

**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:	2024/62/91451/E
Site Address:	88, Shirley Road, Gomersal, Cleckheaton, BD19 4ND
Description:	Erection of detached dwelling with associated external alterations and erection of front dormers including roof alterations to form first floor accommodation, installation of solar panels and external alterations to 88 Shirley Road
Recommending Officer:	Nicole Helliwell

DECISION - REFUSED

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 19-NOV-2024

Officer Report

Reference No. 2024/62/91451/E

Site Address: 88, Shirley Road, Gomersal, Cleckheaton, BD19 4ND

Proposal: Erection of detached dwelling with associated external alterations and erection of front dormers including roof alterations to form first floor accommodation, installation of solar panels and external alterations to 88 Shirley Road.

Site Description

The application site relates to 88 Shirley Road, a detached bungalow located in Gomersal, Cleckheaton. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The surrounding dwellings are highly varied in size, style, and materials. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

Description of Proposal

The applicant is seeking planning permission for the erection of a detached dwelling with associated external alterations and the erection of front dormers including roof alterations to form first floor accommodation, installation of solar panels and external alterations to 88 Shirley Road. The details of the proposal are summarised below:

Proposed Dwelling

- The property would be single storey in height and would have an overall width of approx. 6m, an overall depth of approx. 15.85m and an overall height of approx. 4.42m.
- The proposed dwelling would be faced in reclaimed sneck and jump natural stone to the front and rear elevations with natural coloured render to the side elevations
- The dwelling would incorporate a dual-pitched roof finished in Marley modern type smooth roof tiles.
- Off street parking is proposed to the east of the dwelling and an area of private outdoor amenity space would be provided to the west of the application site.

Alterations and Extensions to 88 Shirley Road

- Erection of two dormer extensions within the east-facing roof plane (width of approx. 1.85m, depth of approx. 1.65m and a maximum height of approx. 2m)
- Roof alterations to form first floor accommodation
- Installation of solar panels to the south facing roof planes

- Installation of velux windows to the west and north facing roof planes

Relevant Planning History

- **2022/93774:** Erection of front and side dormers including roof alterations to form first floor accommodation, installation of solar panels and velux windows and internal alterations. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was advertised by neighbour letters, which expired on 11th July 2024. As a result of the above publicity, three representations have been received. The comments made have been summarised below:

- It is important for us to have respite from the noise associated with building a new home and extending an additional one which, if self-build, is likely to go on for many months.
- We would ask that there be no weekend working on the build and that works do not start before 8am on a morning and not after 6pm at night to allow us to have a quality of life. This should apply whether a contractor/builder is employed to do the work or if the home owner does the work himself.
- The plans should also ensure that the upper windows do not directly look into our home and that there is no issue with deterioration of light.
- There are some significant internal changes in the proposals for the works to the existing property from the layouts in the previous agreed planning application.
- Working hours & environmental issues such as noise, smoke etc need to be properly managed so as to minimise any inconvenience to surrounding property owners. This needs to be applicable whether a self-build or contractor build route is undertaken.
- We would request that the front elevation first floor windows are replaced with Velux rooflights (same as rear & side elevations). This would protect visual amenity and privacy.
- Has a risk assessment been undertaken to determine the likely impact on building structures that are in close proximity to the large Sycamore tree that will be removed?
- We have a large stone garden wall about 10 meters from the tree and wish to be reassured that it will not be damaged by subsidence or ground heave cause by its removal.

Consultation Responses

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

KC Ecology – No objection subject to recommended condition

KC Environmental Health – No objection subject to recommended conditions

The Coal Authority - No objection subject to recommended conditions

KC Highways Development Management – No objection

KC Trees – Objection

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 33** - Trees
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

National Policies and Guidance

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

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 5** - Delivering a Sufficient Supply of Homes
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed and Beautiful Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021) - Nationally Described Space Standards
- National Design Guide
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- House Extensions and Alterations SPD (adopted 29th June 2021)

Assessment

1. Principle of Development

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

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

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

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

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

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

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

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

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

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

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

1. Impact on Visual Amenity

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

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

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

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

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

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

Detached Bungalow

The proposed single storey dwelling would be faced in reclaimed sneck and jump natural stone to the front and rear elevations with natural coloured render to the side elevations. The property would incorporate a dual-pitched roof finished in Marley modern type smooth roof tiles. Furthermore, the dwelling would include white UPVC windows and the arrangement of fenestration and openings would be typical of this style of this property. Therefore, it is considered that the material palette would be acceptable given that there is already a degree of variation within the street scene.

The proposed dwelling would be located within the side garden area of 88 Shirley Road. Although there are a large number of residential properties within the vicinity of the site, it is noted that there is a strong spatial layout along this section of Shirley Road, due to the siting of the dwellings and the wide spacing between the properties which contribute to its open character. The submitted plans demonstrate that the proposed bungalow would occupy a large proportion of the occupant's garden area, which would enclose the space and subsequently erode the spacious nature of the plot.

The proposed dwelling, by virtue of its position and the relatively constrained nature of the plot it will be positioned on, will adversely impact on the streetscene by creating a cramped and contrived form of development. The property would appear as a standalone feature that would fail to sympathetically integrate with the neighbouring properties and maintain a sense of openness. Therefore, the proposed development would cause significant harm to the visual amenity of the host dwelling and the wider street scene, and would fail to accord with the aims of Policies LP24(a) of the Kirklees Local Plan, Principles 2 and 5 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Alterations to 88 Shirley Road

Dormer Extensions

The traditional vertical dormer windows would be identically sized and located within the east-facing roof plane. The dormers would be set back from the eaves, sited below the existing ridge line and would be faced in anthracite cladding. Although the material palette would not entirely match the appearance of the host property, it would broadly conform with the original build and would be considered appropriate given the existing variety of materials within the street scene. The dormer windows would also be of an appropriate size and design and would generally align with the existing fenestration. Whilst it is noted that the area is generally devoid of dormer extensions, in this instance, the dormers are considered acceptable given the lack of uniformity within the street scene. On this basis, the proposed development would not have any significant visual impact on the character and appearance of the host property and surrounding area,

Roof Alterations

The submitted plans confirm that roof alterations would be undertaken to provide additional accommodation at first floor level. Whilst it is noted that the overall height of the property would increase by approximately 2.3m, it is considered that the alterations would not appear out of character with other properties in the street scene, where there is a mixture of single and two storey properties.

Solar Panels

The submitted plans confirm that solar panels would be fitted to the south-facing roof plane. The panels would generate renewable energy at the property which would lead to a reduction in carbon emissions. Although the solar panels may have some visibility from public vantage points, they are not considered to have a significant impact on the visual amenity of the host property and surrounding area.

Velux Windows

The velux windows would be modestly sized and would be located within the north and west facing roof planes. Given that the fenestration would be of an appropriate design and scale, they are considered to respect the appearance and character of the host property and surrounding area.

Having taken the above into account, and based on the previous approval, the proposed works to the existing dwelling would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan, KDP 1 & 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

2. Impact on Residential Amenity of Neighbouring Residents

Detached Bungalow

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

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

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

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

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

Impact on 58 and 60 Clumber Drive

58 and 60 Clumber Drive are residential properties located east of the application site. The submitted plans confirm that a separation distance of approximately 22m would be retained between the proposed dwelling and the rear elevation of no.60. Furthermore, a distance of approx. 25.6m would be retained between the proposed dwelling and the rear elevation of no. 58. Given the indirect relationships and that the separation distances retained would be substantial, officers consider that there would be no further harm to the neighbour’s residential amenity with regard to overbearing, overshadowing, or overlooking impact.

Impact on 10 Stoney Croft

10 Stoney Croft is a residential property located west of the application site. It is noted that the proposed dwelling would occupy a position approximately 13.5m from the rear elevation of no.10. Although this distance would fall short of the 21m recommended within the Kirklees Housebuilders Design Guide

SPD, it is taken into consideration that the current relationship along Shirley Road falls short of this distance. Therefore, given that precedence has already been established within the street scene, it is considered that there would be no significant detrimental impact on the amenity of the neighbouring properties as a result of the proposed development.

Summary

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

Alterations to 88 Shirley Road

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light, Key Design Principle 6 on preventing overbearing impact and Key Principle 7 for outdoor space.

Impact on 90 Shirley Road

90 Shirley Road is a detached bungalow located south of the application site. It is noted that the overall height of 88 Shirley Road would increase by approximately 2.3m to provide accommodation at first floor level. However, given that a gap of 3.65m would be retained to the common boundary shared with no.90, and that no.88 is located north of no.90, it is considered that there would be no significant detrimental impact on the amenity of the neighbouring properties as a result of the proposed development.

Impact on 62 Clumber Drive

62 Clumber Drive is a two storey-detached property located east of the application site. The submitted plans confirm that the dormer extensions within the east-facing roof plane of no.88 would occupy a position approximately 17.8m from the rear elevation of 62 Clumber Drive. Although this distance would fall short of the 21m separation distance outlined within the SPD, it is considered that the dormer would only have an oblique view of the neighbouring property due to the angled positioning of the dwelling. Furthermore, this element of the proposal has already been approved under planning application app no. 2022/93774. On this basis, it is considered that

the proposed development would not result in any significant harm to the neighbouring occupants and would be acceptable in this regard.

Impact on 9 and 10 Stoney Croft

9 and 10 Stoney Croft are residential properties located west of the application site. Due to the angled position of the velux windows, it is considered that there would be no undue harm to the neighbour's residential amenity with regards to overlooking. Furthermore, the proposals would not bring development any closer to the boundary with these properties than the existing situation. On this basis, it is considered that the proposed development would not result in any further harm to the neighbour's residential amenity over the existing.

Summary

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extensions and Alterations SPD and Paragraph 135(f) of the National Planning Policy Framework.

3. Impact on Residential Amenity of Future Occupiers

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

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

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

- 2 Bedroom, 3-person dwelling set over 1 storeys - 61 square metres
- 2 Bedroom, 4-person dwelling set over 1 storeys - 70 square metres

The proposed floor plans show that the dwelling would have two bed spaces and therefore is required to have a minimum internal floor space of 61m². The proposal is shown to have an internal floor space of 79m², which would adequately meet basic lifestyle needs and provide a high standard of amenity for future occupiers. It is also noted that each of the habitable rooms would benefit from a sufficient amount of natural light. Furthermore, private outdoor

amenity space is proposed to the rear and off road parking would be located to the front of the dwelling. For these reasons, it is considered that the proposal would provide an acceptable standard of living for future occupants and would accord with LP24(b) of the Kirklees Local Plan, Principles 6 and 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

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

Detached Bungalow

Shirley Road is a traditional estate road leading from Spen Lane to its junction with Sherwood Avenue. From its junction with Sherwood Avenue the road narrows to a single-track road to its junction with Upper Lane. The site of the proposed dwelling is approximately 20m south of the point where Shirley Road narrows to a single-track road. This narrow section of Shirley Road currently serves as an access for two dwellings and, although no trip generation details were provided with the application, it is not considered that a development of this size and type would generate sufficient additional traffic as to have a severe impact on the operation or efficiency of the local highway network.

A new access will be required to access the proposed parking area for the dwelling. The highway works required to provide the new access, will also need to be constructed under the section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). The applicant is advised to contact the Kirklees Street scene team to determine the exact extent of the works required. Furthermore, two car parking spaces are proposed which is acceptable for a three bedroomed house.

Extensions and Alterations to 88 Shirley Road

The proposed extensions and alterations to 88 Shirley Road would not affect parking within the site or have any highway safety implications. Therefore, this element of the proposal is considered acceptable to Highways Development Management.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in

accordance with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5. Other Matters

Climate Change

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

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

Electric Vehicle Charging Points

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

Contaminated Land

The site of the development is in a Coal Authority high risk development area and is shown to be circa 150m from an historic colliery. A Coal Mining Risk Assessment Report by RGS (ref no. C4361/24/E/6670, dated 14/05/2024) has been submitted in support of the application. The report informs the site is situated upon Emley Rock, a named sandstone member within the Pennine Lower Coal Measures Formation. Flockton Thin and 1st/2nd Brown Metal coal seams are anticipated to be present at depths of less than 30m below the surface of the site. Furthermore, records demonstrate worked coal beneath the site (Flockton Thin – 10m depth beneath site – 0.91m thickness – last worked in 1886. Low Fenton – 22m depth beneath site – 1.72m thickness – last worked in 1884.) The report goes on to attribute a moderate risk in relation to gas but has not commented on potential combustion risk at the site. KC Environmental Health acknowledge the report and would expect that any future intrusive investigations and ground gas monitoring be undertaken in accordance with best practice guidance.

Construction Noise

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

Coal Mining Legacy

The application site falls within the Coal Authority's defined Development High Risk Area. Therefore, within the site and surrounding area there are coal mining features present at surface or shallow depths. The application is accompanied by a Coal Mining Risk Assessment Report (dated 14 May 2024, prepared by RGS). The Coal Authority's Planning & Development Team concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development.

Ecology

KC Ecology were formally consulted on the proposed scheme. Officers confirmed that no ecological information was submitted with the application. However, the development proposes that it 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. Should the application be approved, a condition will be placed on forthcoming consent to ensure that the self-build element is secured for a minimum period of three years. Aside from the above, a condition should be placed on any approval to ensure that provisions for protected species are incorporated into the fabric of the building.

Protected Trees

There is a tree which is protected under a Tree preservation order (TPO 55/91) to the north-east of the application site. The proposed works would require the removal of the protected tree purely to facilitate the proposals. Whilst replacement planting is suggested, this would not mitigate the loss of a mature sycamore tree and the amenity value it provides to the wider area. Furthermore, its removal would also have a detrimental effect on the wider landscape. On this basis, there is an objection from a trees perspective as the proposal conflicts with adopted Kirklees local plan Policy 33 and 24 (i).

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

6. Representations

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

- It is important for us to have respite from the noise associated with building a new home and extending an additional one which, if self-build, is likely to go on for many months.

Response: *Impacts from construction are temporary and are not material planning considerations.*

- We would ask that there be no weekend working on the build and that works do not start before 8am on a morning and not after 6pm at night to allow us to have a quality of life. This should apply whether a contractor/builder is employed to do the work or if the home owner does the work himself.

Response: *Should the application be approved, a foot note would be added to the decision notice outlining construction hours.*

- The plans should also ensure that the upper windows do not directly look into our home and that there is no issue with deterioration of light.

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

- There are some significant internal changes in the proposals for the works to the existing property from the layouts in the previous agreed planning application.

Response: *Each planning application is assessed on its individual merits. However, internal alterations alone generally do not require planning permission.*

- Working hours & environmental issues such as noise, smoke etc need to be properly managed so as to minimise any inconvenience to surrounding property owners. This needs to be applicable whether a self-build or contractor build route is undertaken.

Response: *Impacts from construction are temporary and are not material planning considerations. Should the application be approved, a foot note would be added to the decision notice outlining construction hours.*

- We would request that the front elevation first floor windows are replaced with Velux rooflights (same as rear & side elevations). This would protect visual amenity and privacy.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report. Furthermore, the proposals impact on the character and appearance of the*

street scene has been assessed within the 'Visual Amenity' section of the report.

- Has a risk assessment been undertaken to determine the likely impact on building structures that are in close proximity to the large Sycamore tree that will be removed?

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

- We have a large stone garden wall about 10 meters from the tree and wish to be reassured that it will not be damaged by subsidence or ground heave cause by its removal.

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

7. Negotiations

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

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 adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration. Therefore, the application is recommended for refusal.

Recommendation: Refusal

Decision Authorisation - Delegated Powers

Application Number: 2024/91451

Officer Recommendation:

Reasons for Refusal

1. The proposed dwelling would appear as a standalone feature that would fail to sympathetically integrate with the neighbouring properties and would be out of keeping with the character of the area, to the detriment of visual amenity. The proposal would also introduce an incongruous layout in the street scene which would appear cramped and contrived and would impact upon the open character of the site. The proposal is therefore contrary to the aims of Policies LP24(a) of the Kirklees Local Plan, Principles 2 and 5 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

2. The proposed works would lead to the loss of a protected tree of significant amenity within the application site. To permit the development would be contrary to Policies LP24 and LP33 of the Kirklees Local Plan and Chapters 12 & 15 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Date Received
Location Plan	-	04/06/2024
Existing Elevations	-	04/06/2024
Existing Plans	-	04/06/2024
Sections (Existing House)	-	04/06/2024
Existing Site Plan	-	04/06/2024
Proposed Site Plan	-	04/06/2024
Proposed Elevations (Existing House)	-	04/06/2024
Proposed Ground Floor Plan (Existing House)	-	04/06/2024
Proposed First Floor Plan (Existing House)	-	04/06/2024
Proposed Plans, Elevations & Sections (New Dwelling)	-	04/06/2024

Properties in Relation	-	04/06/2024
Tree Information Plan	-	04/06/2024
Drainage Information	-	04/06/2024
Coal Mining Risk Assessment	C4361/24/E/6670	04/06/2024
Design and Access Statement	-	04/06/2024
Climate Change Statement	-	04/06/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning 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.

Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. It was considered that no amendments could be made to overcome the reasons for refusal outlined above.

Dated: 14/11/2024