

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2024/70/90686/E
Site Address:	230, Roberttown Lane, Roberttown, Liversedge, WF15 7LL
Description:	Variation condition 2 (plans) on previous permission 2021/90581 for demolition of existing bungalow and erection of 2 dwellings
Recommending Officer:	Jennifer Booth

DECISION – APPROVE VARIATION OF CONDITION 2

**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: 02-May-2024

OFFICER REPORT

Site Description

230 Roberttown Lane is a site undergoing construction for a pair of semi-detached dwellings.

The surroundings are residential with properties of varying ages and styles.

Description of Proposal

The applicant is seeking permission to vary condition 2 of the planning permission granted under 2021/90581.

Condition 2 of permission 2021/90581 relates to the plans and details approved under the application and reads as follows:

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 Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

- This Section 73 application seeks to vary the approved plans due to design changes. The proposed alterations are as follows: Provision of accommodation in the loft space
- Insertion of roof lights to the front roof plane
- Installation of solar panels on the rear roof plane
- The previously approved single storey side projections would also be extended upwards to two storey level.

Relevant Planning History

2020/92827 - erection of single storey extensions to front and sides with balcony in roof and parking area to front - withdrawn

2021/90581 - demolition of existing dwelling and erection of a pair of semi-detached dwellings – approved

2022/92342 - discharge of conditions for 2021/90581 - split decision

2023/91476 - discharge of condition for 2021/90581 - approved

Representations

The application was advertised by neighbour letters, which expired on 18/04/2024.

As a result of the above publicity, one representation has been received which queries what the alteration is. The description of development on the application form outlines what the proposed variations are.

Consultation Responses

None

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 Proposals Map

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.

Kirklees Local Plan Policies

- **LP 01 – Achieving sustainable development**
- **LP 02 – Place shaping**
- **LP 03 – Location of new development**
- **LP 11 – Housing mix and affordable housing**
- **LP 20 – Sustainable travel**
- **LP 21 – Highway safety and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 30 – Biodiversity and geodiversity**
- **LP 51 – Protection and improvement of local air quality**
- **LP 53 – Contaminated and unstable land**

Kirklees Council adopted supplementary planning guidance on house builders on 29th June 2021 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), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

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 2023, and the Planning Practice Guidance Suite (PPGS) first launched 20th December 2023 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 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

Principle of development:

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development for the demolition of existing bungalow and erection of two dwellings was established under permission 2021/90581. As such, it is considered that the principle of the development remains established by way of this permission. This assessment will deal with the merits of the proposed variations only.

Impact on visual amenity:

Policy LP24 of the KLP states proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.

The external alterations to the appearance of the approved dwellings are limited to the roof lights, solar panels and side projections. Given the mix of

property types in the vicinity together with the limited scope of the alterations, the alteration to the appearance is considered to be acceptable in terms of visual amenity.

For the reasons set out above, the proposal is considered acceptable regarding visual amenity and it accords with policy LP24 of the KLP and advice within chapter 12 of the NPPF in respect to this matter.

Impact on residential amenity:

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 impact of the development as a whole on the amenity of neighbouring occupants has been assessed as part of the original permission. The use of roof lights would not provide additional opportunities for overlooking and the solar panels would not have any impact on the neighbouring properties. The increase in height of the side projections is not considered to be of detriment to residential amenity due to their limited width and confines within the site.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135 (f) of the National Planning Policy Framework.

Impact on highway safety:

The proposals will reconfigure the accommodation to retain 3 bedrooms and as such would not result in any intensification of the domestic use. The approved parking arrangements are therefore considered to represent a sufficient provision. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan.

Other matters:

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

Representations:

One representation has been received which queries what the proposed variations are -. The description of development on the application form outlines what the proposed changes are.

Negotiations:

None

Proposed conditions

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant.

The standard timescale condition, which is normally a requirement of Section 91 of the Town and Country Planning Act 1990 shall be omitted as the dwellings are almost complete. The conditions previously attached shall be as below with amendments as appropriate:

- Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.
- Use of stone for the walling and stone effect tiles – no longer required as the properties are nearing completion.
- The boundary treatments shall be retained as agreed under the discharge of conditions 2022/92342.
- Parking areas to be provided, surfaced and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009.
- Drainage – no longer required as the properties are nearing completion.
- Phase 1 – dealt with under discharge of conditions 2022/92342
- Phase 2 – dealt with under discharge of conditions 2022/92342.
- Validation report – dealt with under discharge of conditions 2022/92342.
- Reporting of unexpected contamination, still required.
- Provision of EV charging, no longer required as covered under Building Regulations.
- Intrusive investigations for coal mining legacy – dealt with under discharge of conditions 2022/92342.
- Remediation for coal mining legacy - dealt with under discharge of conditions 2022/92342.

Conclusion:

This application to vary condition 2 of the approved scheme under 2021/90581 has been assessed against relevant policies in the development plan as listed in the policy section of the report, the Housebuilders Design

Guide SPD, the National Planning Policy Framework and other material considerations..

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: 2024/90686

Officer Recommendation: Approve

Conditions and Reasons

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

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.
2. The development shall be completed in line with the approved details of the siting, design and materials for the boundary treatments along the sides and rear under 2022/92342 shall be erected before any dwelling is first occupied and shall thereafter be retained as such.

Reason: In the interests of visual & residential amenity and to accord with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.
3. Before the dwellings are occupied, a parking area to the front of each dwelling shall be provided. The parking area shall be surfaced and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance.

Reason: In the interests of highway safety and to ensure adequate space within the site for parking and in accordance with Policy LP22 of the Kirklees Local Plan.
4. If contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, 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.

Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority. No part of the site shall be brought into use until such time as

the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To protect the development from any potential contaminated land and to comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

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: 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 for 2024/90686: -

Plan Type	Reference	Web ID	Date Received
Site plans – as approved	110 B	1032559	07/03/2024
Site plans – as approved	113 A	1032565	07/03/2024
Elevations – as approved	111 A	1032558	07/03/2024
Floor plans – as approved	112 A	1032557	07/03/2024
Proposed site plan – as built	313	1032563	07/03/2024
Proposed floor plans – as built	312	1032564	07/03/2024
Proposed site plan – as built	310	1032556	07/03/2024
Proposed elevations – as built	311	1032555	07/03/2024
<i>Approved plans under 2021/90581</i>			
Location & existing plans	100	855289	23/03/2021
Proposed site plan	113a	874146	17/06/2021
Proposed site plan	110b	878143	17/06/2021
Proposed elevations	111a	878144	17/06/2021
Proposed floor plans	112a	878145	17/06/2021
Coal mining risk assessment	-	861004	23/03/2021

Plan Type	Reference	Web ID	Date Received
<i>Details considered via discharge of condition 2022/92342</i>			
Additional remediation	-	999391	17/07/2023
Condition 9 5167	-	984882	17/04/2023
Visqueen gas barrier details	-	984879	17/04/2023
Remediation strategy	-	984878	17/04/2023
Consignment note	0404	984877	17/04/2023
Visqueen gas barrier details	-	972167	25/01/2023
Gas monitoring addendum report	-	972166	22/01/2023
Octopus building services	-	972165	25/01/2023
Phase 1	-	946327	09/08/2022
Cond 15 structural calculations	-	946325	09/08/2022
Cond 14 mine shaft risk assessment	-	946324	09/08/2022
Phase 1 SI report	G21365	941444	12/07/2022
SI report cond 8, 9, 15	G22033	941433	12/07/2022
Pedestal charger	-	941432	12/07/2022
Proposed vehicle charging point	311	941431	12/07/2022
Proposed site boundary	310	941430	12/07/2022
<i>Details considered via discharge of condition 2023/91476</i>			
100yrCC40 percent tank sizing	060323	989992	19/05/2023
Run off calcs	-	989991	19/05/2023
EWE drainage	190423	989990	19/05/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

As the submitted plans were considered to be acceptable, no changes were sought.

Report Dated 30/04/2024

