

**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:	2024/62/91224/W
Site Address:	Fixby Stores, 57-59, Fixby Road, Fixby, Huddersfield, HD2 2JB
Description:	Erection of extensions and alterations to outbuilding and garage to form one dwelling
Recommending Officer:	Laura Yeadon

DECISION – CONDITIONAL FULL PERMISSION

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

John Holmes

AUTHORISED OFFICER

Date: 18th July 2024

Officer Report

[Website](#)

Site Description

57-59 Fixby Road is comprised of a pair of semi-detached properties on the corner of Fixby Road and Broomfield Road. No.59 is a residential property with No. 57 having a retail unit at ground floor with residential accommodation at first floor. Parking for the customers of the shop is to the front of the property with access for servicing taken off Broomfield Road.

A large, detached garage/store is also constructed within the curtilage of the site which is within the same ownership as No's 57 and 59.

No. 57 benefits from off-street parking and has been extended to the rear and the shop also benefits from a rear extension.

The surrounding development is predominantly residential.

Description of Proposal

The application is for the erection of extensions and alterations to an outbuilding and garage to form one dwelling.

The application seeks to amend details on an existing extant permission under application number 2022/93373. The main differences between the approved scheme and that proposed under this application include alterations to the internal configuration, the alteration to the roof form from being approved as a hipped roof to a gable roof to allow for accommodation within the roof space, the introduction of a gabled feature to the front of the property, the introduction of a dormer window to the rear elevation, solar panels and rooflights to the rear elevation and, alterations to the approved fenestration details. The overall height of the building would be slightly increased from that as approved (approx. 0.5m)

The footprint of the dwelling would remain as existing with a 1 metre projection to the front of the building to create a gabled feature with the eaves raised from 3.3m to 5.4m and the overall height raised from 5.9m to 8.3m.

It is proposed that the large openings to the front are infilled and new openings formed within the ground floor front and rear elevations with a first for window formed within the side elevation facing No. 67 Broomfield Road.

It is proposed that the roof of the dwelling would be pitched and finished with concrete tiles with the walls constructed from brick at ground floor with render above.

Permission was granted under application 2019/92709 in relation to the outbuilding, and granted permission for the extension and alteration to the garage to form one dwelling.

More recently, a further application (2022/93373) was submitted which included revisions to the design of the property and an adjustment to enable off-street parking to be created. This application was approved and is an extant permission which expires 29th June 2026.

With regards to parking for this proposal, the submitted site plan demonstrates that 2 no. tandem parking spaces would be provided for the proposed dwelling with a parking and off-loading area to the rear of No. 57.

History of negotiations/amendments received

No negotiations have taken place with the applicant/agent due to the application being acceptable in its submitted format. However, it was requested that a street scene elevation was submitted so that the impact on the street scene could be ascertained. A plan was submitted on 13th June 2024.

Relevant Planning History

57-59 Fixby Road

2019/92708 Certificate of lawfulness for proposed change of use of ground floor from residential to retail – refused

2019/92709 Erection of extension and alterations to form one dwelling and widening of vehicular access to Fixby Road – approved

2022/93373 Erection of extensions and alterations to outbuilding and garage to form one dwelling – approved

It is noted that 2022/93373 could not be implemented as well as the development the subject of this application given it relates to the same building.

59 Fixby Road

2022/93971 Erection of two storey side and two and single storey rear extensions with external alterations – approved

57 Fixby Road

1989/07343 Erection of 2 storey extension to form enlarged sales area to shop, 2 bedrooms and bathroom – approved

2000/90473 Erection of extension to shop and living accommodation and store extension to detached garage – approved

2001/93249 Variation of condition 4 relating to parking, loading and unloading on previous permission 2000/90473 for erection of extension to shop and living accommodation to detached garage – approved

2005/94734 Alterations to existing garage – refused

2006/94561 Erection of storage unit – approved

2011/92679 Installation of ATM and associated works – approved

2019/92708 Certificate of lawfulness for proposed change of use of ground floor from residential to retail – refused

2022/93096 Erection of extension and external staircase – approved

Representations

We are currently undertaking the legal 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.

Final publicity date expired 14th June 2024.

Parish/ Town Council – not applicable

As a result of the public consultation period no representations have been received.

Consultation Responses

K.C. Highways Development Management – no objection

K.C. Environmental Health – comments transferred from extant permission 2022/93373 – recommend conditions relating to the reporting of contaminated land and notes added to the decision notice in relation to construction working times

K.C. Ecology – Advice provided in respect of Biodiversity Net Gain.

Provides the following specific advice in relation to on site biodiversity net gain measures:

“The condition for the bat box on the previously approved scheme should still be placed on the decision for this application, along with the requirement for the self-build nature of the development.”

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 without notation on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 7** – Efficient and effective use of land and buildings
- **LP 11** – Housing mix and affordable housing
- **LP 21** – Highways safety
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** - Biodiversity and geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 53** – Contaminated and unstable land

Supplementary Planning Documents:

- Highways Design Guide SPD
- Housebuilders Design Guide SPD
- National Described Space Standards
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

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 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

The February 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.

The increase in density of the site would be in accordance with Policy LP7 and LP11 of the Kirklees Local Plan in terms of the provision of housing. However, this should not be to the detriment of other material consideration including heritage, visual and residential amenity, biodiversity and highway safety.

Paragraph 70 of the NPPF recognises that ‘small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. To promote the development of a good mix of sites local planning authorities shouldsupport the development of windfall sites through their policies and decision – giving great weight to the benefits of using suitable sites within existing settlements for homes.’

The principle of altering the garage with extensions to create a dwelling has been established by 2 no. previous applications and therefore the principle of works is acceptable, especially given that there is an extant permission on site which could be implemented at any time. This is detailed within the previous Officer Report.

Under Chapter 11 of the NPPF, planning decision should support development that makes “efficient use of land” taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed and beautiful places”, should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments.

Also of relevance is Chapter 14 (opportunities to be taken to prevent development contributing to flooding) and 15 (any potential pollution impacts should be assessed at the planning stage, and biodiversity should be enhanced).

The Nationally Described Space Standards document is also a material consideration and the resultant property would be in line with the advice contained within for 3 bedroom properties.

Taking account of the previous approval of planning permission, and on the basis the considerations in sections 2 – 7 of this report are concluded to be acceptable it is considered the proposal is acceptable in principle.

2 – Impact on visual amenity:

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. The following ‘Principles’ for development to incorporate a new dwelling can be found in within the Housebuilders’ Design Guide SPD are highlighted as being relevant in this case.

As detailed within the previous Officer Reports the following Principles within the Housebuilders’ Design Guide SPD are highlighted as being particularly relevant:-

‘Principle 2 – 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 – 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. The arrangement of buildings should consider maintaining privacy and residential amenity. Effective boundary treatments should be used to form defensible space and delineate between public and private realm. Buildings should be arranged to take account of weather and microclimates.

Principle 14 – The design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials. Innovation for energy efficiency is encouraged, particularly for maximising solar gain to allow for passive solar construction.’

Principle 17 of the Council’s adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

The outbuilding the subject of this application is set back from the roadside an on a similar building line to the unconnected property to the south, No. 67. The footprint of the building would remain as existing with the eaves height and ridge height raised. The roof form would be altered from the extant

permission which is a hipped roof to a pitched roof and a dormer would be created in the rear elevation roof slope.

Another alteration to the proposal from the previous approval is the introduction of a front gable feature. Whilst this would form a feature which is not common within the immediate vicinity, it is not a feature that would be incongruous with the street scene nor would have a significant impact on visual amenity in general. Whilst the proposed canopy is reorientated as part of the current submission, the principle was established that this feature was acceptable as part of the previous scheme.

The application plans indicate that the ground floor elevations would be brick and the first floor would be rendered. This would be consistent with other properties within the street scene. As previously considered, these materials are acceptable. On the decision notice for the approved application, a condition was attached for samples of all facing and roofing materials to be submitted or provided to the LPA for approval. This condition shall be reimposed as part of this approval.

It is noted that the rear garden of the proposed dwelling would be small by comparison with its neighbours, being only 8.8m in depth. Had this been a completely undeveloped site (i.e. if the garage / store were not already built), then a two-storey dwelling might be considered excessive unless the footprint could be reduced. The development being applied for could be considered a finely-balanced case on the grounds of its scale relative to plot size, but since the proposal involves a limited increase in footprint which would be to the front of the dwelling, it is on balance considered that it would not amount to overdevelopment of the site. The proposed dwelling would in many respects be similar to the surrounding residential development in terms of its appearance and as previously considered, it would complement and harmonise with the existing street scene.

Given the recent approval and extant permission for the property and having regard to proposed development close to the site, the proposal is not considered to cause undue harm to the visual amenity of the property or surrounding area.

A dormer feature is also proposed within the rear elevation roof slope. Whilst this would introduce a feature which is not common within the street scene, the dormer is small in scale and has a pitched roof and therefore in keeping with the proposed new dwelling.

As per the previous decision notice, due to the relatively small plot of land, it is considered reasonable and necessary to remove permitted development rights for extensions (other than porches) to avoid overdevelopment of the site.

Subject to conditions, the proposal is considered to accord with the aforementioned policies.

3 – Impact on residential amenity:

A core planning principle as set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the House Builders Design Guide sets out 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. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015).

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

The plans submitted with the previous application did not propose any windows within the side elevation of the dwelling and therefore the openings were isolated to the front and rear elevations. As part of this application, a first floor side elevation opening is proposed within the bathroom. Whilst there are no openings within the side elevation of No. 67 which would impact on this opening, it is considered reasonable and necessary in this case to attach a condition ensuring that this opening is obscurely glazed to protect the amenity of both properties.

The separation distances between the proposed opening were previously assessed and considered acceptable. Whilst there is a material change in circumstances from the previous application in terms of the 2 no. applications determined within the wider site following the granting of permissions since the permission for the new dwelling, the proposed works to No. 59 if implemented would bring the rear elevation of that property closer to the proposed dwelling by 4 metres at ground floor and 2 metres at first floor, given that the buildings lines are off-set, this was considered acceptable. The proposed store room extension to the retail unit would not have any openings facing the proposed new dwelling which would impact on amenity. As these principles were previously considered acceptable, there is no reason for the LPA to change this opinion.

The proposed amenity space for the dwelling is considered to have limited impact on the existing neighbouring dwellings as this area is already in use and available to the occupiers of both 57 and 59 Fixby Road. Notwithstanding this, as with the previously approved scheme, a condition shall be attached ensuring that a 1.8m high fence is installed along the boundaries of the gardens area.

The proposals garden would be overlooked by existing living accommodation at No. 59 but it is considered that that as there would be no direct window-to-window overlooking, and as future prospective purchasers or tenants would be aware of the situation, it is considered that this degree of overlooking is acceptable.

As per the previous assessment it is considered that the garden space for the new dwelling, although proportionally smaller than that of many nearby dwellings, would be adequate having regard to the aims of SPD Principle 17, which states that new houses should have 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 existing occupants of 57-59 would of course lose the benefits of their existing garden space which is to become private amenity space for the new dwelling. This would leave them the existing hardstanding which could be landscaped to future owners' or occupiers' requirements as well as a modest amount of garden space at the front. The remaining amenity space provided for both the proposal and No.59 is concluded to be acceptable.

It is therefore considered that subject to inclusion of the recommended conditions the amenities of the existing properties is conserved along with providing a satisfactory standard of living for future occupants thereby complying with Policy LP24 of the Kirklees Local Plan.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

Detailed comments were received as part of the previous application however, Highways Development Management Officers were formally consulted as part of this application. The comments received state the following:

'Planning permission was granted in October 2021 and June 2023 for similar proposals for the erection of extension to outbuilding and garage to form a dwelling- application numbers 2019/92709 and 2022/93373. The previous proposals included the provision of 2 off-street parking spaces for the proposed dwelling with access from Broomfield Road. Access to the store was shown to be from an existing retained access along Broomfield Road.

The proposal amends the previously approved scheme by providing an ensuite bedroom to the loft space.

Given that the proposal still shows a 3 bedroom dwelling, and the proposals are otherwise unchanged, Highways Development Management have no objection to these proposals.'

In addition to the above, it is noted that there is bin storage provision within the red line boundary of the application site and therefore, this is also considered to be acceptable.

It is therefore considered that the scheme is acceptable in terms of parking and highway safety and would therefore accord with Policies LP21 and LP22 of the Kirklees Local Plan and advice within the NPPF.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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 pre-dates 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.

As previously cited the proposal would however make efficient use of land within a sustainable location with only limited new build, partly re-using and adapting an existing building, which means less embodied energy than a wholly new build on a greenfield site.

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

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the fact that albeit the extension will connect into the existing roof, the property in this case appears to be well sealed and maintained with little opportunity for bats.

As the works would result in a two storey dwelling, to accord with Policy LP30, a condition shall be attached to ensure the installation of a bat roost feature on the east elevation of the building.

Statutory requirements for biodiversity are not considered to be applicable in this case. In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is considered to benefit from the de-minimus exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no required for BNG to be provided in respect of the aforementioned legislation.

Whilst it is noted this is not specifically referred to in the submitted form, it is considered it is the most applicable exemption in this case. This conclusion is drawn on the basis that the response of KC Ecology seeking to secure the use of the building as a self build by condition is not, in this instance, considered to be a reasonable approach.

Whilst the submitted form sets out the intention to undertake the development as a self build development, it is not considered to be sole applicable BNG exemption in this case and the deminimus exemption is also relevant to the proposal. The site is predominantly hard standing or consists of built form, the proposal would not alter the existing arrangement.

On the basis of the provision of a level of biodiversity gain by condition (that a bat box is provided) it is concluded the development is acceptable in regard to biodiversity impact.

It is noted that request was made for further information to be provided as part of this submission in relation to ecology. Given the extant consent in place it is concluded it would be unreasonable of the LPA to insist upon submission of this detail in this case as similar works are able to be undertaken in the absence of submission of such detail in any event.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within

an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 186 and 191 of the National Planning Policy Framework.

Contaminated land – As part of the previous, extant permission, Environmental Services were formally consulted. As this permission is extant, the previous comments are relevant to this application. The comments cite that the site is not on land identified as potentially contaminated however the proposed works would involve ground works and therefore it is necessary to recommend a condition relating to unexpected ground contamination.

Conditions –

Taken from the previous decision notice, the following conditions shall be addressed in relation to this scheme:

2022/93373 – Erection of extensions and alterations to outbuilding and garage to form one dwelling

- Conditions 1 & 2 (Time limit & Plans List) – reimpose.
- Condition 3 (materials of construction) – reimpose
- Condition 4 (surfacing) – reimpose
- Condition 5 (waste storage) – reimpose
- Condition 6 (bat box) – reimpose
- Condition 7 (boundary screen) – reimpose
- Condition 8 (non-opening or top-opening window which shall be fitted with grade 5 obscure glazing) – Due to the reconfiguration of the internal accommodation, this condition shall be reworded to include the proposed ensuite opening within the rear elevation of the property and the proposed bathroom window within the side elevation of the property.
- Condition 9 (No new openings in the rear elevation) – reimpose
- Condition 10 (Remove pd rights) – reimpose with the addition of Class AA of Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- Condition 11 (Provision of EV parking Infrastructure) – This condition can be removed as electric vehicle charging points are now covered by Building regulations.
- Condition 12 (submission of a scheme of investigation / remediation / verification should contamination be encountered) – reimpose.

6 – Representations:

None

7 – Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/91224

Officer Recommendation: Approve

Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP7, LP11, LP21, LP22, LP24, LP30, LP33 and LP51 of the Kirklees Local Plan, principles 2, 5, 6, 14, 10, 11, 16 and 17 of the Council's adopted Housebuilders Design Guide and policies within chapters 2, 4, 5, 11, 12, 14 and 15 of the National Planning Policy Framework.
3. Samples of all facing and roofing materials shall be submitted to, or left on site for the inspection by, the Local Planning Authority, before work to commence the first floor of the dwelling commences. This shall include the finish colour and texture of any external rendering. The development shall be implemented using the approved materials.

Reason: In the interests of visual amenity and to accord with the aims of Policy LP24(a) of the Kirklees Local Plan.

4. Before the new dwelling is first brought into use, all areas to be used for the parking and manoeuvring of vehicles shall be laid out with a hardened and drained surface, which shall be in accordance with the Communities & Local Government and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009. Thereafter these areas shall be retained free of any obstruction.

Reason: To ensure a satisfactory layout in the interests of highway safety, to ensure that the development does not contribute to flood risk through increased run-off, and to accord with the aims of and to accord with the aims of Policies LP21, LP22 and LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

5. The areas for the storage and collection of wastes as shown on the approved site plan shall be provided and laid out with a hardened and drained surface before the new dwelling is first brought into use and thereafter retained as such.

Reason: To ensure that suitable facilities are provided within the site for the separation, storage and collection of wastes, in the interests of highway safety and visual amenity, and to accord with Policy LP24(d)(vi) of the Kirklees Local Plan.

6. Before the new dwelling is first occupied, a single artificial bat roost feature, made of Woodcrete or a similar durable weatherproof material, shall be installed on the eastern elevation of the dwelling at eaves level and not directly above a door or window. It shall thereafter be retained.

Reason: So as to ensure appropriate ecological enhancement is delivered in accordance with Policy LP30 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

7. Before the new dwelling is first brought into use, a 1.8m high screen fence shall be erected along the full length of all boundaries of the rear garden to the proposed dwelling and be retained thereafter.

Reason: So as not to detract from the amenities of adjoining properties by reason of loss of privacy and to accord with Policy LP24(c) of the Kirklees Local Plan, principle 6 of the Council's adopted Housebuilders Design Guide and policies within Chapter 12 of the National Planning Policy Framework.

8. The rear-facing first-floor window and the first floor side elevation window to the bathrooms shall be non-opening or top-opening only and shall be fitted with grade 5 obscure glazing before the development is first brought into use. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with

or without modification), windows of this type shall be retained at all times.

Reason: So as not to detract from the amenities of adjoining properties by reason of loss of privacy and to accord with Policy LP24(c) of the Kirklees Local Plan principle 6 of the Council's adopted Housebuilders Design Guide and policies within Chapter 12 of the National Planning Policy Framework.

9. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new window openings other than those expressly authorised by this permission shall be formed in the rear elevation of the new dwelling at first-floor at any time.

Reason: To protect the long-term privacy of neighbouring residential properties and to accord with Policy LP24(c) of the Kirklees Local Plan.

10. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), no extensions or outbuildings falling within Classes A, AA, B or E of Schedule 2, Part 1, of the above Order shall be erected or constructed within the area edged in red on the approved plan at any time.

Reason: To retain adequate planning control over the site so as to prevent inappropriate extensions or outbuildings detracting from the townscape or visual amenity as a result of overdevelopment, and to accord with Policy LP24 of the Kirklees Local Plan, principle 6 of the Council's adopted Housebuilders Design Guide and policies within Chapter 12 of the National Planning Policy Framework.

11. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and

a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 180, 189 and 190 of the National Planning Policy Framework.

NOTE – The developer is reminded that notwithstanding the granting of planning permission, consent must be obtained from the Council acting as Highway Authority for works for form the modified footway crossing to Fixby Road.

NOTE – Construction Site Working Times It is recommended that noisy construction related activities should not take place outside the hours of: 07.30 to 18.30 hours Mondays to Fridays 08.00 to 13.00hours Saturdays With no noisy activities on Sundays or Public Holidays.

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 - All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. 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

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan, proposed site plan and existing elevations and floor plan	1978-22-004 Rev: B	–	3 rd May 2024
Proposed elevations and floor plans	1978-24-011 Rev: A	–	7 th May 2024
Proposed street scene elevation	1978-24-012		14 th June 2024

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

The Case Officer did not undertake any negotiations with the applicant due to the application being acceptable in its submitted format. However, it was requested that a street scene elevation was submitted so that the impact on the street scene could be ascertained.

Report Dated: 17th July 2024

Coal – low