

**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:	2024/62/90932/W
Site Address:	Land Adj, 4, Downing Street, Linthwaite, Huddersfield, HD7 5PU
Description:	Erection of detached dwelling
Recommending Officer:	Tom Hunt

DECISION - REFUSE

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 9-JUL-2024

Officer Report

Site Description

2024/90932 – Land Adj, 4, Downing Street, Linthwaite, Huddersfield, HD7 5PU

The application site is part of the side garden of 4 Downing Street, which is a detached dwelling within a small cul-de-sac development of large, detached dwellings set within good-sized gardens. The dwellings have been individually designed to fit in with the topography of the land, which slopes steeply upwards from Whitehall Road and also has a south-north crossfall. The predominant material palette is stone with grey tile roof and fenestration typically have stone surrounds.

Open views are present to the north-east where a moderate density of housing can be seen that largely follows the contours but which also cuts across the lie of the land in some places. Although mostly set in large gardens, the orientation of the properties on Downing Street, in combination with the topography of the area, creates a clustered, intimate street scene. The land adjacent is designated as Green Belt and the application site supports views of the wider countryside which contributes to a feeling of spaciousness to the street scene.

It is considered that Downing Street has its own distinct characteristics which should be viewed as separate from the semi-detached dwellings with driveways to the side and a predominant material palette of red brick and secondary use of stone that form Whitehall Road.

Description of Proposal

Erection of detached dwelling

All figures are approximate and in metres.

It is proposed to erect a two-storey, detached dwellinghouse between nos 2 and 4 Downing Street. It would have a L shaped plan form with a maximum width of 9m at rear and 4.6m at front with the main body of the building set back 4m from the forward projection. It would have an asymmetric pitch roof with an overall height of 7m with outer eaves 5.3m on the west side and 3.9m on the east side from sloping ground level. There would be a property gap to flank boundaries of 1m to west and 1.2m to east; the dwelling would be approximately in line with the building line and would have a rear garden. Bins would be stored at front adjacent to the pavement.

The dwelling would be faced in natural stone with infill timber boarding and roofed with concrete roof tiles. The boundary treatment would be a 1.8m height from ground close boarded timber fence. It would have a driveway with

turning area in tarmac to the front leading to its integral garage. Two off street parking spaces are shown with minimum landscaping to front, and the garage's internal specification is 0.1m in width less than Highways Design Guide SPD recommended guidelines for modern vehicles. There would be a limited area of paving to the front, west side and rear.

There will be fenestration to all elevations except the outer east elevation of the main body; the domestic sized ones would be with stone head and cills and there would be two front sections with floor to ceiling glazing; one of which would be a corner section.

Internal accommodation would include a living room, kitchen/dining, utility, hall, lobby, W.C. and garage to the ground floor and one double bedroom and three single bedrooms with one ensuite to two bedrooms, landing, and one bathroom to the first floor within the roof. One small bedroom is described as a study/bedroom with 6sqm. This would have ~134sqm of gross internal living space (with garage included) exceeding Nationally Described Space Standards for a 4bedroom 5person occupancy.

The property is confirmed in the application form to be a self-build property which would be exempt from the requirement to supply Biodiversity Net Gain.

Officer note: the proposed site plan does not show the side elevation window of no. 4 on plans however this is clearly visible in the site appraisal.

History of negotiations/amendments received.

None. Officers proceeded to determination on assessment of the proposal for timely determination.

Relevant Planning History

Application site

2011/92453

Erection of detached dwelling.

Refused.

- 1. "The proposal, to sub-divide the curtilage of no.4 Downing Street would result in a dwelling that, by virtue of its orientation, scale, and design on the restricted sized plot, would not integrate well with, or complement, the neighbouring buildings and would appear out of keeping with the predominant character that forms Downing Street, as such, to permit the development would be to the detriment of visual amenity and contrary to Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan as well as national policy in PPS1 and PPS3.*
- 1. The proposed dwelling, by virtue of its scale and position, would result in a development that would be overbearing to the occupants in the adjacent property, no.2 Downing Street. To permit such a*

development would be to the detriment of residential amenity and contrary to Policy D2 of the Unitary Development Plan.

2. The development proposals would result in vehicles undertaking reversing manoeuvres onto neighbouring driveways due to the narrow nature of Downing Street and the lack of reversing distance. Furthermore, the proposal would also result in a loss of a parking area for no.4 Downing Street, which is already at a premium, and would therefore result in vehicles parking on Downing Street, leading to further manoeuvrability issues for neighbouring properties. As such, to permit the development would be to the detriment of highway safety and contrary to Policies D2 and T10 of the Unitary Development Plan.

Appealed: APP/Z4718/A/12/2177255
Dismissed.

Reasons provided related to loss of openness and spacious character from a squashed form of development between no.s 2 and 4. Concerns over highway safety were cited due to lack of turning area.

No. 4 Downing Street
94/92375

Erection of ground floor extension.
Conditional Full Permission.

2011/90252

Erection of first floor extension
Conditional Full Permission

West of no. 4 Downing Street
2012/90387

Erection of detached dwelling.
Refused.

2012/93523

Erection of detached dwelling.
Refused.

Appealed: APP/Z4718/A/13/2198183
Upheld.

Reasons provided were that the set back of the property would aid in avoiding overdevelopment or a cramped appearance and the design and density was reasonably in keeping with the locality.

Officer note: It is noted that this scheme has a turning point created within the current application site supporting this development to overcome

highway safety concerns. Reference is also made to the current application site's previous appeal stating that this any development would be *"located in a gap that supports views of the wider countryside which contributes to a feeling of spaciousness in an otherwise intimate street scene. I also note that it would have been located on a considerably smaller plot in comparison to the current proposal."*

- 2014/91226 Discharge of condition 3 (materials) and 5 (landscaping) on previous planning permission 2012/93523 for erection of detached dwelling. *Split Decision. Insufficient detail to fully discharge materials and landscaping.*
- 2014/93040 Erection of detached dwelling (modified proposal). *Conditional Full Permission.*
Officer note: Turning head within the current application site still present.
- 2015/92561 Variation of Condition 10 (Garage) on previous planning permission 2014/93040 for erection of detached dwelling (modified proposal). *Granted.*
Officer note: Modified plans indicated a previous single garage was to be used as living accommodation with a triple integral garage remaining. Turning head in current application site still remaining.
- 2017/94159 Discharge conditions 3 (materials) and 11 (landscape) on previous permission 2015/92561 variation condition 10 (garage) on previous planning permission 2014/93040 for erection of detached dwelling (modified proposal). *Split Decision. Materials discharged. Insufficient detail to fully discharge landscaping.*
- 2018/91970 Erection of detached dwelling. *Conditional Full Permission.*
- No. 2 Downing Street
88/00632 Erection of detached house with integral garage (Amended house type).
Granted Conditionally

88/01388 Erection of conservatory to dwelling under construction.

Granted Conditionally.

93/01289 Erection of pergola.

Conditional Full Permission.

2021/93846 Erection of single storey extension with roof terrace and exterior alterations.

Conditional Full Permission.

No.s 2 and 3 Downing Street

87/03624 Erection of 2 detached houses.

Granted Conditionally

A pre-application service was made available however this was not taken advantage of.

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 27/06/2024.

Two representations have been received Objecting; a summary of the comments received is set out below:

- *'widely understood that the recommendation for the number of houses off a private drive should be limited to 5'*. Taking into account permission for another dwelling in application ref: 2018/91970, this proposal would breach guidelines.

Officer note: Guidelines stated not referenced although this appears to relate to 'Private 'Non-Adopted' Streets or Shared Driveways' paragraph 3.15 of the Highways Design Guide SPD; it is noted that this can be permissible subject to further requirements in that section. Highway impacts would be assessed within the Highway Safety sections of the report.

- Proposed would appear incongruous, inappropriate and harm the openness of the semi rural setting. Cites Principle 2 concerning local character and paragraph 7.19 of the Housebuilders Design Guide SPD in support regarding separation distance to flank boundaries for two-storey dwellinghouses in a regular street pattern.

Officer note: Assessed in the Visual Amenity section of the report.

- Overbearing and overshadowing impact to no. 2

Officer note: Assessed in the Residential Amenity section of the report.

- It is considered that the 2015/92561 permission is extant, a Building Regulations application and drainage was laid in 2015 and inspected 16/10/20215. A subsequent application 2018/91970 is believed to be expired in agreement with the submitted Design and Access Statement.
 - Therefore it is considered that condition 7 requiring a turning facility for both no. 4 and the dwelling approved in 2015/92561 would have an impact on carrying out this extant permission to comply with condition 7. This use by the two dwellings would be viewed an intrusion on the full use of the turning head for future occupants.

Officer note: If given permission, the turning head would serve three households. Discussion of this impact is set out in the Highway Safety section of the report.

- The proposed development does not overcome the reasons for refusal within application ref: 2011/92453.

Officer note: Discussed as follows in relevant sections.

- The loss of garden space would cause an imbalance between the natural and built environment.
 - Design not in keeping with the streetscene in use of materials and roof
- Officer note:** Evaluated in the Visual Amenity section of the report/

Consultation Responses

KC Highway Development Management: Informally consulted. Objections raised. Discussed in Highway Safety.

Health and Safety Executive: Formally consulted. No objections.

KC Waste Management: Informally consulted regarding present waste collection for the private unadopted highway. Discussed in Highway Safety.

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 Flood Zone 1.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 3 – Location of new development**
- **LP 7 – Efficient and effective use of land and buildings**

- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 30 – Biodiversity & Geodiversity**
- **LP 31 – Strategic Green Infrastructure Network**
- **LP 43 – Waste management hierarchy**
- **LP 51 – Protection and improvement of local air quality**
- **LP 52 – Protection and improvement of environmental quality**
- **LP 53 – Contaminated and unstable land**

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)
- Institute of Air Quality Management Land-Use Planning & Development Control; Planning for Air Quality (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

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 11 – Making effective use of land
- 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

Legislation

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise.

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”*.

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 Housing Supply

The 2024 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 of which this site is domestic garden land and unallocated.

Policy LP7 establishes a desired target density of 35 dwellings per hectare unless the individual site characteristics dictate a lower density of development. This is further clarified by Principle 4 of the Housebuilders Design Guide which states that densities lower than 35 per hectare are only permitted in line with Local Plan Policy LP7.

In addition, LP7 echoes Chapter 11 of the National Planning Policy Framework in supporting efficient use of land using previously developed land not of high environmental value, however it also notes that land used for housing should be in keeping with the character of the area and the design of the scheme.

Policy LP3 of the LP is also of relevance insofar as it requires development to deliver homes in a sustainable way.

The site is a garden plot which would not be considered to be of high environmental value despite being PDL. Taking sustainability into consideration, reflecting on whether the application site may be sustainable despite the relatively low density, it is located approximately 500m (as the crow flies) to Linthwaite Local Centre within comfortable walking distance and is close to frequent public transport links along Reinwood Road. The site reusing PDL could be considered to be a sustainable site with access to services / amenities and hourly public transport links. The site is only able to accommodate 1 dwelling due to its limited plot and as such, it is therefore considered that the principle of redevelopment of the site for one dwelling could be acceptable with regard to the proposed density of development, however the provision of housing needs to be balanced against all material planning considerations. The judgement for application, where applicable, will be set out in the officers' assessment.

2 –Impact on visual amenity:

In terms of visual amenity, design considerations are set out in Policy LP02 and LP24 of the Local Plan, and policies within 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 and protect amenity.

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design,

taking into account any local design guidance and supplementary planning documents such as design guides and codes.

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.”*

Principle 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography.”*

Amongst other considerations, Principle 6 sets out that *“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.”*

Principle 8 guides Officers to carefully consider the transition from urban to open land and how the development would *“make a positive contribution to the character and function of the landscape through sensitive siting and good design.”*

Relating to Parking, Principle 12 requires Officers to have regard towards good design by providing visually well integrated parking with landscaping to screen its appearance and not to appear as overly dominant hardsurfaced features in the streetscene.

In addition to this, Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 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.

The proposal would be in line with the similar building line established by nos 2 and 4. This would be acceptable.

Officers consider the proposed dwellinghouse would appear cramped and contrived in between a pair of two-storey houses benefiting from a sense of spacious openness in their property gaps to flank boundaries. It would not fulfil Council requirements to have a two-storey dwellinghouse with 2m separation distance to flank boundaries. While it tries to mitigate this visually overbearing effect with a reduction in bulk and massing within its L-shaped plan form and reduced eaves to the east boundary, this would still appear

cramped and contrived within a small, narrow and tapering plot. Its narrow form would contrast with and appear incongruous with the existing wider examples of built detached development within the area. It follows that a smaller, narrower design with sufficient property gap to flank boundaries would appear even more contrived in between such large adjacent properties. In addition, it would remove views of the wider Green Belt/countryside setting and would harmfully reduce openness and erode the local character of the streetscene to a much tighter form of uncharacteristic dense development. The host would have its parking to the front and supported by a turning point with minimal soft landscaping leading to a visual dominance of vehicular clutter and harsh hardstanding. The streetscene has properties sufficiently set back with swathes of landscaping to soften the required driveways; developing the application site would appear to remove the pleasant landscaping of no. 4 to leave just the front as hard standing; should the previous permission 2018/91970 be revived or this garden plot be developed for a new dwelling, this would cumulatively appear car dominated and appear out of character with the original design of the cul-de-sac. The narrow width of the plot adjacent to the highway and the turning area limits opportunities to mitigate against this harm with greater areas of landscaping to aid in the scheme to appear in keeping with the locality. The proposal would retain sufficient garden space at rear to ensure that the scheme would appear to have a rear garden curtilage similar to its neighbours. However this would not overcome Officer's concerns regarding the cumulative effect of hardstanding to the front of no.4 and the proposed with an increasingly cramped and contrived appearance.

It is noted that the roofline would appear to follow the slope of the land and appear similar to neighbouring properties' rooflines to appear in keeping. It is noted that the architectural designs of the nearby properties could be considered varied in design and therefore the prominent cross gable roof or catslide design would not appear incongruous. In addition, it would reflect the existing material palette of its neighbours by use of natural stone and grey tile to ensure it would harmonise itself to the streetscene; the limited use of secondary materials in timber would be a minor deviation in the material palette however the locality does have variation in materials to allow this to appear in keeping.

Openings would appear to be of mostly standard domestic design with stone heads and cills to aid in being visually integrated to neighbours and therefore acceptable. The proposed larger sections of glazing would appear modestly incongruous in the streetscene however would appear of relatively low visual impact in order to be acceptable.

Notwithstanding the above, the fundamental concerns of Officers in the identified harms of creating incongruous additions to the streetscene to create properties within cramped plots, poor relationships to the streetscene's character and appearance with the loss of openness detracts from the development's potential to be suitably integrated and contributing positively to the local character and identity of the Streetscene.

In conclusion, it is considered that the proposal by reason of its design, mass, appearance, proximity to site boundaries and overly dominant parking arrangement on a small plot would appear as an incongruous, cramped and contrived form of development within the streetscene which would cause visual harm and loss of spacious openness to the established character and appearance of the area.

Consequently, it would conflict with Policies LP1, LP2 and LP24a of the Kirklees Local Plan. In summary, these policies seek to deliver sustainable development and to protect and enhance local character amongst other matters. The proposal would not adhere to the advice in Principles 2, 6 and 12 of the Housebuilders Design Guide Supplementary Planning Document (the SPD) which advise that buildings should have a coherent and harmonious appearance within the streetscene, have a sufficient property gap to boundaries to assist in openness and to avoid the hard surfacing and parking of vehicles over-dominating the streetscene. The proposal is also concluded to conflict with policies within Chapter 12 of the National Planning Policy Framework (the Framework).

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.”

Principle 6 of the Housebuilders Design Guide SPD seeks to ensure that housing maintains high standards of residential amenity by setting the relevant recommended separation distances:

- 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;
- 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

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.

No. 4 Downing Street

Due to its asymmetric design, the greatest bulk and massing of the scheme would be to this neighbour. This would have a small window with glazed door, serving a utility room, to the ground floor and an ensuite first-floor window to the west side elevation. This would have a similar relationship to no. 4's facing openings on the side elevation albeit sited on modestly lower ground.

Available Council records indicate that the window is a new insertion serving an undesignated room and the first floor serves a bathroom (if the layout had

not changed since 2011). The windows would be separated by 2m between those elevations. In the absence of sections to show the relationship between those windows and the type of glazing to no.4, Officers are unable to fully conclude that the proposal would not have an additional overlooking or loss of privacy. A condition to have those proposed windows to be double glazed to level 5 and non-opening could be recommended to ensure this harm is suitably mitigated; however the proximity of the proposed bulk and massing with no adequate flank property gap would still add an unacceptable, visually overbearing and uncomfortable relationship between both neighbours, including future occupants, which cannot be satisfactorily overcome by condition. The bulk and massing of the proposed set northeast of no. 4 would have a limited impact regarding overshadowing to what is likely to be non-habitable rooms and could be acceptable.

Officer note: it is noted that the previous report did not take into consideration impacts to no. 4. This may be due to the property to be intended for the same family use. The proposed is intended to be a self-build/custom build property and is to be occupied by the applicant. Evaluation of the proposed impact to residential amenity is considered salient to no. 4's future occupants in this regard.

No. 2 Downing Street

Due to its asymmetric design and the L shaped layout, the proposed would limit its bulk and massing to this neighbour and therefore would reduce its visual overbearing impact. No. 2 has no side elevation windows visible to the first floor and has a small side canopy over its sitting room door which is heavily screened by shared boundary hedging. The double aspect sitting room still benefits from daylighting at front and rear; both ground and first storey windows at front and rear would still achieve a good sense of outlook. The proposed's closest side elevation would be windowless with corner floor to ceiling glazed sections and one window each on both storeys to side elevation of the gable fronted projection. Those windows would serve a kitchen/dining room and bedroom, both of which would be considered habitable rooms; the building line demonstrates that the windows would not be forward of the windowless side elevation of no. 2 and would not lead to undue overlooking or loss of privacy. Considering overall effects on residential amenity, the proposal would have a lesser degree of being visually overbearing to no. 2, than no. 4's future occupants, as demonstrated by no. 2's lack of side elevation windows present, the openness from the L plan layout and the reduced roofline, despite the proximity to shared boundary, to be acceptable. there would be very restricted impact on additional overshadowing in the late afternoon to no.2's garden however the modest projection past no.2's rear elevation, the catslide roof and the proposed angled position away from the shared boundary would further minimise this effect to be on balance acceptable.

To aid in avoiding further impacts to residential amenity, Officer recommend that roof extensions be limited to avoid creation of an undue impression of overlooking/loss of privacy to no. 2's garden which is on lower ground. In addition, Officers consider it reasonable to limit further new openings to the

northeast elevation in order to prevent an undue impression of overlooking between neighbours.

No. 1 and 3 Downing Street

It is considered that the proposed development would be sited a sufficient distance away from no.s 3 and 1 with very oblique views and on lower ground level to those neighbours so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

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 exceed NDSS requirement's overall for gross internal floor space, despite two bedrooms being of a smaller size than recommended, to achieve good living standards for residential amenity. The rooms would be daylit adequately and have a good sense of outlook. It is not fully clear whether the proposal would have sufficient headroom height for its first-floor east rooms (which could be fully demonstrated in sections) however Officers can be reasonably certain that adequately floor to ceiling height would be achieved for 75% of the GIA at first floor and be therefore acceptable. The garden would be considered proportionate and functional enough to provide a good standard of amenity.

In conclusion, based on the proposed layout and scale with the existing side elevation windows of no. 4, the proposed dwelling would have unacceptable additional impact on overbearing and loss of outlook to the present/future occupants of no. 4 due to the intrusive bulk and massing of the two-storey scale and proximity to the neighbour which cannot be satisfactorily managed by condition. As such, it would be contrary to Kirklees Local Plan Policy LP24, Chapter 12 of the National Planning Policy Framework, and Principle 6 of the Council's Housebuilders Design Guide SPD.

4 – Impact on highway safety:

Turning to 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.

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.

Principle 12 of the Housebuilders Design Guide states that at the outset of the development, applicants should identify the need for car parking, in addition this principle requires the provision of cycle storage and to avoid parking arrangements that place cars at the front of all dwellings and with overly dominant integral garages at the front of dwellings.

Principle 12 goes on to set out that where car parking is included within the curtilage of a dwelling, creative design solutions should ensure that car parking can be accommodated at the side of buildings or to their rear to avoid dominating the street scene at front.

Principle 19 of the above Guide states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

The Highway Development Management Officer were informally consulted reviewing plans for both this site and the other application site adjacent west of no. 4.

It was noted that Highway Development Management had raised no concerns regarding highway safety regarding application 2015/92561's turning areas and parking demonstrated on plans; this turning area within the current application site was conditioned consistently in application history to provide sufficient turning areas and parking for the use of no. 4 and the dwelling approved within 2015/92561. For clarity the wording of this condition was:

"7. The turning facilities for the hereby approved and existing dwelling (no. 4 Downing Street) shall be provided in accordance with the approved site layout ref: 4229 – 03 -01 prior to the occupation of the hereby approved dwelling. The turning facilities shall thereafter be made available for use at all times by vehicles and shall be kept free from obstruction to such use.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policy T10 of the Unitary Development Plan."

The current proposal makes use of the turning head as a private access to the four bedroom host and was flagged up by a representation concerning this restrictive matter to themselves. Officers raised comments about how feasible it would be to provide turning point access for three properties of significant bedroom and parking demand. Should the proposal be permitted, and therefore obstruct the turning head perceiving it as their driveway or using it for visitor parking this would adversely impact on highway safety. In the event of an enforcement complaint over access and land ownership, this would be difficult to enforce as it would be a private matter to be resolved however the onus would be on the occupier of the site under planning application

2015/92561 to fulfil their condition to satisfy highway safety. Officers are not convinced that the proposed turning facilities to serve three properties would be adequate to aid safe vehicular transition into Downing Street, or into other people's driveways, which would be an unsatisfactory intrusion on their privacy or a source of annoyance.

It is noted that the section of the highway concerned is a '*Private 'Non-Adopted' Streets or Shared Driveways*' as identified by Officers and representations, as such the Highways Design Guide SPD, paragraph 3.18 states that development along those should be restricted to five dwellings or fewer for highway safety. For clarity in very unusual circumstances there is an exemption under paragraph 3.16, which states that developments in excess of five dwellings could be acceptable under certain conditions, primarily when the developer agrees the below:

- *The developer agrees (with the council) the principle of the roads remaining private.*
- *The developer agrees the long-term maintenance programme for the highway infrastructure.*
- *The developer agrees how the entrance to the private development is to be defined on site.*
- *The highway infrastructure is designed and constructed to an appropriate standard, commensurate with the guidance provided for an adoptable standard.*

In this instance, through the passage of time, this exemption is not possible and cannot be retrospectively agreed or arranged to meet standards. It is noted that the private non-adopted street does not have paved footways or visitor parking to absorb visitor demand and therefore would not meet current adoptable standards set out in the Highways Design Guide SPD and Manual for Streets.

As such, Officers have provided some limited weight to the representation's assertion, supported by supplied photographs regarding drainage works, that application 2015/92561 has lawfully been commenced within the period of permission (and therefore extant). In the event that it is found not to be extant, Officers have to give great weight to the planning history of the site and the Inspector's Decision at Appeal, and it is likely that Decision making would have to take this into consideration to be consistent, unless planning material considerations significantly have changed. The weight to be given to any particular factor will be very much a matter of degree and planning judgement, in this matter however Officers consider that the private non-adopted street has reached its maximum capacity to serve five dwellings and great weight is given to the potential harm to highway safety.

Informal response from KC Waste Management confirmed that refuse collection vehicles reverse up the adopted and unadopted highway to collect bins (including garden waste). There is no turning head sufficiently large enough for those vehicles to otherwise manoeuvre. While this would not be normally supported by Waste Management for new developments, due to

health and safety reversing more than 12m, the current arrangement of residents presenting bins at the highway would remain as existing and therefore accepted.

Without footways to provide safety inter-visibility for pedestrian/highway users, increased generation of trips (including waste collection) for six large dwellings and no visitor parking, the impact of the development on a private non-adopted street would lead to unacceptable impact on highway safety and not supported by the Highways Design Guide SPD in the Highway Development Management Officer's consideration.

In isolation, the proposal would adequately provide sufficient off-street parking for the level of accommodation desired in accordance with the Highways Design Guide SPD. Cycle storage have not been set out however the proposal has storage facilities that could accommodate this as well as a private garden with external access to the rear; as such it would be overly onerous to insist on formal cycle storage areas for the purposes of Principle 12. Bins would be stored forward of the driveway and able to be presented for collection easily; given the sloping land and potential to have bins tipping over or rolling in close to the highway, if the proposal was otherwise acceptable, Officers would recommend a condition to have those bins adequately secured within their own storage unit for highway safety.

Nonetheless, Officers concur that the proposed development to add one new dwelling to a private non-adopted highway which already supports five permitted, large dwellinghouses would lead to an unacceptable impact on highway safety, with severe residual cumulative impacts on the private road network in conflict with Policies LP21 and LP22 of the Kirklees Local Plan, paragraph 3.18 of the KC Highway Design Guide SPD and Chapter 9 of the National Planning Policy Framework. As previously indicated, the proposed car-dominated, parking layout with very limited landscaping would lead to a harmful visual impact in conflict with Principle 12 of the Housebuilders Design Guide SPD.

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.

Policy LP24 of the Kirklees Local Plan sets out expectations of sustainability regarding development proposals.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The application is supported by a Climate Change Statement which outlines that the dwelling might explore installing an air source heat pump or solar panels (which could be installed under available Permitted Development Rights). At a minimum the proposed dwelling would be built to modern building regulations to aid in the contribution to climate change and for specific details of how the development will respond to climate change. As the proposal is for a new dwelling, the provision of electric vehicle charging points is controlled by building 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. Given these considerations, Officers are satisfied that the building would not harm the climate change agenda on this occasion. The proposed development would therefore comply with Policies LP24 and LP51 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

Drainage

Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework are considered to be relevant in terms of foul/surface water drainage.

The site is within Flood Zone 1, that is land at the lowest risk of flooding (land assessed as having a less than 1 in 1,000 annual probability of river flooding). In addition to this there are no specific drainage risks associated with the site (e.g., river, culvert).

Considering the driveway with the turning areas, in event of approval, a condition would be recommended to ensure adequate drainage through permeable surfaces or via soft landscaping in accordance with Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864).

Biodiversity and Trees

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

Principle 9 of the Housebuilders Design Guide highlights that net biodiversity gains should be provided through good design and considered at an early stage to ensure biodiversity enhancements and habitat creation are incorporated and the function of the wildlife habitat network is safeguarded and enhanced.

In addition, Policy LP30 and LP31 of the Kirklees Local Plan is relevant. The site is considered to have the modest potential to contribute to net gains in particular being sited in or close to sensitive areas for biodiversity within a bat alert layer, Strategic Green Infrastructure Network and the Green Belt. It is considered that there is the opportunity to provide net gain by the provision of facilities such as bat boxes, bird boxes, hedgehog holes and enhanced landscaping with the planting of native species.

It is important to note that Principle 9 itself does not state a required minimum net gain percentage, similarly to Chapter 15 of the NPPF, but seeks to reasonably enhance the biodiversity conditions of the site so that cumulative impacts to biodiversity is limited. The proposal self-certifies in the application form that it is exempt from supplying BNG under legislation due to being a 'self-build/custom build' development for the use of the applicant. As such, in the event of approval, Officers would recommend a condition to be attached limiting the use of the property once occupied to be for self build to accord with the BNG exemption requirements.

To ensure that these modest improvements in BNG are provided for policy, a condition would have been attached to the decision notice in relation to these issues. This would be in line with LP24h) and LP30 of the Kirklees Local Plan, Chapter 15 of the NPPF and Principle 9 of the Housebuilders Design Guide SPD.

Contaminated and unstable land

The site is within a Hazardous Material Site and as such HSE were formally consulted and raised no objections. The site is not close to contaminated land however pre-cautionary conditions would be recommended, triggered in the event of unexpected discovery of land contamination, in order to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development for the public interest, in accordance with Chapter 15 of the National Planning Policy Framework and LP53 of the Kirklees Local Plan.

6 – Representations:

Two representations had been received and considered within the report.

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.

On the basis of the conclusions drawn within the 'Visual Amenity' and the 'Residential Amenity' section of this report insofar as the development is not considered to accord with policies LP01, LP02 and LP24 of the KLP, Principles 2, 6 and 12 of the Housebuilders Design Guide and Chapter 12 of the NPPF. It is considered that the previous reasons for refusal in application 2011/92453 have not been substantially overcome with its altered design, it would still appear as an incongruous form of development harmfully eroding the openness and character of the streetscene, it would still have overbearing impact to one neighbour given the proximity to side elevation windows and would still give rise to cumulative highway safety issues in a private, non-adopted street.

Taking into account that the Council cannot demonstrate a 5-year housing land supply, the 'tilted balance' has been engaged in the consideration of this

application. Given the restrictions of the narrow plot and impact on the local character of the locality through loss of openness, it is concluded that the visual harm that would accrue from the proposal would significantly and demonstrably outweigh the benefits of the provision of residential development on the site, even at a time of local and national shortage. Taking into account all material considerations and with this appropriate reasoning, it is recommended that the application be refused notwithstanding the tilted balance being engaged.

Recommendation:

Refusal.

Decision Authorisation - Delegated

Application Number: 2024/90932

Officer Recommendation: Refuse

Reasons

1. The proposal by reason of its design, mass, appearance, proximity to site boundaries and overly dominant parking arrangement on a small plot would appear as an incongruous, cramped and contrived form of development within the streetscene which would cause visual harm and loss of spacious openness to the established character and appearance of the area. It would conflict with LP1, LP2 and LP24a of the Kirklees Local Plan, Principles 2, 6 and 12 of the Housebuilders Design Guide Supplementary Planning Document (the SPD) and policies within Chapter 12 of the National Planning Policy Framework.
1. The proposal would have unacceptable additional impact on overbearing and loss of outlook to the windows of the occupants/future occupants of no. 4 due to the intrusive bulk and massing of the two storey scale and proximity to the neighbour which cannot be satisfactorily managed by condition. As such it would be contrary to Kirklees Local Plan Policy LP24, Chapter 12 of the National Planning Policy Framework, and Principle 6 of the Council's Housebuilders Design Guide SPD.
2. The proposed development to add one new dwelling to a private non-adopted highway which already supports five permitted, large dwellinghouses would lead to an unacceptable impact on highway safety, with severe residual cumulative impacts on the private road network in conflict with Policies LP21 and LP22 of the Kirklees Local Plan, paragraph 3.18 of the KC Highway Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location, Proposed Elevation and Floor Plans with Photographs and 3D Views.	2407-01	Unamended	18/04/2024
Design and Access Statement	Design and Access Statement by DB. Architects (Yorkshire) Ltd	Unamended	15/04/2024
Climate Change Statement	-	-	10/04/2024

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

preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The proposal was assessed on its own merits without the benefit of a pre application service being used by the agent. Due to the constraints of the site, development could not be supported in principle.

Report Dated: 03/07/2024