

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:	2024/62/90696/E
Site Address:	adj, 212, Commonside, Hanging Heaton, Batley, WF17 6EB
Description:	Erection of 4 no. dwellings and associated access and retaining structures
Recommending Officer:	Edward Cheseldine

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.

John Holmes

AUTHORISED OFFICER

Date: 22th October 2024

Officer Report

2024/90696 - adj, 212, Commonside, Hanging Heaton, Batley, WF17 6EB

Site Description

The application site is a plot of land situated between a dwelling and a car workshop. There are no structures on the site. There is a steep gradient to the land which rises from north to south. There is a stone boundary wall that separates the site from Commonside. There is a mixed building group in the immediate vicinity, with traditional buildings on the south side of Commonside and more modern semi-detached buildings on the north side. Although there is a car workshop in the close vicinity, the road is mainly residential. The application site, rests partly in the Green Belt.

Application Proposal

The applicant is seeking planning permission for the erection of 4 no. dwellings and associated access and retaining structures.

There are two building groups, Plot 1 consists of a detached dwelling with a width of ~9.00m, depth of ~7.60m eaves height of 4.85m and ridgeline height of ~7.80m. The property will have a rectangular footprint and a pitched roof. It will be faced with Forticrete Anstone artificial stone, with light grey roof tiles.

Plot 1 will also contain a detached, single garage. This will be ~3.40 wide, with a depth of ~6.30m, eaves height of ~2.30m and ridgeline height of ~3.80m. It will be constructed in materials to match the dwelling.

Plot 2 will be a detached building, whilst plots 3 & 4 will be semi-detached. They consist of similar building styles. Each building will be ~5.80 wide, ~10.20m deep, with an eaves height of ~7.90m and a ridgeline height of ~11.50m. They will be 3 storey structures with a garage unit on the ground floor, a front balcony and pitched roof styles. Materials will be the same as those of Plot 1.

The boundary wall to the front of the site will be reconstructed in natural stone. The retaining wall to the rear of plots 2-4 will be constructed with concrete and faced in stone, with a 1.20m timber fence on top. 1.80 fencing will separate the properties.

Landscaping is proposed to the site which will create a tiered approach to the land.

Relevant Planning History

2010/93348 – Erection of 5 dwellings – Full permission granted

Consultation Responses

KC Highways – No objection, subject to additional speed surveys and sightlines that cleared the objection from Highways.

KC Environmental Health – No objection, subject to conditions

The Coal Authority – No objection, subject to conditions.

The content of consultee responses is discussed in more depth in the 'Assessment' section of this report.

Amendments/Negotiations

A speed survey was requested to indicate the 85th percentile of travelling speed as the access sightlines did not accord with distances set out in the manual for streets. In addition, new sightline plans were requested. The additional information was accepted by KC Highways.

Public Representations

Neighbourhood notification letters were distributed, which expired on the 19-Apr-2024. As a result of the publicity, there were no representations.

Policy & Legislation

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.

Kirklees Local Plan (LP):

- **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** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land
- **Policy LP59** – partial redevelopment in the green belt

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, 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 Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed and Beautiful 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

Other Material Considerations

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide SPD (2021).

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Environmental issues
- 6) Conclusion

1- Principle of development:

Presumption of favour of sustainable development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of

sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be assessed.

Part of the site is allocated as Green Belt on the KLP Policies Map. Policy LP2 states that:

“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”

Green Belt

Part of the application site is located on land situated within the Green Belt as indicated in the Kirklees Local Plan.

Chapter 13 of the NPPF requires local Planning Authorities to regard the construction of new buildings in the Green Belt as inappropriate development. Paragraph 155 of which regards exceptions criterion provided they preserve its openness and do not conflict with the purposes of including land within it, e) material changes in the use of land.

The area of the plot that is situated within the Green Belt will be part of the residential garden space. Historic aerial imagery indicates that whilst the section within the Green Belt has been overgrown with self-seeded shrubbery, it has been part of the curtilage of the site and not part of the adjacent agricultural fields. It has been cleared several times over the past decade. In terms of built form, retaining walls and steps will be formed in Green Belt land. The land slopes downward towards the dwellings. The retaining walls and steps will be constructed for access. A change of use to the land will not alter the purposes of the land, the built form will provide access to the garden space. In order to retain an open appearance, the agricultural fencing bordering the rear boundary will be retained.

Policy LP59 of the Kirklees Local Plan sets out that proposals for the partial or complete redevelopement will normally be acceptable provided that the extent of the existing footprint is not exceeded and redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for. This policy requires that resultant development does not materially detract from its Green Belt setting.

The previous use of the land appears to have formed part of the curtilage of neighbouring commercial uses, with some use of the land with parking of vehicles appearing to have taken place at times in the past. As such, it is

considered the land has the potential to be used for a variety of purposes including storage. In this case it is considered the change of use to garden land would not significantly alter the impact upon openness or the purposes of including land within the Green Belt. A condition would be included to ensure that no outbuildings are constructed to plots 2, 3 and 4.

Given the formation of the new dwellings and bulk of built form it not within the Green Belt and the exceptions of development outlined within Chapter 13 of the NPPF, and taking account the former use of the land it is considered that the impact of the proposal would not be significant in this regard subject to condition to control sprawl of built form into land allocated as Green Belt.

Subject to condition the proposal is concluded acceptable in this regard.

New Dwelling

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. The judgement in this case is set out in the officers assessment.’

Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 69 of the NPPF recognises that: “Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their

policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate 5 dwellings. However, LP7 states this target should be ‘where appropriate’ and in the policy justification set out in paragraph 6.40 that the policy allows for lower ‘densities where a site would not be compatible with its surroundings’.

Residential development at the site is considered to be acceptable in principle. Four dwellings are proposed in this instance, the site is constrained due to the topography of the land and surrounding built form. The residential make-up provides a mix of housing. For the purposes of LP7, the development is acceptable.

2- Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places and beautiful 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 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, heritage assets and landscape...”

Paragraph 134 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. 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.”*

The building group is respectful of the traditional buildings that rest to the south of Commonsides. They vary in terms of size and style with an overarching appearance that is formed from their simplistic style and materials. There is no fixed pattern to the building groups due to the nature of the structures present. There is a variety within the building group, with some of the side elevations facing the highway. Materials are predominately stone external walls with grey roof tiles.

Plot 1 is respectful in style and appearance to the traditional dwelling group, although it does not replicate the architectural design of the adjacent dwellings, the simplicity of the style and proposed materials will link the development together with the wider streetscene.

Plot 1 will be placed close to Commonsides, which is set back ~3.50m from the site boundary. Its side elevation will face the highway, with the entranceway facing east. It will sit behind the adjacent building. Plots 2-4 sit in a position that is relatable to 212 Commonsides. The spatial layout provides access to each property through the access road whilst create a street frontage through the positioning of Plot 1.

In terms of height, Plot 1 will be relative to the adjacent building which is a two-storey structure. Plots 2-4 will appear higher than No. 212, however due to the landscaping, the dwelling will not appear stark when set against their neighbouring dwelling. It is not considered the height difference would be over and above what is appropriate in the area. Considered the footprint of the proposed dwellings, they are consistent with dwelling other buildings in the area.

Outdoor space is formed mainly to the rear of the dwellings. Plot 1 hosts a section of garden to the side, which buffers the development from the border, it creates a characterful environment. Plots 2-4 hosts small section of garden in front of the properties which formed a pleasant aesthetic. For the purposes of visual amenity, the green space provided forms a pleasant aesthetic to the environment.

Principle 13 of the Kirklees Housebuilders Design Guide SPD states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.

The dwellings will be constructed in artificial stone with grey roof tiles. Dwellings on the south side of Commonsides are built in natural stone. There will be a slight difference visually, however the buildings do not replicate the architectural style of the adjacent buildings, therefore a change of material is acceptable as they are a representative of the wider building group.

Principle 14 of the Kirklees Housebuilders Design Guide SPD notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

In terms of the street frontage, the side elevation of Plot 1 will face the roadside, other openings will be visible from the roadside. The units include square, casement openings. As stated above, whilst the openings are not sash type, the buildings are part of a mixed building group and the style of windows is not considered to impact the prevailing street scene.

Principle 15 states that the design of the roofline should relate well to site context.

Plot 1 hosts a frontal position, the ridgeline of which is relative to the adjacent dwelling, with the gable-end facing the road.

Parking for the plot 1 is set away from the roadside, on the southern aspect of the plot. Car parking spaces are provided for Plots 2-4 to the front of the dwellings, spaces are in front of garages. Features on the dwellings are on the first-floor level, therefore the character of the dwellings is not impacted by the placement of vehicles.

The scheme proposed a natural stone wall to the north aspect of the site which will tie the development in with the adjacent properties. 1.80m wooden fencing will be used to separate the properties, which is suitable for a residential setting.

The erection of 4 dwellings therefore accords with the guidance set out within the House Builders Design Guide SPD and the Kirklees Local Plan.

The proposal has set out that finished floor levels of the dwellings would be 103.50AOD for plot 1, rising to 105.82 for plots 2, 3 and 4. This would broadly reflect the existing contour levels, which according to records held by the LPA is 100 AOD for dwellings opposite the site, rising to 110 AOD for the rear of the site. It is recommended any grant of permission requires the development to be undertaken in accordance with these levels.

The materials of construction are indicated as being Facing stone - Forticrete Anstone Premier Olde Heather Black Pitched Roof Tiles - Sandtoft Calderdale Edge Light Grey upon a plan titled 'Materials Plan' received 11th March. It is considered these materials of construction would be suitable given the mix of materials in the street and the design / appearance of the materials which is proposed within this plan. It is recommended any grant of permission requires the development to be in accordance with these materials.

It is therefore considered that on the basis of inclusion of conditions relating to the finished floor levels, boundaries of the site and the materials of construction the impact of the proposed development upon the wider visual amenity of the site and locality in accordance with the aforementioned policies.

3 - Impact on Residential Amenity

Section B and C of LP24 states 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 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 properties that will be affected by the development will be 206, 212, 197, 199, 201 Commonsides.

Impact on 206 Commonsides

206 Commonsides is to the north-west aspect of the site. It sits to the rear of Plot 1. There are no window openings on the side elevation of the property facing towards the application. There is a separation distance of 6.60m between the application building site and 206 Commonsides. The separation distance is suitable, there is not considered to be a significant impact to privacy, a loss of light, loss of outlook or an overbearing impact.

Impact on 212 Commonsides

212 Commonside is to the east of the site. There is a ground-floor side extension with windows facing towards Plot 2. There will be a distance of ~2.50m from the building to the shared boundary which is appropriate. Currently a 1.80m fence separates 212 Commonside from the application site. The fencing will mitigate any impact to privacy of both occupants. Front balconies are proposed that will have a view of the neighbouring side space, as this space is to the side of the property, it will not impact private outdoor amenity of No.212. The separation distance is suitable to mitigate from a loss of light, loss of outlook or an overbearing impact.

Impact on 197, 199 & 201 Commonside

These properties are situated to the north of the site. Plot 1 contains four side elevation windows that will serve habitable windows, these face towards the properties to the north. There is a separation distance of ~21.00m to the nearest dwelling which is No.199. For the purposes of new dwellings, the separation distance is suitable to prevent an adverse impact to both occupants. Due to distance, there will not be a loss of light, loss of outlook or an overbearing impact.

Amenity of the Proposed Occupiers

Principle 16 of the 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 (NDSS), these are not currently adopted in the Kirklees Local Plan.”*

Guidance as to the suitable standards for internal space are set out in the House Design Guide SPD, which states in paragraph 9.1, *‘The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers’*.

The floor plans indicate, Plot 1 consists of a 4 bedroom dwelling over two floors. NDSS recommend a 4 bed dwelling over two floors should have an internal living space of 97m². The agent has provided internal floor space calculations, the dwelling would be 114m² which accords with the requirement. Officer calculations agree with the provided details.

Plots 2-4 are 3 bed dwellings which should have an internal floorspace of 84m² according to NDSS. The dwellings would have an internal floorspace of 126m².

Rooms are accommodated with suitable openings. Bedrooms are of a sufficient size.

Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and*

context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”

Plots 2-4 have a generous residential curtilage with suitable outdoor space to the rear of the plots. Each dwelling has a rear Juliet balcony. For the purpose of privacy, the Juliet balcony, whilst being large has a similar impact to a traditional window opening. Whilst gardens are overlooked by each other, due to the proposed boundary treatments they are sufficient, to be perceived as private.

Plot 1 has garden space to the front, side and rear. It is of a sufficient size to host a family dwelling. There will be fencing placed to the rear of the property, to shield view from the roadside, creating a privacy, the garage building will enclose the space from view from the south.

The front balconies will overlook the front outdoor areas which is used for car parking and shared access, with the rear amenity space screened to a degree by the detached garage to the rear of plot 1, thus ensuring a level of private amenity space for occupiers of plot 1.

The impact of the proposal upon future occupiers is therefore considered to be acceptable.

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

4-Impact on Highway Safety

Paragraph 111 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.”*

Plot 1 is a 4-bed dwelling, two off-street parking spaces are proposed with a garage that could serve as a parking space. The Kirklees Highways Design Guide SPD recommends 4 bed dwelling should have 3 off-street spaces, which the development accords with. The vehicles have the ability to exit the complex in a forward gear turning within the access road.

Plots 2-4 are 3-bed dwellings, with a single parking space and a garage space suitable for one vehicle. The Kirklees Highways Design Guide SPD recommends 3 bed dwelling should have 2 off-street spaces, which the development accords with. The access road is suitable for turning, so vehicles can leave the site in a forward gear.

In terms of access onto Commonsides, the access was assessed by KC Highways. Initial visibility sightlines were submitted, however visibility did not

accord with standards for a 30mph road, due to the surrounding built environment. Therefore, a speed survey was requested in order to understand the 85th percentile of speeds on Commonsides. The speed survey indicated visibility splays could be reduced as the average speed was below 30mph. It is noted that the visibility from the access is still minorly below the threshold. Given the number of dwellings, and potential trips generated, the visibility is suitable for the access. KC Highways accept the visibility, concluding that the access will not have a detrimental impact on highway safety.

A condition to require the development to be completed in accordance with the submitted access details is recommended. On the basis of the inclusion of this condition it is considered, having regard to the further information submitted and response of the Council's Highways Team, that the proposal would have an acceptable impact upon access and highway safety.

Other Issues

Landscaping

Landscaping improvements are acceptable in terms of visual amenity. Two self-seeded trees will be removed to the front of Plot 1, they will be replaced by sufficient shrubbery. The rear plots of No. 2-4 will be landscaped to create a tiered garden, for the purposes of creating a residential environment the changes are acceptable.

Ecology

Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Principle 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. Which seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided.

A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission for minor sites granted pursuant to an application submitted after 02 April 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development. The application was submitted prior to 02 April 2024, therefore a 10% uplift is not required.

Nevertheless, Principle 9 of the Housebuilders design guide requires a biodiversity net gain, therefore it will be conditioned that a bat and bird box are installed on each of the dwellings.

Land Contamination

With regard to land quality, paragraphs 180, 189 and 190 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are considered to be relevant.

The following documents have been received in support of the application:

1. Phase 1 report authored by JNP Group dated April 2009 (ref: NG7212/COM/ST)
2. Letter authored by Rogers Geotechnical Services Ltd, dated 22nd January 2014 (ref: J2646/14/L)

KC Environmental Health assessed the submitted information.

As stated in the 2009 report, elevated contaminants appear to be present that could potentially pose a risk to human health.

As the Phase 1 report provided is c. 15 years old, we require an updated report in the first instance. In relation to the letter, we are unable to review this information given the lack of context as it is not in accordance with LCRM guidance.

Despite the absence of detailed contaminated land information to support the application at this stage, there have been no objections to the development proposals from Environmental Health. However, KC Environmental Health recommend applying certain conditions should consent be granted.

Therefore, in line with Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework, having regard to the response of the Environmental Health Team contaminated land conditions will be included upon any grant of permission.

Noise Mitigation Measures

Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this case the relevant possible increases could relate to noise, light & odour emissions.

The proposed development is adjacent a site in commercial use. KC Environmental Health have concerns that the future occupiers of the development may be negatively impacted by noise from the existing commercial premise. They recommend that the applicant demonstrates that acceptable sound levels are achieved in indoor and outdoor amenity areas, therefore, noise conditions are therefore necessary.

On the basis of the inclusion of the conditions recommended by the Environmental Health Team, taking account of the predominantly residential nature of the locality and response of the Environmental Health Team it is considered noise can be suitably mitigated by inclusion of an appropriately worded condition.

Historic Coal Legacy

Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The application site falls within the defined Development High Risk Area. The Coal Authority assessed the submitted information.

The Phase 1 Report correctly identifies that the application site may have been subject to past coal mining activity and has been informed by an appropriate range of sources of information. Based on this review of these sources of information the submitted Phase 1 Report concludes that insufficient rock cover may exist above potential unrecorded shallow coal mine workings. Accordingly, appropriate recommendations are included for intrusive site investigations to identify any necessary remedial measures.

Construction Site Times

Construction times are covered by separate legislation, an advisory note will be added to the conditions list that covers appropriate times of construction.

EV Charging Points

The installation of EV charging points is covered by other regulations, it is not necessary to add a planning condition in relation to their installation.

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 proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/90696

Officer Recommendation: Approve

Conditions:

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

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

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no extensions or outbuildings other than those expressly authorised by this permission shall be in Plots 2-4 at any time.

Reason: In order to prevent encroachment of the site and protect the one of the purposes of land being included within the Green Belt and to protect the openness of the Green Belt to accord with Chapter 13 of the NPPF.

4. The development shall not be occupied until the bathroom and ensuite windows in Plot 1-4, of the hereby approved scheme has been obscurely glazed (to a minimum Grade 4). 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) the obscure glazing (to a Grade 4) shall thereafter be retained.

Reason: To prevent overlooking to the neighbouring properties and to accord with Policy LP24 of the Kirklees Local Plan the Key Design Principles of the Housebuilders Design Guide SPD and the aims of the National Planning Policy Framework.

5. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and access road on Site Plan RevD are laid out with a hardened and drained surface 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 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

Reason: In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

6. The boundaries within and surrounding the site shall be in accordance with those as detailed upon the submitted plan titled 'Materials Plan' received 12th March 2024. This treatment shall be completed in full before the first occupation of the dwelling to which it relates and shall thereafter be retained.

Reason: In the interests of protecting the visual amenity of the area, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD.

7. The landscaping scheme upon submitted drawing titled 'proposed elevations and plan' reference RevD received 30th September 2024 shall be completed in relation to the dwelling to which it relates by the end of the first planting season following the occupation of the dwelling to which it relates. 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. All areas of soft landscaping shall be retained thereafter.

Reason: To ensure that there is a well laid out landscaping scheme in the interests of amenity and biodiversity and to accord with the aims of Policy LP24 of the Kirklees Local Plan.

8. A bird box shall be incorporated into each dwelling during the construction phase; the boxes shall be long-lasting Schwegler 'woodcrete' type or similar and shall be located away from sources of light and be sited at least 4 metres above ground level. The bird box shall be provided prior to first occupation of the dwelling to which it relates and thereafter retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

10. Before any enabling or construction work commences, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including any commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall: a) determine the existing noise climate; b) predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time) and other habitable rooms of the development and c) detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required). The dwelling(s) shall not be occupied until all works specified in the approved report have been carried out in full to the dwelling(s) to which they relate and shall be thereafter retained.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

11. 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: 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. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (11) 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: 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.

13. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (12) 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: 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

14. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (13). 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.

15. 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.

16. 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: 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.

17. 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.

18. The finished floor levels of the dwellings hereby approved shall be in accordance with those shown on submitted drawing titled 'proposed elevations and plan' reference RevD received 30th September 2024. No dwelling shall be brought into use until the finished floor levels approved by this condition have been completed for that dwelling and retained thereafter.

Reason: In the interests of visual amenity to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders

Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

19. The materials of construction of the development hereby approved shall be in accordance with those set out within the submitted drawing titled 'Materials Plan' received 11th March. The development shall not be brought into use until construction works in accordance with the submitted drawing titled 'Materials Plan' received 11th March have been completed. The materials of construction shall be retained.

Reason: In the interests of visual amenity to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

NOTE: Pursuant to condition no.10. All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants <http://www.association-of-noiseconsultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

NOTE:

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE:

- The 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.
- Approval of EVCPs 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: 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	Existing site and LP	-	12 March 2024
Grouped plans and elevations - Plot 1 - Proposed Elevations and Plan	Plot 1 - Proposed Elevations and Plan	-	12 March 2024
Grouped plans and elevations – Plot 1 Garage	Plot 1 Garage	-	12 March 2024
Grouped plans and elevations – Plot 2 Proposed Elevations and Plan	Plot 2 Proposed Elevations and Plan	-	12 March 2024
Proposed floor plans – Plots 3 & 4 proposed floor plans	Plots 3 & 4 proposed floor plans	-	12 March 2024
Grouped plans and elevations – Plot 3 & 4 Proposed Elevations	Plot 3 & 4 Proposed Elevations	-	12 March 2024
Proposed site / block layout	Proposed visibility splays & site plan RevD	RevD	30 September 2024
Proposed site / block layout	Materials Plan	-	12 March 2024
Plan Gen – Batley Map	Batley Map	-	12 March 2024
Transport Assessment	Road Data RDS ATC Classification Sheet	-	18 June 2024
Transport Assessment	Batley ATC	-	18 June 2024
Ground Investigation	Ground Investigation - 212 Comonside (from previous app)	-	12 March 2024
Gen 01 - Consultee Response (from previous app)	Consultee Response (from previous app)	-	12 March 2024
Gen 02 - Phase 1 - 212 Commonsides (from previous app)	Phase 1 - 212 Commonsides (from previous app)	-	12 March 2024
Gen 03	Soil Samples - 212 Comonside (from previous app)	-	12 March 2024
Design and access statement	-	-	12 March 2024
Climate change statement	-	-	12 March 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.

A speed survey was requested to indicate the 85th percentile of travelling speed as the access sightlines did not accord with distances set out in the manual for streets. In addition new sightline plans were requested. The additional information was accepted by KC Highways.