

**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:	2024/62/90769/E
Site Address:	adj, 27, Riley Park, Kirkburton, Huddersfield, HD8 0SA
Description:	Erection of one detached dwelling and associated works
Recommending Officer:	Nicole Helliwell

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 22 October 2024

Officer Report

Reference No. 2024/62/90769E

Site Address: adj, 27, Riley Park, Kirkburton, Huddersfield, HD8 0SA

Proposal: Erection of one detached dwelling and associated works

Site Description

The application site relates to a parcel of land adjacent to 27 Riley Park, a detached bungalow located in Kirkburton, Huddersfield. The site is set on a steep gradient which falls from Riley Park to Low Town. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The surrounding dwellings are highly varied in size, style, and materials. The site is not located near any listed buildings. However, the site is located adjacent to the Kirkburton Conservation Area and a public right of way (KIR/72/10).

Description of Proposal

The applicant is seeking planning permission for the erection of a three-storey split level detached property and associated works. The proposed dwelling would be faced in stone and would incorporate a dual-pitched roof finished in grey tiles. The property would incorporate copper coloured windows and detailing. The property would have an overall width of approx. 21.9m, an overall depth of approx. 5.85m, an overall height of approx. 7.68m and overall height of approx. 10.65m including the basement level. Off road parking is proposed to the north-west of the site and within the proposed integral garage. Furthermore, an area of private outdoor amenity space would be provided to the east of the application site.

Relevant Planning History

- **2021/90948:** Erection of one detached dwelling with off road parking and associated landscaping. – Invalid
- **2021/90702:** Variation conditions 2 and 3 on previous permission 2018/94167 for erection of detached dwelling and associated landscaping works. – Withdrawn
- **2018/94167:** Erection of detached dwelling and associated landscaping works. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2002/91735:** Erection of new entrance and sun lounge extension. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 18th May 2024. 10

representations were received following the statutory publicity. The comments made have been summarised below:

- There appears to be a large amount of glazing to the rear of the proposed dwelling, which potentially could overlook our rear garden.
- How far is the proposed dwelling away from our habitable windows to the rear of our property?
- The properties will be overlooked from a considerable height which would constitute a deliberate invasion of privacy.
- The layout and orientation of the building could result in overlooking issues, compromising the privacy and tranquillity of adjacent homes and gardens.
- Noise issues were also apparent and enhanced due to the elevation.
- Due to the location and elevation, this building would dominate and overshadow neighbouring properties, and in particular those at 14, 20, 22 and 24 Low Town.
- Occupants, present and future, of these Low Town houses would have their privacy severely compromised due to overshadowing and overlooking.
- My neighbours at No. 14 have had a balcony constructed at the back of their property to enjoy the birdlife and stream and their enjoyment would be seriously adversely affected by this development.
- It would have an overbearing impact on our property and neighbouring properties.
- Concerns that the proposal may block our light and privacy
- The master bedroom window in our home is less than 21m from the proposed windows and the other windows in our property are situated much closer than this.
- It is important to note that due to the elevated nature of this development we will not be able to screen our property or garden in any way whatsoever to reduce overlooking.
- The sheer size of the development would overshadow neighbouring properties and detract from their enjoyment.
- The fence would be intrusive and oppressive sited above our property
- The proposed building is totally out of character with both surrounding properties in Riley Park and the extremely close conservation area
- The scale is excessive and out of keeping with the surrounding properties.
- The development fails to integrate with the surrounding built environment and lacks sensitivity to its context.
- The modernistic design of the proposed building is out of context with its surroundings to the extent that the proposal is completely incongruous.
- The contemporary linear and heavily glazed design of the building is not in keeping with the adjacent conservation area.

- The proposal amounts to overdevelopment of the site.
- Extensive copper cladding and windows are not in keeping with neighbouring properties or the neighbouring conservation area.
- The proposed fencing of closed mesh with scaffold construction will resemble security fencing and again is not in keeping with the immediate area.
- Its bulk and massing would dominate the location and compromise the visual harmony and character of the area.
- The design of the proposed development is uninspired and lacks architectural merit. Its generic appearance does not contribute positively to the visual quality or character of the area.
- The proposed structure is a very large building, and the design shows a long linear form.
- The site borders a river and is in flood zone three therefore any slippage will be a potential risk to the flow of the river.
- A proposal on this scale risks actual damage.
- I would like to know the plan for the Basement and the Foundations.
- Any flooding to the river bordering the development site is likely to contribute to the potential instability of the banking on which the proposed house will be built.
- The removal of trees and excavation of the banking could not only add to the flood risk but make the bank more unstable.
- Concerns regarding the stability of the banking on which the proposed development sits. It is clearly unstable and there is the potential of collapse and landslip.
- The properties below are likely to be adversely impacted in terms of potential flooding.
- The proposal would impact the natural habitat for varied birds, including owls, and bats which can both be seen and heard at night.
- The Coal Authority say there are probable shallow coal mine workings and Environmental Health state there is a moderate risk of chemical contamination and gas.
- As stated by the Coal Authority, there are coal mining features and hazards such as, shallow coal mine workings and mine gases, which could have serious impacts on surrounding properties if disturbed.
- A building of this size will increase the flood risk to the immediate area of flood zone three.
- There is no information about how excavation of the site would be made safe and given that the proposed plan includes a large basement level it appears that the excavations would be extensive.
- This banking is known to be unstable and prone to collapse, and it is very possible that any deep excavations would lead to collapse. Any such

collapse would inevitably lead to blocking of the beck and consequent flooding in the Low Town area.

- Any flooding to the river bordering the development site is likely to contribute to the potential instability of the banking on which the proposed house will be built.
- Any removal of established trees that may be required will reduce the capacity of the land to absorb moisture/water, and this will have a detrimental impact to properties in flood zone 3.
- The decision report from the previous application notes that it has been recommended that a condition be included in the planning permission that the site undergo intrusive groundworks in consultation with the coal authority. This condition was not included in the previous planning decision therefore instability, contamination and safety remain a concern for all neighbouring properties.
- The site is on an area of previous coal mining and we have witnessed boulder movement during previous intrusive groundworks on the site. This movement has continued to happen since this work was undertaken.
- Discussions at the time with the previous developer and the technicians completing the intrusive groundworks raised significant concerns relating the suitability and safety of this land to be built on.
- Due to the proposed development being constructed very close to the banking edge the trees on the banking edge would literally grow into the proposed development and therefore many more will have to be removed.
- Existing mature trees would be removed, and the future health of others severely compromised. This is discussed in the Trees report, which includes an objection to the proposal. The death or removal of trees here, either immediately or in the future, would further destabilise the banking, in addition to ecology concerns.

1 representation was received from a ward member, Councillor Bill Armer. The comments have been summarised below:

- The application site is on the border of a Conservation Area and, due to its elevated position, dominates the CA.
- The modernistic design of the proposed building is out of context with its surroundings, both in the Conservation Area and the Riley Park area, to the extent that the proposal is completely incongruous. This is exacerbated by the choice of materials, particularly for cladding and frames.
- It would cause great and permanent harm to the setting of the CA. This is a product of location, massing and the chosen materials.
- Due to the location and elevation, this building would dominate and overshadow neighbouring properties, and in particular those at 14, 20, 22

and 24 Low Town. This would greatly detract from the residential amenity of occupants of these houses.

- The building would be greatly overbearing in respect to these Low Town houses.
- Occupants, present and future, of these Low Town houses would have their privacy severely compromised due to overshadowing and overlooking.
- The drawings show that the proposed building, including a below ground basement area, is to be constructed in very close proximity to a steep banking leading down from the site to Low Town. This banking is known to be unstable and prone to collapse, and it is very possible that any deep excavations would lead to collapse. Any such collapse would inevitably lead to blocking of the beck and consequent flooding in the Low Town area.
- The Coal Authority report is not, at present, in favour of the proposals. There is a history of coal mining activity at the site, which also leads to further issues around ground stability besides associated issues of contamination and the release of gasses.
- Existing mature trees would be removed, and the future health of others severely compromised. This is discussed in the Trees report, which includes an objection to the proposal. The death or removal of trees here, either immediately or in the future, would further destabilise the banking, in addition to ecology concerns.
- The proposal amounts to overdevelopment of the site.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Trees – No objection

KC Ecology – No objection subject to recommended condition

The Environment Agency – No objection

KC Lead Local Flood Authority – No comments received

KC Conservation and Design – No objection

The Coal Authority – No objection subject to recommended conditions

KC Environmental Health - No objection subject to recommended conditions

KC Highways Development Management - No objection subject to recommended conditions

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The

statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, the site is located adjacent to the Kirkburton Conservation Area. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 27** - Flood Risk
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 35** - Historic Environment
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20th July 2021, 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 5** - Delivering a Sufficient Supply of Homes
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change

- **Chapter 15** - Conserving and Enhancing the Natural Environment
- **Chapter 16** - Conserving and Enhancing the Historic Environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021) - Nationally Described Space Standards
- National Design Guide
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

Assessment

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities

to demonstrate five years supply of deliverable housing sites against their housing requirement.

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

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

The proposal seeks to erect a split level detached property within Kirkburton, Huddersfield and would assist in meeting the housing needs of the Council. This would be ‘in line’ with the aims of Chapter 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring inter alia that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

In addition to the above, the principle of one dwelling on the site has previously been established as being acceptable, and some weight can be applied to this in the assessment of the current application.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

1. Impact on Visual Amenity and Historic Environment

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Kirklees Local Plan Policies LP1, LP2 and LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*

Paragraph 133 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Also relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: “New residential development proposals will be expected to respect and enhance the local character of the area by:

- Taking cues from the character of the built and natural environment within the locality.
- Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.

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

Further to this, Principle 13 of the Housebuilders Design Guide states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.

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

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

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

The proposed detached dwelling would be split level and would be of a contemporary design. The property would be faced in stone and would incorporate a dual-pitched roof form finished in grey tiles. The design and access statement confirms that the dwelling would contain copper coloured windows and detailing. It is considered that the arrangement of fenestration and openings would be appropriate to the property's design. On this basis, it is considered that the dwelling would not appear discordant and would harmonise well into the surrounding townscape. Furthermore, the dwelling would be visually acceptable with regard to its scale, siting and design and is not considered to harm the heritage significance of the Kirkburton Conservation Area.

Whilst the dwelling would not adjoin to the existing building line on Riley Park, it would occupy a position on lower ground and would be set back approximately 27m from public vantage points. In terms of footprint and massing, the property would not be out of keeping with the neighbouring dwellings given that the surrounding area lacks coherent character and there

is already a degree of variation with regard to scale and design. Therefore, the proposed dwellings would sit comfortably within the existing street scene and against the neighbouring properties.

The application site is also of a sufficient size to support a dwelling as proposed with a parking area to the north-west and private outdoor amenity space to the east. Furthermore, the development would not appear overly cramped, or cause any undue harm to the character and appearance of the area. Whilst the scale of the dwelling is deemed acceptable, it is considered appropriate to include a condition (should planning permission be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

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

It is therefore considered that the proposal would not cause detrimental harm with regard to visual amenity and would accord with the aims of Policy LP24 of the Kirklees Local Plan, Principles 2, 5, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework. Furthermore, the proposal would not cause any detrimental harm to the significance of the Kirkburton Conservation Area and would comply with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

2. Impact on Residential Amenity of Neighbouring Residents

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

Further to this, Paragraph 135(f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: “*Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.*”

The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Although the previous approval was granted prior to adoption of the Housebuilders Design Guide SPD, the separation distances set out above remain unchanged from the guidelines set out in previous local policy.

Impact on 27 Riley Park

27 Riley Park is a detached bungalow located south-west of the application site. It is noted that the proposed dwelling would occupy a position approximately 24m from the side elevation of the neighbouring property. Given that the separation distance retained would be substantial, it is considered that there would be no significant detrimental impact on the neighbouring amenity as a result of the proposed development.

Impact on 20, 22 and 24 Low Town

20, 22 and 24 Low Town are a group of terraced properties located to the south-east and occupy a position on lower ground relative to the application site. The submitted plans confirm that a distance of approximately 17m – 21m would be retained between the proposed dwelling and the neighbouring properties. Although the separation distances would fall short of the 21m recommended within the Kirklees Housebuilders Design Guide SPD, given the indirect relationship between the properties including their habitable windows, officers consider that there would be no significant harm to the neighbour's residential amenity with regard to overbearing, overshadowing, or overlooking impact.

Impact on 19 Riley Park

19 Riley Park is a two-storey detached property located south-west of the application site. This dwelling is located on a much higher ground relative to the proposed dwelling and does contain habitable room windows within its side and rear elevations. The proposed dwelling would occupy a position approximately 12.6m from the neighbouring property. However, given the difference in levels, it is considered that the properties would not have a direct relationship. Therefore, the proposed development would not cause any additional overlooking, overbearing or overshadowing harm to the residential

amenity of the neighbouring occupants, over and above the existing arrangements on site.

Impact on 14 Low Town

14 Low Town is a residential property located north-east of the application site. The submitted plans confirm that a distance of approximately 18.7m would be retained between the proposed dwelling and the neighbouring properties. Although the separation distance would fall short of the 21m recommended within the Kirklees Housebuilders Design Guide SPD, given the indirect relationship between the properties including their habitable windows, it is considered that there would be no significant harm to the neighbour's residential amenity with regard to overbearing, overshadowing, or overlooking impact.

It is considered that once occupied the dwelling is unlikely to generate significant levels of noise. However, the site is surrounded by residential properties and the occupiers of these could potentially be disturbed by noise generated during the construction process. Therefore, should the application be approved, a footnote will be imposed limiting such works to between the hours of 7.30am and 6.30pm Monday to Friday, 8am and 1pm on Saturdays with no working permitted on Sundays or Public Holidays.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, KDP 6 & 16 of the Housebuilders Design Guide SPD and Paragraph 135 (f) of the National Planning Policy Framework.

3. Impact on Residential Amenity of Future Occupiers

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account Principle 16 of the Kirklees Housebuilders Design Guide SPD which sets out that:

'All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations' and that 'All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24.'

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

- 5 Bedroom, 6-person dwelling set over 3 storeys - 116 square metres

- 5 Bedroom, 7-person dwelling set over 3 storeys - 125 square metres
- 5 Bedroom, 8-person dwelling set over 3 storeys - 134 square metres

The proposed floor plans show that the dwelling would have five bed spaces and therefore is required to have a minimum internal floor space of 116m². The proposal is shown to have an internal floor space of 316m², which would adequately meet basic lifestyle needs and provide a high standard of amenity for future occupiers. It is also noted that each of the habitable rooms would benefit from a sufficient amount of natural light. For these reasons, it is considered that the proposal would provide an acceptable standard of living for future occupants and would accord with Policy LP24(b) of the Kirklees Local Plan, Principles 6 and 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe

This application seeks approval for the erection of one detached dwelling and associated works adjacent to 27, Riley Park, Kirkburton, Huddersfield. The proposals include the construction of a new 5 bedroomed detached house with an integral double garage on a steeply sloping site to the eastern side of Riley Park. The plans show a gabion basket retaining wall to the northern side of the proposed driveway and a stone-faced retaining wall to the south running immediately adjacent to the public right of way (KIR/72/10).

KC Highways Development Management have been formally consulted as part of the application. The submitted plans confirm that three off road parking spaces are proposed within the driveway and the integral garage which would meet the recommended parking standards for a five bedroomed property. The applicants have also provided a plan demonstrating an acceptable bin collection point. Therefore, the proposal is considered acceptable in highway terms.

A condition will be added to the decision notice to ensure that the vehicle parking areas will be surfaced and drained 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 superseded.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5. Other Matters

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures with any future application.

Electric Vehicle Charging Points

Approval under the Building Regulations will be required for any electric vehicle charging points, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

Contaminated Land

A Phase 1 Desk Study Site Investigation Report by Geo Investigate (ref. G21501, dated March 2022) has been submitted in support of the application. KC Environmental Health have read the report which includes a Groundsure Insights report and a Coal Mining Risk Assessment (CMRA). A site walkover was undertaken on the 25th of January 2022. The Phase I report provides an appraisal of the site history and previous surrounding land uses, since the 1854 and an assessment of the environmental setting. From this, it is evident that there have been potentially contaminative uses on the site and adjoining land which could impact upon the development. Officers would point out that our mapping indicates an historic landfill feature which has not been identified in the report (our site ref: 87/16, Turnshaw Road, Kirkburton), circa 180m NE, moving forward, this requires investigation. Table 4 presents a summary of the

conceptual site model attributing a moderate risk in relation to chemical contamination and mine/ground gas. Section 6 of the report recommends further site wide intrusive investigation is undertaken, in relation to chemical contamination and mine/ground gas. KC Environmental Health accept the report however, conditions in relation to contaminated Land are still required.

Coal Mining Legacy

The application site falls within the defined Development High Risk Area. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards, which need to be considered. Their records also indicate the presence of one recorded mine entry (adit) within close proximity of the planning boundary. The Coal Authority previously objected to this planning application, as a Coal Mining Risk Assessment Report had not been submitted as part of the application. However, a Phase 1 Desk Study Site Investigation Report (March 2022, prepared by Geoinvestigate Ltd), has since been provided. The Coal Authority concurs with the recommendations of the Phase 1 Desk Study Site Investigation Report that the coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

Trees

KC Trees have confirmed that the level of tree loss is reasonable in relation to the proposals as they are of lower quality specimens that are not protected under the Conservation Area. As such, Officers have raised no objections in this regard.

Flood Risk

There is no Flood Risk Assessment provided in support of this application. Although, a very small part of the red line boundary is in Flood Zone 3, the site is effectively in Flood Zone 1. Furthermore, the site slopes upwards steeply away from the watercourse and the proposed building is to be located on the high part of the site. On this basis, The Environment Agency have no objections to the proposed development from a flood risk perspective.

Drainage

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

Ecology

The application site is located within the bat alert layer on the Council's mapping system. KC Ecology were formally consulted on the proposed scheme and raised no objection subject to a condition for the installation of one house sparrow box and one integral bat box.

Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

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

6. Representations

Ten representations were received during the course of the application. The comments made have been summarised and addressed below:

- There appears to be a large amount of glazing to the rear of the proposed dwelling, which potentially could overlook our rear garden.

Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- How far is the proposed dwelling away from our habitable windows to the rear of our property?

Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The site borders a river and is in flood zone three therefore any slippage will be a potential risk to the flow of the river.

Response: *The proposals potential impact on flooding has been assessed within the 'Other Matters' section of the report.*

- The properties will be overlooked from a considerable height which would constitute a deliberate invasion of privacy.

Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The Coal Authority say there are probable shallow coal mine workings and Environmental Health state there is a moderate risk of chemical contamination and gas.

Response: *These matters have been addressed within the 'Other Matters' section of the report.*

- The proposal amounts to overdevelopment of the site.

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

- This banking is known to be unstable and prone to collapse, and it is very possible that any deep excavations would lead to collapse. Any such collapse would inevitably lead to blocking of the beck and consequent flooding in the Low Town area.

Response: *Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- The layout and orientation of the building could result in overlooking issues, compromising the privacy and tranquillity of adjacent homes and gardens.

Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The modernistic design of the proposed building is out of context with its surroundings to the extent that the proposal is completely incongruous.

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

- Due to the proposed development being constructed very close to the banking edge the trees on the banking edge would literally grow into the proposed development and therefore many more will have to be removed.

Response: *The site is not located within a conservation area and is not protected by a tree preservation order. Therefore, any works to these trees could be undertaken without prior agreement from the Local Authority.*

- Noise issues were also apparent and enhanced due to the elevation.

Response: *Impacts from construction are temporary and are not material planning considerations. Furthermore, KC Environmental Health raised no concerns regarding noise.*

- The proposal would impact the natural habitat for varied birds, including owls, and bats which can both be seen and heard at night.

Response: *KC Ecology were formally consulted on the proposed scheme as the site is located within the bat alert layer on the Council's mapping*

system. Officers raised no objection to the proposal subject to the recommended condition.

- A proposal on this scale risks actual damage.

Response: Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.

- Due to the location and elevation, this building would dominate and overshadow neighbouring properties, and in particular those at 14, 20, 22 and 24 Low Town.

Response: The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.

- The removal of trees and excavation of the banking could not only add to the flood risk but make the bank more unstable.

Response: Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.

- Occupants, present and future, of these Low Town houses would have their privacy severely compromised due to overshadowing and overlooking.

Response: The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.

- The decision report from the previous application notes that it has been recommended that a condition be included in the planning permission that the site undergo intrusive groundworks in consultation with the coal authority. This condition was not included in the previous planning decision therefore instability, contamination and safety remain a concern for all neighbouring properties.

Response: KC Environmental Health have been formally consulted on the proposed scheme and have recommended contaminated land conditions. Furthermore, paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.

- The contemporary linear and heavily glazed design of the building is not in keeping with the adjacent conservation area.

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

- My neighbours at No. 14 have had a balcony constructed at the back of their property to enjoy the birdlife and stream and their enjoyment would be seriously adversely affected by this development.

Response: *This matter would not constitute a material planning consideration.*

- As stated by the Coal Authority, there are coal mining features and hazards such as, shallow coal mine workings and mine gases, which could have serious impacts on surrounding properties if disturbed.

Response: *These matters have been addressed within the 'Other Matters' section of the report.*

- A building of this size will increase the flood risk to the immediate area of flood zone three.

Response: *The proposal's potential impact on flooding has been assessed within the 'Other Matters' section of the report.*

- The sheer size of the development would overshadow neighbouring properties and detract from their enjoyment.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The proposed building is totally out of character with both surrounding properties in Riley Park and the extremely close conservation area

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

- There is no information about how excavation of the site would be made safe and given that the proposed plan includes a large basement level it appears that the excavations would be extensive.

Response: *Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- Extensive copper cladding and windows are not in keeping with neighbouring properties or the neighbouring conservation area.

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

- The site is on an area of previous coal mining and we have witnessed boulder movement during previous intrusive groundworks on the site. This movement has continued to happen since this work was undertaken.

Response: Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.

- The proposed fencing of closed mesh with scaffold construction will resemble security fencing and again is not in keeping with the immediate area.

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

- Any flooding to the river bordering the development site is likely to contribute to the potential instability of the banking on which the proposed house will be built.

Response: Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.

- Its bulk and massing would dominate the location and compromise the visual harmony and character of the area.

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

- Any removal of established trees that may be required will reduce the capacity of the land to absorb moisture/water, and this will have a detrimental impact to properties in flood zone 3.

Response: The proposal's potential impact on flooding has been assessed within the 'Other Matters' section of the report.

- The fence would be intrusive and oppressive sited above our property

Response: The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.

- The design of the proposed development is uninspired and lacks architectural merit. Its generic appearance does not contribute positively to the visual quality or character of the area.

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

- The development fails to integrate with the surrounding built environment and lacks sensitivity to its context.

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

- The proposed structure is a very large building, and the design shows a long linear form.

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

- It is important to note that due to the elevated nature of this development we will not be able to screen our property or garden in any way whatsoever to reduce overlooking.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- I would like to know the plan for the Basement and the Foundations.

Response: *The plans for the basement floor level are available to view on the council website.*

- Concerns that the proposal may block our light and privacy

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- Any flooding to the river bordering the development site is likely to contribute to the potential instability of the banking on which the proposed house will be built.

Response: *Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- The master bedroom window in our home is less than 21m from the proposed windows and the other windows in our property are situated much closer than this.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- Concerns regarding the stability of the banking on which the proposed development sits. It is clearly unstable and there is the potential of collapse and landslip.

Response: *Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- The properties below are likely to be adversely impacted in terms of potential flooding.

Response: *The proposal's potential impact on flooding has been assessed within the 'Other Matters' section of the report.*

- Discussions at the time with the previous developer and the technicians completing the intrusive groundworks raised significant concerns relating the suitability and safety of this land to be built on.

Response: *KC Environmental Health have been formally consulted on the proposed scheme and have recommended contaminated land conditions. Furthermore, paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- Existing mature trees would be removed, and the future health of others severely compromised. This is discussed in the Trees report, which includes an objection to the proposal. The death or removal of trees here, either immediately or in the future, would further destabilise the banking, in addition to ecology concerns.

Response: *The proposal's potential impact on the trees has been assessed within the 'Other Matters' section of the report. Furthermore, paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- It would have an overbearing impact on our property and neighbouring properties.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The scale is excessive and out of keeping with the surrounding properties.

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

Councillor comments:

- The application site is on the border of a Conservation Area and, due to its elevated position, dominates the CA.

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

- The modernistic design of the proposed building is out of context with its surroundings, both in the Conservation Area and the Riley Park area, to the extent that the proposal is completely incongruous. This is

exacerbated by the choice of materials, particularly for cladding and frames.

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

It would cause great and permanent harm to the setting of the CA. This is a product of location, massing and the chosen materials.

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

- Due to the location and elevation, this building would dominate and overshadow neighbouring properties, and in particular those at 14, 20, 22 and 24 Low Town. This would greatly detract from the residential amenity of occupants of these houses.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The building would be greatly overbearing in respect to these Low Town houses.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- Occupants, present and future, of these Low Town houses would have their privacy severely compromised due to overshadowing and overlooking.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The drawings show that the proposed building, including a below ground basement area, is to be constructed in very close proximity to a steep banking leading down from the site to Low Town. This banking is known to be unstable and prone to collapse, and it is very possible that any deep excavations would lead to collapse. Any such collapse would inevitably lead to blocking of the beck and consequent flooding in the Low Town area.

Response: *Paragraph 190 of the NPPF states that responsibility for securing a safe development rests with the developer in relation to land stability.*

- The Coal Authority report is not, at present, in favour of the proposals. There is a history of coal mining activity at the site, which also leads to

further issues around ground stability besides associated issues of contamination and the release of gasses.

Response: *Following the submission of a Phase I Desk Study Report, The Coal Authority has withdrawn their objection subject to the imposition of the recommended conditions.*

- Existing mature trees would be removed, and the future health of others severely compromised. This is discussed in the Trees report, which includes an objection to the proposal. The death or removal of trees here, either immediately or in the future, would further destabilise the banking, in addition to ecology concerns.

Response: *KC Trees were formally consulted on the proposed scheme. Officers have confirmed that the level of tree loss is reasonable in relation to the proposals as they are of lower quality specimens that are not protected under the Conservation Area. As such, KC Trees have raised no objection to the proposal.*

- The proposal amounts to overdevelopment of the site.

Response: *The application site is of a sufficient size to support a dwelling, as proposed with a parking area to the north-west and private outdoor amenity space to the east. Furthermore, the development would not appear overly cramped, or cause any undue harm to the character and appearance of the area.*

7. Negotiations

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

8. Conclusions

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: 2024/90769

Officer Recommendation: Approve

Conditions and Reasons

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

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

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

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP24, LP26, LP27, LP28, LP30, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

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

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

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

Reason: This pre-commencement condition is in the interest of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

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

Reason: This pre-commencement condition is in the interest of visual and residential amenity, in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 13 of the National Planning Policy Framework.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

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

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for 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: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local

Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

10. No development shall commence until; a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

11. 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.

12. Prior to the commencement of the development, a plan detailing the positioning, location and specification of one house sparrow (Schwegler 1SP sparrow terrace, or similar) and one integral bat box (Schwegler 3FE Bat Box or similar) shall be submitted to and approved in writing to the local authority. The boxes shall be installed and retained as detailed in the approved plans.

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

13. Before the development commences a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls adjacent to the existing highway including Public Footpath (KIR/72/10) together with any modification to the existing retaining wall supporting Riley Park shall be submitted (via submission of an AIP) and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the

proposed development and thereafter retained during the life of the development.

Reason: This pre-commencement condition is necessary to ensure that any new retaining structures do not compromise the stability of the highway in accordance with Policy LP21 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

14. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.

Reason: In the interests of highway safety and to ensure satisfactory surface water drainage of the site in accordance with Policy LP21 and LP28 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no development included within Classes A through E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to avoid overdevelopment in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice

- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

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

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

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

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

NOTE: The 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 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: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. 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.

NOTE: Paragraph 190 of the National Planning Policy Framework states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

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: -

Plan Type	Reference	Revision	Date Received
Proposed Site Plan	3107-001	B	26/07/2024
Proposed Plans and Elevations	3106-002	-	20/03/2024
Site Sections	3106-003	A	27/08/2024
Location Plan	3106-004	-	20/03/2024
Detail Sections	3106-005	-	20/03/2024

Plan Type	Reference	Revision	Date Received
Topographical	22122-22-01	-	20/03/2024
Tree Survey	1387-001	-	20/03/2024
Tree Constraints Plan	1387-002	-	20/03/2024
Tree Protection Plan and Arboricultural Impact Assessment	1387-003	-	20/03/2024
Design, Access & Heritage Statement	-	-	20/03/2024
Phase 1 Desk Study Site Investigation Report	G21501	-	07/05/2024
Climate Change Statement	-	-	20/03/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Auth, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this case, the design of the original scheme has been found acceptable. No further amendments were sought thereafter. The agent has confirmed their agreement to the pre-commencement conditions.

Report Dated: 14/10/2024