings hereby approved are first brought into use and thereafter retained for the lifetime of the development

Reason: In the interests of the biodiversity of the site and in accordance with the Wildlife & Countryside Act 1981 (as amended), Conservation of Habitats and Species Regulations 2010 and, compliance with the National Planning Policy Framework.

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 221000) 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: 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan		1	26/11/2024
Site Plan	Site block plan	2	5/02/2025
Grouped Plans and Elevations	Proposed building plans 03		27/11/2024
Coal Mining Risk Assessment	July 2022		26/11/2024

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 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 plans were provided following concerns raised relating to site ownership.

