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:	**2024/62/90746/W**
Site Address:	21, Le Marchant Avenue, Lindley, Huddersfield, HD3 3DF
Description:	Demolition of existing dwelling and construction of 1.no dwelling including associated works
Recommending Officer:	Tom Hunt

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: 11th June 2024

Officer Report

Site Description

2024/90746 – 21, Le Marchant Avenue, Lindley, Huddersfield, HD3 3DF

No. 21 is a detached bungalow property located within an area without notation on the Kirklees Local Plan. The property is constructed from natural stone and has a red terracotta clay tile steep hipped roof. The property has a front landscaped area with hedging as its boundary and a driveway to its side. The property has a bay window feature to its right with a parapet roof finish above the eaves of the property also in stone. There is a detached garage to the rear of the property within its rear garden. To the rear, there is a small dormer and roof light to the side roof elevation providing daylighting and accommodation to its roof which provides space for two bedrooms. The properties to either side of the dwelling are pairs of semi-detached two storey properties which are hipped roof faced with stone and buff render finish on a ground level highway; the host was designed to be forward of those neighbours.

The surrounding area is predominantly residential with two and one storey properties of a mixed of architectural styles and either detached or semi-detached. There are TPOs 21m distance opposite the property across Le Marchant Avenue's highway to the west.

Description of Proposal

Demolition of existing dwelling and construction of 1.no dwelling including associated works

It is proposed to demolish an existing bungalow and build a two-storey dwelling in its place. This would appear to have a diminutive two-storey side projection and an open sided timber canopy to its rear.

The main body would be sited with the same building line as the previous bungalow and be 12.5m wide and 11m depth with a hipped roof finishing at an overall height of 9.3m and eaves 5.9m from ground level.

The side projection would be set back 1m from the main body. It would be 4.2m width and 9.9m depth with a hipped roof design set 0.4m below the host and the same eaves. It would have a garage door.

Materials would be natural stone and tile roof with a stone built chimney to side and flue to rear. Openings would be with stone surrounds to windows at front/side elevations and plainly adorned towards the rear. The windows to the southeast elevation would be obscurely glazed.

The front would be detailed with a pair of two-storey bay window extensions symmetrically arranged to the main body. Towards the rear there would be two gable end features with glazing to the roof for their first floor either side and in the middle, two Juliet balcony openings. The single-storey canopy would project 4.1m from the rear and be the full width of the host with a lean-to roof appearance.

This would serve a 5 bedroom property. There are two parking spaces set out to the front (in addition to the garage) and the front amenity space would be partially landscaped and bounded by hedging to the front. The existing driveway would need to be widened to accommodate this level of parking.

History of negotiations/amendments received

The case officer considered the application on review and sought amendments to the front amenity space to preserve as much landscaping as practicable, update the window details and requested that the agent check windows match plans in proportion.

Relevant Planning History

2021/93450	Erection of first floor over bungalow and two storey side extension with associated external alterations. *Conditional Full Permission.*

Enforcement History:

COMP/23/0302	Development not in accordance with approved plans 2021/93450 (demolition and rebuild has occurred instead of alterations and extensions). *Pending resolution.*

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, which had a final expiry date of 29/05/2024.

No representations have been received.

Amended plans were received however they were not readvertised as they did not change the description of development and did not materially have a detrimental impact on planning considerations.

Consultation Responses

No technical consultees required.

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 land for development on the Kirklees Local Plan.

It is within a Bat Alert layer.

It is within a Low Risk Coal area for development and is not within an identified risk area for historic gas and landfill.

It is within Flood Zone 1.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)

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 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

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters – e.g. trees/ecology
5) Representations
6) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "*good design should be at the core of all proposals in the district".*

The overall proposed design was originally submitted as extensions to the host, under application 2021/93450, and was approved on this basis; however in commencing permission 2021/93450 the works demolished the original host.

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 explored.

1.2 5 Year Housing Land Supply

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.'

Policy generally seeks to support residential development upon unallocated sites. It is noted that the proposed new dwellinghouse would replace an existing dwellinghouse and so would have a neutral impact on target density under LP7 of the Kirklees Local Plan and Principle 4 of the Housebuilders Design Guide. This would be acceptable in principle.

2 –Impact on visual amenity:
In terms of visual amenity, general design considerations are set out in Policy LP02, LP24 of the Local Plan, the Principles within the Housebuilders Design Guide SPD and Chapter 12 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape, heritage assets and protect amenity.
The proposal would lead to a two-storey dwellinghouse which would be of a size and scale similar to its neighbouring two-storey semi-detached dwellings. It would differ modestly from the adjacent neighbours by its two-storey bay window design with parapet roof however this is designed to reflect the original host.
The streetscene is varied with a pleasant variance in designs and materials however the property would integrate itself satisfactorily with the use of natural stone which is prevalent in neighbouring properties. It would be forward of the neighbours' building line contrary to Principle 5 however this is a replacement dwelling using its own established building line forward of those and would not be significantly out of keeping.
It would comply with the recommended 2m property gap to flank boundary for no. 23 to ensure adequate openness within the streetscene for Principle 6. To no. 19, there would be a separation distance of 1.7m however it would have a two-storey side projection with a diminutive roofline and be set back 1m from the host achieving a careful balance between those properties aiding in

openness and to avoid a cramped appearance or overbearing appearance to this neighbour.
Parking and hard surfacing to the front would have its harsh appearance mitigated by soft landscaping and a stone boundary wall to be in keeping with its locality and in accordance with the SPD.
The proposal would also retain sufficient garden space to ensure that the scheme does not represent an overdevelopment of the site. Overall, the design would adequately sit well within the streetscene.
The proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policy LP02 and LP24 of the Local Plan, the Principles of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.
3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Housebuilders Design Guide SPD sets out minimum distances to flank boundaries and neighbouring windows.

As previously discussed in Visual Amenity, the proposal's separation distance to flank boundaries would broadly meet the requirements of Principle 6 in relation to achieving adequate openness between neighbours and to avoid appearing visually overbearing.

With regards to residential amenity and overlooking, there are openings proposed within all four elevations of the property and no roof lights within the roof slope.

No. 23 Le Marchant Avenue
No. 23 has no facing side elevation windows facing the property and has windows facing out to the northeast within its existing two storey side projection and therefore due to their orientation, those windows would not be significantly affected by overshadowing, overlooking and overbearing. The separation distance of no. 23's solar panels of ~7m to the additional height of the proposed elevation to similarly match the neighbour, and the hipped roof design would adequately avoid undue overshadowing to restrict the generating capacity of the neighbouring panels.

In relation to its position and orientation to No. 21, the proposed increase in height and massing would lead to restricted overshadowing of No. 23's rear

garden. No. 23 has two large outbuildings with no skylights sited to the boundary which would receive most of this shadowing so Officers concur that this limited impact would be acceptable.

No. 19 Le Marchant Avenue
The main body of no. 19 has two side elevation windows facing the proposed. The first floor window serves a staircase and the ground floor window serves a W.C. there is a horizontal timber fence separating the two neighbouring properties however it is not of a sufficient height to provide screening at ground floor. The two-storey side projection has a door to face the proposed. The windows would be separated by 7.2m. The proposed ground floor windows serve the garage which is a non-habitable room; notwithstanding that this is a non-habitable room, the proposed design of a three light window close to a W.C leads to a strong perception of overlooking. In addition, the first-floor window serving an ensuite would face the staircase window however given the proximity to the neighbouring W.C., whilst the plans show those to be obscurely glazed, Officers would recommend that those windows should therefore be conditioned to be obscurely glazed for privacy and overlooking.

Considering the proposal's impacts to overshadowing to no. 19, there would be a 1.7m access path retained to the neighbouring boundary which would provide some separation distance, the increased height and massing of the property would be to the northwest and due to its orientation is not expected to increase overshadowing. For these reasons there would be no additional detrimental impacts to overshadowing.

No.s 16 and 18 Le Marchant Avenue
The new openings to the primary elevations would have a separation distance of 33m and aided by substantial green hedging/shrubs would therefore have no impact on overlooking, overbearing or overshadowing to those opposite neighbours complying with Principle 6.

No.s 9 and 11 Howard Avenue
To the rear, the garden boundary between those neighbours have quite a few trees which provide natural screening and already have a separation distance of 38m which would ensure no detrimental impact on overlooking, overbearing or overshadowing to those opposite neighbours complying with Principle 6.

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."* Further to this, 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."

The proposal would adequately meet those Principles allowing future occupants to have excellent standards of residential amenity.

Subject to the recommended condition on obscure glazing, the proposal would therefore be in general conformance with LP24b of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

4 – Impact on highway safety:

For a 4 plus bedroom dwelling, the KC Highways Design Guide SPD indicates that there should be three off street parking spaces to meet the expected demand for cars from occupants and to avoid roadside parking congestion.

The proposal would supply one garage space and two off street parking spaces which would sufficiently meet requirements. As previously stated, the section of landscaping and hedging will have benefits for visual amenity softening the impact of hard surfacing in the streetscene. The driveway is to be widened so the changes to the existing access, within the adopted highway fronting the property, would need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). A footnote has been attached to the permission with regard to obtaining approval of the construction specification for the safe functioning of the highway. Interference with the highway without such permission is an offence which could lead to prosecution.

Bins are set out to be sited at the host's northwest/side elevation with a limited hardstanding section to the front of the property to allow bins to be presented on the highway. This would adequately provide an area to safely store bins without adverse weather blowing bins into the highway and causing obstruction.

The proposed development would adequately meet the requirements of the new dwellinghouse and therefore would not cause additional harm to highway safety. This would comply with Policies LP21 and 22 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD, the KC Highway Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Climate Change

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not

considered that specific mitigation measures are required to facilitate this development.
As the proposal is for a new dwelling, the provision of electric vehicle charging points is controlled by regulations and does not require a condition to be set, for avoidance of doubt, an informative would be attached to advise the applicant of their duties and to support carbon emission reductions in accordance with LP51 and LP52 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Drainage

The site is within a low probability Flood Risk Zone and seeks to extend its off street parking area to the front with newly planted sections of soft landscaping and hedging as a boundary. Subject to the recommended condition on drained surfaces, the proposal would have no conflict with Policy LP28 of the Kirklees Local Plan and Chapter 15 of the NPPF.

Biodiversity

Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals following informal consultation with the Ecology Officer (on the previous application 2021/93450) raised no concerns being a well-sealed, relatively modern tiled roof in contrast to the clay red tile of the adjacent properties. As such it was therefore considered unlikely that the proposals would have a significant impact on the bat population. An informative has been provided however, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward.

The small scale of the proposal would be on mostly on an existing footprint with no significant impacts to existing vegetation or biodiversity however, it is deemed necessary to add a condition requiring the installation of a bat or bird box in order to 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, Principle 9 of the Housebuilders Design Guide SPD and of Chapter 15 of the National Planning Policy Framework in ecological terms.

6 – Representations:

No representations had been received.

7 – 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

Application Number: 2024/90746

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP01, LP02, LP21, LP22, LP24, LP28, LP30, LP51 and LP52 of the Kirklees Local Plan, the Principles in the Housebuilders Design Guide SPD, and Policies within Chapters 2, 4, 5, 9, 12, 14 and 15 of the National Planning Policy Framework

3. The development shall not be occupied until the ground floor window serving the garage and the first-floor window serving the en-suite in the southeast elevation of the two-storey side projection facing No. 19 Le Marchant Avenue hereby approved have been obscure 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 reenacting that Order) the obscure glazing shall thereafter be retained for the lifetime of the development.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and advice within Chapter 12 of the National Planning Policy Framework.

4. Prior to the hereby approved dwellinghouse being occupied, two parking spaces measuring a minimum of 2.4 metres wide by 4.8 metres long shall be provided within the site outlined in red on the hereby approved ‘Drawing no. (20)001. Revision: B. dated 03/06/2024’ The spaces shall be laid out with a hardened 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. 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) these areas shall be so retained, free of obstructions and available for the parking of vehicles.
Reason: To ensure that sufficient parking is provided for the site and to accord with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

5. One bat box shall be incorporated into the dwellinghouse hereby approved; the box shall be long-lasting Schwegler `woodcrete' type or similar and shall be located away from sources of light on the south, southwest or southeast elevation at least 4 metres above ground level. The bat box shall be provided prior to first occupation of the extension hereby approved and thereafter be 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.

FOOTNOTE: The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). 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. Interference with the highway without such permission is an offence which could lead to prosecution.

FOOTNOTE: Building Regulations (2021 edition) control the provision of Electric Vehicle Charging Points for new residential buildings under Approved Document S ‘Infrastructure for the charging of electric vehicles’. Building work must meet all relevant requirements of the Building Regulations. To comply with the Building Regulations, it is necessary both to follow the correct procedures and meet technical
performance requirements for building work to be found acceptable.

FOOTNOTE: Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected and that that the works carried out is lawful.

FOOTNOTE: 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.

FOOTNOTE: The site is located within the Kirklees Bat Alert Layer and there is an increased potential for roosting bats. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location Plan.	Drawing no. (EX)001.	A	13/03/2024
Existing and Proposed Site Plan.	Drawing no. (20)001.	B	03/06/2024
Existing Elevation and Floor Plans.	Drawing no. (EX)001.	B	13/03/2024
Proposed Floor and Elevation Plans.	Drawing no. (20)001.	/	10/06/2024
Climate Change Statement	-	-	19/04/2024

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. The case officer considered the application on review and sought amendments to the front amenity space to preserve as much landscaping as practicable, update the window details and requested that the agent check windows match plans in proportion and style.

Report Dated: 10/06/2024