

**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:	2024/62/91243/W
Site Address:	Land at Nabbs Lane, Slaithwaite, Huddersfield, HD7 5AU
Description:	Erection of one dwelling (within a Conservation Area)
Recommending Officer:	John Holmes

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 25 June 2024

Officer Report – 2024/91243

Site Description

The application site relates to a plot of land on the Corner of the junction between Nabbs Lane and Church Street in Slaithwaite. The site is currently naturalised vegetation which is a mix of low level plants and shrubs. Land levels to land to the east and north are higher than that of the site, with a retaining wall present to the eastern and northern boundaries.

To the east of the site is a highway and building in community use further beyond. To the north is no.6 Bank Gate, and is in residential use. To the west of the site is a public house, specifically the blank eastern elevation of the public house faces the site. To the south of the site are two listed buildings, at a distance of 9m from the southern boundary of the site. It is noted the main frontage of the listed buildings is to their southern elevation.

Access is taken from the southern boundary of the site, parking restrictions (specifically double yellow or solid white lines) are to the site frontage and also the highway network immediately surrounding the site.

Description of Proposal

The Scheme

The applicant is seeking permission for the erection of one dwelling.

The proposal would see a dwelling which is 220 square metres in size across three floors, at a height to the eaves of 8.2m and 10.6m to the ridge (when measured from Nabbs Lane, southern elevation).

A single storey, flat roof, element of the dwelling is proposed to the front; this would protrude beyond part of the ground, the first and second floor front (southern) elevation facing Nabbs Lane by 3.9m. Above this flat roof element a first floor terrace is proposed, which would provide the outdoor amenity space which is of a usable size. The first floor terrace would be accessed from within the dwelling by a first floor patio door which would be within the front elevation, and would see a flat roof canopy above this entrance (patio) door.

An access around the dwelling approximately 0.9m wide is proposed adjacent to the eastern and northern elevations.

The dwelling is designed such that a canopy would be over part of the access driveway to the dwelling (and would enable the access driveway to be of a length to allow a car to leave the highway). Within the canopy an area for bin storage is proposed. The submitted plans indicate cycle storage would be incorporated into the garage, for three cycles.

At the ground floor the accommodation comprises an entrance hall, utility space, bedroom 3 and a 'jack and jill' toilet which is accessed from both bed 3 and the hallway. At the first floor level a large open plan kitchen, dining and lounge area is proposed. At the second floor level two bedrooms are proposed with associated en-suite bathrooms and dressing room to serve one of the bedrooms.

Supporting Information

In addition to the submitted plans the following documents have been submitted to support the application:

- Planning Support and Heritage Statement
- Climate Change Statement

In summary the Planning Support and Heritage Statement sets out the following:

- Historical images show that the site was formerly occupied by a 3-storey industrial building. Map regression shows that the building was demolished sometime between 1960 and 1980 for unknown reasons
- The public house to the west has been present since 1790
- The dwelling to the north was extended in 1987
- The footprint of the proposed building mimics the shape of the site, allowing the proposed building to nestle into the corner plot without making an exaggerated impact on the line of the existing roads. The curve on the south-east corner of the proposed building ensures minimal impact of sight lines at the junction of Nabbs Lane and Bank Gate.
- To reduce the impact of the development on the view of Grade II listed Saints James Church from Nabbs Lane and the view of Grade II listed Slaithwaite Viaduct from Church Street, the height to the roof pitch from ground level is 10.5 metres, with the pitch of the proposed development sitting 1.5 metres lower than that of Bankgate Cottage, situated immediately to the north of the application site.
- The proposed form and materiality of the building is in keeping with the industrial roots of the town and the general West Yorkshire vernacular, with natural local stone, pitched roofs and a generally orthogonal form. The curve on the south – east corner nods to the original form of the adjacent Silent Woman Public House.
- The proposed ground floor level will project approximately 3.5 metres forward of the upper levels and have a tapered façade mimicking the drystone wall on the opposite side of Bank Gate. Once again, this aims to avoid a dominance on the junction of Nabbs Lane and Bank Gate.
- Private external space is provided in the form of a terrace sat atop the projected portion of the ground floor mentioned above. The terrace will have access from the lounge on the first-floor level, as well as from a path from the access point on Bank Gate.
- Parking for two vehicles is provided within the integral garage as well as provision for parking on the driveway.

- Pre Application discussion undertaken with the Council's Conservation Team
- Planning History of the site listed.

The Climate Statement sets out, in summary:

- Any new appliances such as fridges, washing machines etc. will be min. A rated energy efficient.
- All new lighting will be LED and energy efficient
- Any new materials to be sourced locally, and encourage purchasing reclaimed materials such as natural walling stone and natural stone slates.
- Use local labour and Contractors to limit travel time to site and reduce carbon emissions.
- Suggest installation of renewable energy technologies and highlight benefits to Applicant.
- No glazing to North Elevation.
- Proposed building benefits from expanses of glazing/rooflights to South Elevation to increase solar gain.
- Encourage use of water efficient appliances (eco shower heads, low/dual flush toilets)
- Installation of car charging point to encourage electric vehicle use.
- Bicycle storage area to encourage use of bicycles.

History of Negotiations / Amendments Received

Within an email dated 21st June amendments were recommended by the LPA in relation to the design of the scheme and creation of more usable / private amenity space.

Within an email dated 21st June the applicants' planning agent responded, advising they fundamentally disagreed with the suggested amendments.

Relevant Planning History

The most relevant planning history relates to the following planning applications

2018/91084 - Outline application for erection of residential development (one dwelling) (within a Conservation Area) – Conditional Outline Permission granted 10th April 2018

This consent required the details of the access, layout, scale, appearance, and the landscaping of the site to subsequently be gained at the Reserved Matters stage.

2018/93280 – Outline application for erection of residential development (one dwelling) (within a Conservation Area) – Conditional Outline Permission granted 29th November 2018

This consent required the details of the access, layout, scale, appearance, and the landscaping of the site to subsequently be gained at the Reserved Matters stage.

2022/90854 - Outline application for erection of residential development (within a Conservation Area) – Conditional Outline Permission granted 30th August 2022

This consent required the details of the access, layout, scale, appearance, and the landscaping of the site to subsequently be gained at the Reserved Matters stage.

Another permission, dating back to 1994, relates to use of the site as a car park to serve the adjacent public house. The 1994 consent is considered to be of little relevance in the consideration of this application.

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application has been publicised as affecting the setting of a conservation area on the Council's website, by neighbor notification letter, site notice and by press advertisement. The expiry date of the publicity period was the 15th of June 2024.

Letters of Objection

One Objection has been received to this proposal. The concerns raised are summarised as follows:-

- The style and height of the proposed house is completely out of keeping with the surrounding historical buildings.
- The three storey design will tower above the historical pub next to it and look out of keeping with the style and size of the surrounding buildings
- The proposed integral garage at the bottom is similar to newer built mews houses and will stick out like a sore thumb.
- It would be more in keeping with the area to have 2 storeys and separate covered area for the cars
- Impact as a result of a loss of view of the valley.
- The proposal would result in a loss of light in the morning.
- Impact upon neighbouring properties during construction phase resulting from excavations and potential structural damage
- Proximity of the proposal to neighbouring properties and subsequent impact upon maintenance.

The objections are addressed within the 'Assessment' section of this report.

Letters of Support

None

Letters of Comment

None

Consultation Responses

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Conservation and Design – Verbal advice provided in meeting dated 19th June 2024.

KC Ecology – No objection subject to condition

KC Environmental Health – No objection subject to conditions and informative notes

KC Highways Structures – No objection subject to conditions

KC Highways – No objection subject to conditions and informative notes

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

Allocation and Policy

The site is within the Strategic Green Infrastructure Network (River Colne Valley), and Slaithwaite Conservation Area within the Kirklees Local Plan (adopted 2019). The site is also located within an area with a known presence of Swift Birds and Bats.

The site is in close proximity to a number of listed buildings.

The following legislation, policy and guidance is considered relevant to the determination of this application:-

Kirklees Local Plan

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP7 – Efficient and Effective Use of Land
- LP20 – Sustainable Travel
- LP21 – Highways and Access
- LP22 – Parking
- LP24 – Design

- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP35 – Historic Environment
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality
- LP53 – Contaminated and Unstable Land

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. In this case the Technical housing standards – nationally described space standard guidance document (dated March 2015) is considered to be of relevance

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter2	Achieving sustainable development
Chapter4	Decision-making
Chapter5	Delivering a sufficient supply of homes
Chapter9	Promoting sustainable transport
Chapter11	Making effective use of land
Chapter12	Achieving well-designed & beautiful places
Chapter14	Meeting the challenge of climate change, flooding and coastal change
Chapter15	Conserving and enhancing the natural environment
Chapter16	Conserving and enhancing the historic environment

Supplementary Planning Documents / guidance

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021)
- Nationally Described Space Standards
- National Design Guide
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

Legislation

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

The Conservation of Habitats and Species Regulations 2017

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

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

When making a recommendation in respect of a planning application affecting a Listed Building or its setting, attention must be given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.

Assessment

The following matters are considered in the assessment below –

1. Principle of development
 1. Impact upon the character and appearance of the area (including impact upon historic environment)
 2. Impact upon residential amenity
 3. Impact upon highway safety
 4. Climate Change
 5. Other matters
 6. Representations
 7. Conclusion

1 – Principle of Development

Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

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

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

The Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and as such it is accepted that relevant Local Plan policies for the supply of housing land are out-of-date. This now triggers the NPPF presumption in favour of sustainable development.

As set on in NPPF paragraph 11d, 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.

Policy LP11 of the Kirklees Local Plan requires that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.

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

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved.

As the application site measures just 178sqm, it is deemed that 1 dwelling on this site would meet the requirements of Policy LP7 and Principle 4 of the SPD.

It is noted that there is an extant outline consent in place for one dwelling in relation to this site (ref: 2022/90854 – detailed in the ‘Planning History’ section of this report). This is a material consideration which weighs in favour of the

principle of the development in this case given the extant consent does not expire until 30th August 2025.

Furthermore, since the granting of outline consent, the LPA is no longer able to demonstrate a 5 year land supply. This is a factor which must be weighed in the balance in the consideration of any planning application. However, it is considered that in relation to the presumption in favour of development the tilted balance would not be applicable in this case given the site is within a Conservation Area and, as set out at paragraph 11 of the NPPF, the LPA should apply the presumption unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development.

In addition, paragraph 11 sets out that the presumption should not apply where 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.

Therefore, with regard to the principle of development, whilst it is considered there is potential for the principle of the development for one dwelling to be considered acceptable, this is on the basis the development is acceptable in regard to the considerations set out in the following sections of this report.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

2 – Impact on character and appearance of the area (including impact upon historic environment):

The NPPF does offer guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 131 provides a principal consideration concerning design which states:

“The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

Paragraph 134 of the NPPF states that design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. In addition to this, Paragraph 139 of the NPPF outlines 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. Kirklees has an adopted Housebuilders Design Guide SPD.

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.”*

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.

Section 66 of the Planning (Listed Buildings & Conservation Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, Policy LP35 of the KLP states that: *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm”*.

Paragraph 199 of the NPPF states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...”*.

This is further supported by paragraph 202 of the NPPF, which outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this weight should be weighed against the public benefits of the proposal.

The proposal would see a three storey building, which has a curved design and incorporates sash designed windows at the first and second floor level. At the ground floor level a recessed vehicular door is proposed.

A flat roof single storey element is proposed to the front of the proposed dwelling at the ground floor level, this would accommodate a terraced area above and feature a window in the western elevation. Access on to the terraced area is provided from both the street, with a new pedestrian access being created and also from a large patio door at the first floor level within the southern elevation which opens upon on to the terrace. A flat roof canopy feature us above the patio door.

Consideration is given to the assessment of the 2022 outline application, in particular the following assessment:

‘Dwellings within the immediate area vary in size and design but are typically 2 storeys in height and detached or terraced properties. The submitted details identify that the applicant wishes to erect 2 three-storey dwellings, and it is assumed that the applicant proposes a pair of semi-detached properties as the site would not be of a size that could accommodate anything larger than this. The submitted Design & Access & Heritage Statement makes reference to the sites previous use for industrial purposes whereby a three-storey building once stood. As outlined within the Conservation & Design officers’ comments below, whilst a three-storey building may have been appropriate many years ago, the Conservation Area and context of the site has changed over time and thus a three-storey building in this location in the present day would not be deemed to be acceptable. A 2 storey or 2.5 storey property may be acceptable dependent on its design and massing. It is considered that a three-storey property in this location would appear overly dominant and prominent being located adjacent to a number of listed buildings on the junction of Church Street and Bank Gate, and would appear out of keeping with immediate development.’

It is noted that the assessment of the outline application was on the basis of a different scheme and it is acknowledged the current scheme has gone some way to improving the overall design of dwelling which is proposed.

However, the single storey flat roofed element to the front of the site is considered to create a feature which has an overly domineering and has a significant impact in relation to the setting of the site within the Conservation Area, and also the visual amenity of the proposed dwelling and wider locality. The height of this element of the proposal is 4.3m when measured from Nabbs Lane and would be around the corner of the site (albeit of lesser height when adjacent to the highway) around half of the southern part of the boundary and part of the eastern boundary.

The expanse and massing in such proximity to the highway is considered to negatively impact upon the character of this part of the street. Whilst historically there was a building on this site, this has been removed and this site has been open and free from built form for a considerable time.

The design is such that the dwelling would appear obscured from view when observed from the south / east of the site with a high wall which would have an imposing appearance within the street. Furthermore, the flat roof element to the front would see the only area of amenity space within a raised position on the prominent part of the site. Associated activities would be highly prominent and likely lead to pressure for further screening / enclosure of this area from future occupiers, which would have a further significant impact with regard to visual amenity / character of the locality.

The dwelling would have an internal space provision of 225m² and the flat roof element contributes 20m² to this space provision.

Amendment to the scheme was recommended, with the applicants' agent setting out that they consider the large scale garden retaining wall as a common feature of numerous Conservation Areas within the Colne / Holme Valley and that it breaks up the massing of the proposed three storey building. They further advise that the amenity space provision would be the same space whether at the ground or first floor level although they would be agreeable to amending the window design of the patio door.

When weighing up the conclusions drawn in the consideration of the 2022 application, and the scheme as submitted as well as the content of the submitted heritage statement and the verbal advice provided during the Case Officer's meeting with the Conservation Team, it is considered that the scheme as proposed leads to less than substantial harm to the Conservation Area and has a detrimental impact upon the setting of the Conservation Area in this case.

It is considered that design solutions exist which can mitigate the impact of the identified harm, in this case the flat roof element and incorporation of flat roof features and patio door openings at the first floor level. Specifically these

would include the removal of the flat roof element, with the creation of amenity space at the ground level, incorporation of sash windows to the remainder of the first floor and removal of the first floor patio door and flat roof canopy.

Such amendments would allow for the reduction of the height of the curved wall which is immediately adjacent to the highway, and would enable an area of private amenity space to be provided.

Whilst the dwelling is of a three storey design, and having regard to the consultation response of the Conservation and Design Team within the 2022 outline application, it is considered the further detailed information within the heritage statement and the design of the building is such that a three storey building could be considered to be acceptable in this case, particularly given it would be stepped lower than properties to the north and although higher than properties to the west it is considered such a scale of building would not have a significant impact in terms of being three storey.

However, it is considered the appearance of the proposed dwelling is such that, as a result of the single storey element to front, raised terrace and fenestration details at the first floor level, the proposed dwelling would be out of character with the locality and would lead to a detrimental level of visual harm that would fail to harmonise with the setting of the site. The proposal would lead to less than substantial harm for which no public benefits to outweigh this harm have been identified. The development would be contrary to policies LP24 and LP35 of the Kirklees Local Plan, principles 2 & 14 of the Housebuilder Design Guide SPD and policies within Chapters 12 and 15 of the National Planning Policy Framework.

Notwithstanding the above assessment, in terms of the setting of the listed building to the south west of the site, having regard to the fact the elevation of the listed building which faces Nabbs Lane is not of high interest and does not serve as a main principal elevation and the fact this is directly opposite the public house and separated from the application site by the highway, it is considered the setting of this listed building would not be affected by the proposed development in this case.

3. Impact on Residential Amenity

Sections B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Housebuilders 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.

The text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable room;
- 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.

Impact on no. 6 Bank Gate

This neighbouring property is located to the north of the application site, approximately 5m away from the proposed dwellings as shown on the indicative plans. This neighbouring dwelling faces Bank Gate, with its blank side gable elevation adjacent to the shared boundary with the site. Whilst there is a limited separation distance between this neighbouring property and adjacent proposed dwellings, the southern gable end of no. 6 is blank.

Whilst the proposal would be of a three storey design, it is noted that the building would be sited in line with no.6 and the western elevations of the proposed building would not protrude beyond the rear of no.6 Bank Gate.

As such it is considered the impact of the proposal upon the outlook from no.6 in terms of forming an oppressive / overbearing feature would not be to a significant degree particularly as the dwelling is sited at a land level lower than that of no.6.

In terms of leading to overshadowing, there would be some degree of impact in this regard as a result of the proposed development, with light impacted in the morning hours and a level of restriction occurring which would be to the rear amenity space predominantly. Notwithstanding this, it is considered that the land level at which the dwelling would be sited, coupled with the fact the proposed building would not directly cut / impinge upon a 45 degree line when taken from the centre of the sill of any window within no.6, is such that it is considered a refusal on the basis of impact upon light serving no.6 could not be substantiated in this case.

Impact on no. 14b Nabbs Lane

This neighbouring property is located to the south-west of the application site approximately 12.6m away, and across the road. Given the location and orientation of this neighbouring property to the application site, there are no significant concerns in respect to overshadowing or the loss of light. It is noted that openings in no.14b which face the site are small and does not appear to be the main windows which provide light to this property. Given the siting of the proposal is off set from no.14b, to the north and the ground floor would serve a garage directly opposite, coupled with the distance of the proposal

from no.14b it is concluded that the development would not have a significant impact with regard to overlooking, overshadowing or being unduly oppressive / overbearing.

Future amenity of the 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.”*

The proposal would provide in excess of the standard. Providing 220m² (approx) where the standard recommended a 3 bed dwelling over 3 storeys should provide 108m² (maximum applicable standard). It is noted that the recommended amendments set out to the applicants' agent would still see a dwelling that is able to meet the space standard still possible to be provided within the site.

It is also acknowledged that the application site is located adjacent to a public house 'Silent Woman' and other commercial properties. Paragraph 187 of the NPPF sets out that planning decisions: *“...Should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.”*

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

The Council's Environmental Health Team have been consulted regarding the proposal and have advised, given the surrounding developments in proximity to the site, that they consider that noise from the commercial buildings, customers and general traffic/trains and track maintenance could result in a loss of amenity to future occupiers. They recommend that a condition be imposed upon any grant of permission requiring a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development (including road traffic and commercial premises) be submitted to the LPA for approval in writing. On the basis of the inclusion of this recommended condition the impact of the proposal having regard to neighbouring uses / developments is concluded as being acceptable.

Furthermore, with regard to noise during the construction phase of the development, they recommend a condition be in place restricting the hours of construction to 07.30 to 18.30 hours Mondays to Fridays and 08.00 to 13.00 on Saturdays. Given the scale of the proposal it is considered inclusion of this condition would be unreasonable in this case.

Turning to amenity space provision of the proposed development.

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 provide a 22m² amenity space, at the first floor level, in a prominent location at the front of the site. The level of space provided is somewhat limited given the size of the proposed dwelling and also constraints of the site in terms of its overall size and the access arrangements / need to provide suitable access and parking arrangements.

Notwithstanding this point, whilst a lesser sized level of amenity space may be considered acceptable when balanced against other constraints of the site, it is considered that its provision in a prominent section of the site and at the first floor level is such that the development would not lead to a development which has an acceptable amenity space provision for occupiers of the dwelling.

It is considered that a design solution is possible in this case which could provide amenity space at the ground level, with a suitably sized wall (or wall and railing boundary treatment) to the southern / eastern boundary to provides a level of screening which ensures the amenity space is private.

It is therefore concluded that, given the prominence of the amenity space associated with the dwelling the proposed development would not provide a suitable level of private outdoor space commensurate to a dwelling of this size and scale contrary to policy LP24 of the Kirklees Local Plan, principle 17 of the Housebuilders Design Guide and the policies contained within Chapter 12 of the NPPF.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF 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 Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

The Council's Highways Team have been consulted on the application. They have advised that Nabbs Lane is a 30mph two-way single carriageway local access road of approximately 7.8m width with a footway on the side of the proposal site and street lighting present. They note there are 'No Waiting At Any Time' Traffic Regulation Order markings to the front of the site.

They go on to observe that the site is 220m to stops on a high frequency bus route and approximately 400m to the rail station in Slaithwaite, the closest convenience store is approximately 245m from the site with a supermarket within 300m and other shops and facilities in Slaithwaite town centre within 350m. They conclude the site is in a relatively sustainable edge of town centre location.

The Highways Team note the planning history in their response, and that some of the matters raised as requiring to be addressed within the 2022 application have been as part of this submission. They note a dropped crossing appears to be in place already although advises works to the highway would need to be undertaken within the correct legal framework with the council as highway authority. Within their response advice is provided in relation to visibility splays which are considered necessary to be provided. A condition requiring this is recommended.

The Highways Team advise they consider the parking provision to be suitable as well as the provision of waste storage areas. In addition to the condition relating to visibility splays conditions are recommended relating to the design of proposed retaining walls adjacent to the existing highway including any modification to the existing private retaining wall supporting Bank Gate and that an easement strip of not less than 2.0m wide shall be retained between the proposed building and the existing private retaining wall supporting Bank Gate to facilitate access for its future inspection and maintenance.

The conditions recommended in relation to retaining wall are echoed by that of the Highways Structures Team within their response.

The design of the dwelling is such that it would be within the 2m easement strip as recommended by the Highways Team. However, given the recommended condition relating to submission of a scheme detailing the design of proposed retaining walls adjacent to the existing highway including any modification to the existing private retaining wall supporting Bank Gate, it is considered a further condition requiring a 2m easement to be provided would be unreasonable of the LPA in the instance of any grant of permission (given an easement of 0.9m is provided on plan, or the building is immediately adjacent to the highway).

It is therefore considered that, subject to inclusion of the recommended conditions relating to the design of retaining walls / structures and the provision of sightlines, the development would have an acceptable impact upon access and highway safety given the access arrangements proposed, scale of the proposal and the level of off street parking provision as well as the proposed waste storage arrangements.

It is therefore considered that subject to condition the proposal meets the requirements of the aforementioned policies in this regard.

5. Climate Change

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

Considering the scale and nature of the proposed development, especially that it is for private use, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

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 proposal would incorporate a number of measures, as set out in the Climate Change Statement supporting this application, which would go some way to off set the carbon footprint of the development in both the construction and operational phase of the development. Notwithstanding this, weight is further afforded the fact the site is in an accessible location close to public transport links, shops and services. Therefore it is considered the proposal would have an acceptable impact in this regard.

6. Other Matters

Land Stability / Quality

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

A condition is recommended to ensure that the stability of the public highway is maintained, required in the public interests to ensure access and highway safety is maintained. With regard to the impact of the development upon private land, Paragraph 189 of the National Planning Policy Framework states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

It is considered that it would be unreasonable of the LPA to withhold permission on the basis of the potential impact of development upon land stability between the relevant land owners and that land stability is an issue which is a civil matter between such land owners.

The land is not within an area which is identified as potentially affected by land stability issues by the Coal Authority.

With regard to land quality, the Council's Environmental Health Team have advised that the site is close to a former mill site (ref: 12/14) and that they recommend a precautionary approach is taken should permission be forthcoming insofar as a condition relating to investigation, remediation and verification of land quality in the event unexpected contamination is encountered be included upon any grant of permission.

Ecology

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

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

Principle 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. Which seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided.

The Biodiversity Net Gain Technical Advice Note sets out that minor developments are subject to the mitigation hierarchy outlined within Chapter 2.2 and will still be required to demonstrate a net gain for biodiversity. Chapter 2.2 of the advice note details a mitigation hierarchy of avoid, mitigate, compensate, offset and finally enhance.

The council's Ecologist has been consulted, advising that they note from the submitted detail the proposal is exempt from mandatory Biodiversity Net Gain (BNG), as it constitutes self-build development as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015. A condition requiring the scheme is undertaken as a self build / occupied as such for a 3 year period is recommended by them.

In terms of the biodiversity requirements of a scheme of this type as required by the aforementioned policies, the Council's Ecologist recommends that any grant of permission requires the provision of bat boxes / tubes.

Taking account of the nature of the site, the response of the Council's Ecologist and on the basis of the inclusion of the recommended condition relating to the development being self build and requiring the provision of bat boxes / tubes it is considered the impact of the development upon ecology is acceptable and meets the requirements of the aforementioned policies.

7. Representations

Insofar as they have not been addressed elsewhere in this report, the third party representations are addressed here:

- Impact as a result of a loss of view of the valley.

It is considered this is a matter which can be limited weight as a consideration that is material to the determination of this application.

- Proximity of the proposal to neighbouring properties and subsequent impact upon maintenance.

It is considered that suitable access around the property would allow for maintenance to be undertaken. Access over third-party land for the purposes of maintenance is a civil matter between the relevant land owners for which limited weight is afforded as a consideration material to the determination of this case.

8. Conclusion

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development constitutes unsustainable development in this case as a result of the visual harm and harm to the setting of the Conservation Area for which no clear and demonstrable public benefit(s) to outweigh the harm are present.

The quantum of development is significant and the level of amenity space provision limited as a result, with none provided such that it can be used in a private capacity.

In this case the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and refusal is therefore recommended.

Recommendation

REFUSE

Decision Authorisation: Delegated Powers

Application Number: 2024/91243

Officer Recommendation: Refuse for the following reasons:

1. As a result of the design of the single storey section of the dwelling located to the front, raised terrace and fenestration details at the first floor level, the proposed dwelling would be out of character with the locality and would lead to a detrimental level of visual harm failing to harmonise with the character and setting of the site. The proposal would lead to less than substantial harm to the Conservation Area for which no public benefits to outweigh this harm are considered to exist. The development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan, principles 2 & 14 of the Housebuilder Design Guide SPD and policies within Chapters 12 and 15 of the National Planning Policy Framework.
1. By virtue of the prominence of the amenity space associated with the dwelling, the proposed development would not provide a suitable level of private outdoor space that is commensurate to a dwelling of this size and scale, contrary to Policy LP24 of the Kirklees Local Plan, principle 17 of the Housebuilders Design Guide and the policies contained within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan / Document Type	Reference	Version	Date Received
Application Form			1 st May 2024
Climate change Statement			1 st May 2024
Planning Support and Heritage Statement	3594		1 st May 2024
Proposed Drawings	3594(0-) 09		1 st May 2024
Proposed Site Plan	3594(0-) 10		1 st May 2024
Existing Drawings	3594(0-) 05 REVA	A	1 st May 2024
Location Plan			1 st May 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. Amendments were recommended by the LPA in relation to the design of the scheme and creation of more usable / private amenity space. Within an email dated 21st June, the applicants' planning agent responded, advising they fundamentally disagreed with the suggested amendments. As such, the decision is based on the original plans.

Report Dated:

24th June 2024