

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	<b>2024/70/91601/E</b>
Site Address:	Land At, 14, Bracken Hill, Mirfield, WF14 0EZ
Description:	Variation of condition 2. (plans) on previous reserved matters application pursuant to reserved matters 2022/92259 for erection of residential development (one dwelling)
Recommending Officer:	Edward Cheseldine

**DECISION – Approve Variation of Condition 2**

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

Kirsty Nicholls

***AUTHORISED OFFICER***

Date: 20-Aug-2024

## **Officer Report**

2024/91601 - Land At, 14, Bracken Hill, Mirfield, WF14 0EZ

### **Application Proposal**

The application is a section 73 application seeking permission for the variation of condition 2. (plans) on reserved matters application 2022/92259 for erection of residential development (one dwelling)

The following changes to the approved plans are as follows:

- Removal of stone quoin details
- Addition of coping stones
- Addition of 2 solar panels on front roof plane
- Alteration of glazing on the central column of the front façade
- Rear stone details added
- Side 8 solar panels, 1 rooflight, change of window type on flat roof
- Adjustments to garage openings

### **History of Negotiations**

None necessary.

### **Relevant Planning History**

2021/93466 - Outline application for erection of residential development – Conditional outline permission granted

2022/92259 - Reserved matters application pursuant to outline permission 2021/93466 for erection of residential development (one dwelling) – Approval of reserved matters

### **Public Representation**

Neighbourhood notification letters were distributed to advertise the proposal, which expired on the 29-Jul-2024. As a result of the publicity, there were no representations.

### **Consultation Responses**

None required.

### **Policy & Legislation**

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 27<sup>th</sup> February 2019).

The site is located within the unallocated on the Kirklees Local Plan.

On 12<sup>th</sup> 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.

### **Kirklees Local Plan Policies**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** – Biodiversity

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> December 2023, and the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed places and beautiful places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

### **Assessment**

Condition 2 is a standard condition attached to planning permission that specifies that the dwelling should be built in accordance with the submitted plans. The building is not located in a conservation area, however Bracken Hill is a characterful street with traditional properties, constructed with stone

materials. The location of the proposed dwelling is set back from Bracken Hill road, located behind No. 14. The dwelling is visible from the roadside, and read in context with No 10, 12 & 14.

In this case, Condition 2 mainly relates to design as the alterations relate to visual amendments to materials and fenestration, therefore Policy LP 24 of the Kirklees Local Plan is relevant. The policy states that 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.

Also relevant is the guidance set out in the Kirklees Housebuilders Design Guide SPD, including Principle 2, 'new residential development proposals will be expected to respect and enhance the local character of the area by: Taking cues from the character of the built and natural environment within the locality'. Principle 12 is also relevant in this case in terms of materials and features'.

In terms of the alterations, the variation proposes to remove the corbel features, although it is considered that the traditional appearance of the dwelling is formed through its architectural design and wall materials. Stone coping will be added to redress their removal. The removal of glazing on the front façade is minor and mullion features will be added. These details are considered to respect the appearance of the neighbouring dwellings and are sympathetic to the wider area.

Solar panels are proposed to be introduced being placed on the front elevation and south-east side elevation. These solar panels will be positioned within the confines of the roofspace in a linear layout. Whilst they will be visible from the public domain, they do not appear incongruous and respect the appearance of the property which is set back from the roadside. The addition of the solar panels is therefore acceptable.

There will be limited alterations to the detached garage, changing the 3 garage doors to 2 single garage entrances and 1 door. The massing and height of the garage will not change, with the changed being minor and therefore acceptable.

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. There is the inclusion of a rooflight that serves a dressing room. The opening is formed on the roof plane and as such does not have a direct relationship with any adjacent dwelling. It is not considered the new window will have an impact to privacy. All other changes to openings are changes to previously assessed openings in terms of their impact to privacy.

The proposed design variations accord with Policy LP24 of the Kirklees Local Plan, as well as Principle 2 & 12 of the Kirklees Housebuilders Design Guide SPD.

Conditions attached to previous approved application 2022/92259

1. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

The development hereby permitted shall be begun before 24<sup>th</sup> October 2024.  
*In accordance with Condition 1 of application 2022/92259.*

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

Notwithstanding the approved drawings under application 2022/92259, the development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

*Condition amended through this Section 73 application.*

3. This Reserved Matters approval relates to development for which outline permission was granted under application reference 2021/93466 dated 02-Dec-2021. The development shall be carried out in strict accordance with the conditions set out in the outline planning permission, except as modified by this permission.

*In accordance with Condition 3 of application 2022/92259*

4. Before any development commences on the superstructure of the dwelling hereby permitted, samples of all external walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

*Materials shall be in accordance with samples submitted under application 2024/90643.*

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

*Considered appropriate to again attach this condition*

6. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Impact Assessment and Arboricultural Method Statement, ref: MA-108.1b Arboricultural Impact Assessment by Meristem Arboricultural Consultancy (dated 6th October 2022). These shall be implemented and maintained throughout the construction phase and retained thereafter.

*Considered appropriate to again attach this condition*

7. Before the new dwelling is first occupied, one bird nesting feature (1SP Schwegler Sparrow Terrace or similar alternative) shall be installed on the north or east elevation of the dwelling at a height of at least 2 meters. Hereafter the box shall be retained.

*Considered appropriate to again attach this condition*

## **Conclusion**

The application to vary condition 2 of the previous permission for reserved matters approval 2022/92259 for the variation of plans has been assessed against relevant policies in the development plan as listed in the policy section of the report, the NPPF and other material considerations.

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

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is recommended for approval.

**Recommendation**

**Approve**

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2024/91601

**Officer Recommendation:** Approve

### **Conditions and Reasons**

1. The development hereby permitted shall be begun before 24<sup>th</sup> October 2024. Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

**Reason:** Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. Notwithstanding the approved drawings under application 2022/92259, the development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP28, LP30, and LP33 of the Kirklees Local Plan, Principles 2, 3, 6, 7, 9, 12, 13, 14, 15, 16 and 17 in the Council's Housebuilders Design Guide SPD, and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the dwelling hereby approved shall be in accordance with the materials submitted under 2024/90643.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Key Design Principles of the Kirklees House Extensions and Alterations SPD (2021) and the aims of chapter 12 of the National Planning Policy Framework.

4. This Reserved Matters approval relates to development for which outline permission was granted under application reference 2021/93466 dated 02-Dec-2021. The development shall be carried out in strict accordance with the conditions set out in the outline planning permission, except as modified by this permission.

**Reason:** For the avoidance of doubt and to ensure that development complies with the requirements and conditions of the outline permission and the approval of reserved matters.

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

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

6. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Impact

Assessment and Arboricultural Method Statement, ref: MA-108.1b  
Arboricultural Impact Assessment by Meristem Arboricultural Consultancy  
(dated 6th October 2022). These shall be implemented and maintained  
throughout the construction phase and retained thereafter.

**Reason:** To protect trees in the interests of visual amenity and to accord with  
the requirements of Policy LP33 of the Local Plan and advice within the  
National Planning Policy Framework.

7. Before the new dwelling is first occupied, one bird nesting feature (1SP  
Schwegler Sparrow Terrace or similar alternative) shall be installed on the  
north or east elevation of the dwelling at a height of at least 2 meters.  
Hereafter the box shall be retained.

**Reason:** To provide ecological enhancement in accordance with the  
requirements of Policy LP30 of the Kirklees Local Plan, Principle 9 of the  
Council's Housebuilders Design Guide SPD, the Council's Biodiversity  
Guidance Note, and Chapter 9 of the National Planning Policy Framework.

**NOTE:** Please note that the granting of planning permission does not override  
any private rights of ownership and it is your responsibility to ensure you have  
the legal right to carry out the approved works, as construction and  
maintenance may involve access to land outside your ownership.

Plans and Specifications Table:-

Plan Type	Reference	Version	Date Received
Location plan	(EX)001	A	04 July 2022 (submitted under application 2022/92259)
Existing block plan	(20)001	A	04 July 2022 (submitted under application 2022/92259)
Proposed site / block layout	(20)006	A	04 June 2024
Grouped plans - Proposed setting out A1L	(20)001	C	04 June 2024
Grouped plans - Proposed setting out A1L	(20)002	C	04 June 2024
Grouped plans – Proposed garage plans A1L	(20)005	C	04 June 2024
Proposed elevations - A1L	(30)001	D	04 June 2024
Proposed floor plans – Ground and first floor plans	(20)003	A	04 July 2022 (submitted under application 2022/92259)
Proposed floor plans – Second floor and roof plans	(20)004	A	04 July 2022 (submitted under application 2022/92259)

Gen 03 – Proposed boundary treatments	(20)005	A	20 September 2022 (submitted under application 2022/92259)
Gen 04 - Tree Plans- Shade Assessment Plan			04 July 2022 (submitted under application 2022/92259)
Trees survey	MA-108.1a		2 August 2022
Trees survey	MA-108.1b		11 October 2022
Tree survey schedule			04 July 2022 (submitted under application 2022/92259)
Tree Plans-Tree Constraints Plan			04 July 2022 (submitted under application 2022/92259)

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 has, 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. No amended plans were sought or received.