

**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:	2024/62/91809/W
Site Address:	Land Adj, 4, Downing Street, Linthwaite, Huddersfield, HD7 5PU
Description:	Erection of detached dwelling
Recommending Officer:	Tom Hunt

DECISION – Full Conditional Permission

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 20-AUG-2024

Officer Report

Site Description

2024/91809 – Land Adj, 4, Downing Street, Linthwaite, Huddersfield, HD7 5PU

The greenfield application site is at the end of a small cul-de-sac development of large, detached dwellings set within good-sized gardens. It is to the west of 4 Downing Street and to the west of no. 3. The dwellings have been individually designed to fit in with the lie of the land, which slopes steeply upwards from Whitehall Road and also has a south-north crossfall. The predominant material palette is stone with grey tile roof and fenestration typically have stone surrounds. It is adjacent to the designated Green Belt, including a western corner of the plot.

Although mostly set in large gardens, the orientation of the properties on Downing Street, in combination with the topography of the area, creates a clustered, intimate street scene.

Description of Proposal

Erection of detached dwelling

All figures are approximate and in metres.

The proposals are for a dwelling to provide accommodation over three floors, including an integral three car garage at lower ground floor, to be served off a shared access drive with no. 4 Downing Street.

It would appear as a two-storey house at front and to have a two-storey and one storey rear projection. Its footprint would be 11m by 11.9m and be an overall height of 9.5m and have eaves at 6.4m from ground level at front.

The submitted plans also indicate the formation of a new private turning area adjacent to no. 2 Downing Street for the existing property No. 4 Downing Street and a separate turning are to be created for the proposed dwelling. This would be cut into the existing embankment.

It is intended to externally face the dwelling in natural stone with dark grey interlocking tiles. It would have fenestration to all elevations with a reduced window arrangement limited to ground floor at the northeast corner.

Bins would be stored at front adjacent to the pavement. The site would be bounded by timber fencing and stepped retaining walls with planting beds.

It would have a triple garage, playroom, W.C, utility and study at ground floor, kitchen/dining, lounge and conservatory at first floor and four bedrooms with ensembles and bathroom at the attic floor.

This would have ~323sqm of gross internal living space (with garage included) exceeding Nationally Described Space Standards for a 4bedroom 8person occupancy.

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

Officer note: The house and hardstanding is outside Green Belt land, the garden is within.

History of negotiations/amendments received.

The site appraisal did not appear to show any substantive works completed on the site despite the application form stating that an extant permission (2018/91970) had substantively started.

Officers are aware of a linked representation, within application 2024/90932, stating that they believe the approved application (2014/93040) to be an extant permission based on submitted drainage works and a Building Regulations application.

Despite those assertions, the site appraisal clearly showed the land being reverted back to its previous state with no substantive indication that construction had started to trigger the previous planning permissions and there had been no Certificate of Lawful Development issued to confirm that either permission had substantively commenced.

To ensure that Biodiversity Net Gain obligations were correctly assessed, the Officer received confirmation from the agent that the property was a self build custom build home.

Relevant Planning History

Application site

2012/90387 Erection of detached dwelling.
Refused.

2012/93523 Erection of detached dwelling.
Refused.

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

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

Officer note: It is noted that this scheme has a turning point created within the current application

site supporting this development to overcome highway safety concerns.

2014/91226 Discharge of condition 3 (materials) and 5 (landscaping) on previous planning permission 2012/93523 for erection of detached dwelling.
Split Decision. Insufficient detail to fully discharge materials and landscaping.

2014/93040 Erection of detached dwelling (modified proposal).
Conditional Full Permission.
Officer note: Similar design with turning head within the garden east of no. 4 still present.

2015/92561 Variation of Condition 10 (Garage) on previous planning permission 2014/93040 for erection of detached dwelling (modified proposal).
Removal or Modification of Condition.
Officer note: Modified plans indicated a previous single garage was to be used as living accommodation with a triple integral garage remaining. Turning head within the garden east of no. 4 still present.

2017/94159 Discharge conditions 3 (materials) and 11 (landscape) on previous permission 2015/92561 variation condition 10 (garage) on previous planning permission 2014/93040 for erection of detached dwelling (modified proposal).
Split Decision. Materials discharged. Insufficient detail to fully discharge landscaping.

2018/91970 Erection of detached dwelling.
Conditional Full Permission.
Officer note: This scheme is identical in design and details to the currently submitted plans.

Adjacent No. 4 Downing Street (east side)

2011/92453 Erection of detached dwelling.
Refused.

3. *The development proposals would result in vehicles undertaking reversing manoeuvres onto neighbouring driveways due to the narrow nature of Downing Street and the lack of reversing distance. Furthermore, the proposal would also result in a loss of a parking area for no.4 Downing Street, which is already at a premium, and would*

therefore result in vehicles parking on Downing Street, leading to further manoeuvrability issues for neighbouring properties. As such, to permit the development would be to the detriment of highway safety and contrary to Policies D2 and T10 of the Unitary Development Plan.

Appeal: APP/Z4718/A/12/2177255

Dismissed.

Amongst reasons provided concerns were raised over highway safety due to lack of turning area.

2024/90932

Erection of detached dwelling.

Refused.

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

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, which had a final expiry date of 12/08/2024.

No representations have been received.

Consultation Responses

Health and Safety Executive: Formally consulted. No objections.

Ecology: No response received at the time of report preparation.

Policy

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

The site is unallocated land for development and has its proposed garden in the Green Belt on the Kirklees Local Plan. It is within Flood Zone 1.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 3 – Location of new development**
- **LP 7 – Efficient and effective use of land and buildings**
- **LP 21 – Highways and access**

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

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Institute of Air Quality Management Land-Use Planning & Development Control; Planning for Air Quality (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

National Policies and Guidance:

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

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 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

Legislation

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

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

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology
- 5) Representations
- 6) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

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

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

1.2 Housing Supply

The 2024 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

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

The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal.

To conclude, the principle of development, including housing density, had been accepted as demonstrated by previously approved applications of a similar nature, supported by an Appeal APP/Z4718/A/13/2198183 on the site, and so would be considered compliant with LP7 and Principle 4 of the Housebuilders Design Guide SPD. It is noted that since the last application 2018/91970 of an identical design, the Kirklees Local Plan, NPPF and Housebuilders Design Guide SPD have been introduced so those are to be assessed as follows.

1.3 Green Belt

The site is partially within the Green Belt however the built development would be outside the Green Belt. The site was previously garden land associated with no. 4 so there would be no change of use of the land within the Green Belt as it would be still garden land, albeit now to be associated with the proposed residential property.

Officers concur that there would be no conflict with either local or national Green Belt policy in this regard subject to other impacts being assessed.

2 –Impact on visual amenity:

In terms of visual amenity, design considerations are set out in Policy LP02 and LP24 of the Local Plan, and policies within Chapters 12 and 13 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape and protect amenity.

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

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

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

Principle 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street,*

including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography.”

Amongst other considerations, Principle 6 sets out that *“for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.”*

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

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

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

The proposal would be individually designed to fit in with the lie of the land, continuing the existing design of stepped roof heights as the land falls from southwest to northeast. The set back building line and the arrangement of the two-storey and single-storey design at rear would ensure that the property would not appear visually obtrusive within the streetscene, overbear no. 4 or appear overly dominant.

It would not achieve Council requirements to have a two-storey dwellinghouse with 2m separation distance to flank boundaries to the northeast boundary however this had been previously accepted and being set back and, in part obscured by no. 4, would not appear to lead to a loss of openness within the streetscene.

The host would have its parking to the front and supported by a turning point with soft landscaping, retaining walls with landscaped sections, and would have a large garden to its rear ensuring that the parking does not appear overly dominant in the streetscene. In addition, it would reflect the existing material palette of its neighbours by use of natural stone and grey tile to ensure it would harmonise itself to the streetscene.

Openings would appear to be of mostly standard domestic design with stone surrounds to fenestration to aid in being visually integrated to neighbours and therefore acceptable. The proposed larger sections of glazing to the rear would appear of relatively low visual impact being screened by the host bulk and massing in order to be acceptable.

The proposal would retain sufficient garden space to ensure that the scheme would appear to have a rear garden curtilage similar to its neighbours.

Officers recommend that given the differences in ground levels that landscaping details should be submitted, of fences and walls to boundaries and gates, to ensure that visual amenity is adequately protected.

It is noted that part of the garden land is in the Green Belt with any development within this to have the potential to encroach into the Green Belt affecting its openness and to introduce urbanising structures. In addition, the host itself is a sizable, reasonably well contained and well-designed property, and Officers consider that any further development of the host should be controlled in order to avoid detrimental visual impact on the original character and design of the host and the locality and to retain the clean and architecturally simple additional forms in its design hereby permitted. This would also be in keeping with the conclusion in application 2018/91970. Subject to conditions, the proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policy LP02 and LP24 of the Local Plan, the Principles of the Housebuilders Design Guide SPD and Chapters 12 and 13 of the NPPF.

3 – Impact on residential amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should:

“...provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.”

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

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

Further to this, Paragraph 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

No. 4 Downing Street

The proposed dwellinghouse, to the southwest of no. 4, would have most of its significant bulk and massing at rear positioned away from no.4's rear garden despite being on elevated ground ensuring that it would not appear overly dominant and would not excessively overshadow to this neighbour. Despite not maintaining a 2m gap to flank boundaries as recommended in

Principle 6 of the SPD, Officers have regard for the previously accepted design in application 2018/91970

There would be two ground floor windows serving a W.C and study facing towards a blank southwest side elevation and a conservatory rear extension. In order to guard against any concerns of an overlooking nature it is advised that it can be conditioned that these openings be obscurely glazed. It is also recommended that no further windows to this northeast elevation shall be installed without the consent of the LPA to ensure that further impacts to residential amenity, in terms of loss of privacy and overlooking, could be adequately controlled.

No. 3 Downing Street

The proposal would have its habitable room windows of the proposed dwelling would be facing secondary habitable room openings of no.3 at a range of approximately 19m, below that advised in Principle 6 of the SPD. However, it is noted that due to the orientation of these dwellings, change in levels and available

boundary treatment no direct relationship would exist. The proposed would also be positioned to the northwest of no. 3 and be at a distance sufficient to avoid overshadowing or overbearing. Consequently, the impact on residential amenity of occupiers of this dwelling are considered to be acceptable.

Other Residential Properties

It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The proposal would comfortably exceed minimum standards for residential amenity set within Nationally Described Space Standards, have sufficient daylighting to bedrooms and large gardens to provide a good standard of privacy.

As per the previously recommended condition on landscaping, this would also be of use in relation to preserving residential amenity for privacy and avoidance of overlooking.

Subject to the recommended conditions, the proposal would therefore be in general conformance with LP24b of the Kirklees Local Plan, Principle 6 of the SPD and Chapter 12 of the NPPF.

4 – Impact on highway safety:

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

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

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

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

As previously stated, the proposal would meet the requirements of Principle 12 in creating a balance between parking provision and visual amenity. Although the approved triple garage would not accommodate 3 cars in accordance with Highways Design Guide SPD requirements, it is thought that the limited off street parking of one car in the turning area would be acceptable. As such, it would adequately provide sufficient off street parking for the level of accommodation desired.

Cycle storage have not been set out however the proposal has storage facilities that could accommodate this as well as a private garden to the rear; as such it would be overly onerous to insist on formal cycle storage areas for the purposes of Principle 12. Bins would be stored behind the driveway and there would be sufficient space to move bins to a satisfactory presentation point to the front of the driveway.

The proposal may require changes to the access within the adopted highway fronting the property which would need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). A footnote has been attached to the permission with regard to obtaining approval of the construction specification for the safe functioning of the highway. Interference with the highway without such permission is an offence which could lead to prosecution.

Gates have not been set out in plans, as per the previously recommended condition on landscaping, this would also be of use in relation to highway safety. An additional condition is recommended to ensure that any gates will be installed to open inwards to avoid obstructing the safe function of the highway and to avoid stopping vehicles close to the junction.

The turning area to the east of no. 4 is included within the site plan as is consistent with previously approved applications, the most recent being ref: 2018/91970. It is noted that Highway Development Management supported this turning area continuing to be provided to allow both no. 4 and the proposed development to accommodate their parking needs. As such, Officers consider that the previously recommended condition to have this set out for the use of no. 4 and the proposed to be consistent and acceptable. For avoidance of doubt, Officers recommend that an informative be attached to be clear that planning permission does not confer property ownership and that access to be arranged is a private legal matter between interested parties.

Informal response from KC Waste Management confirmed that refuse collection vehicles reverse up the adopted and unadopted highway to collect bins (including garden waste). There is no turning head sufficiently large enough for those vehicles to otherwise manoeuvre. While this would not be normally supported by Waste Management for new developments, due to health and safety reversing more than 12m, the current arrangement of residents presenting bins at the highway would remain as existing and therefore the proposed arrangement for bins at the access point is accepted.

The proposed development would adequately comply with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 5, 11 and 12 of the Housebuilders Design Guide SPD, the KC Highway Design Guide SPD and Chapter 9 of the NPPF

5 – Other matters:

Climate Change

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions.

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

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric

and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The application is supported by a Climate Change Statement which outlines that the dwelling could have solar panels installed in future (which may have the potential to be installed under available Permitted Development Rights), amongst other energy saving appliances and local materials sourcing. At a minimum the proposed dwelling would be built to modern building regulations to aid in the contribution to climate change and for specific details of how the development will respond to climate change.

As the proposal is for a new dwelling, the provision of electric vehicle charging points is controlled by building regulations and does not require a condition to be set, for avoidance of doubt, an informative would be attached to advise the applicant of their duties and to support carbon emission reductions. Given these considerations, Officers are satisfied that the building would not harm the climate change agenda on this occasion. The proposed development would therefore comply with Policies LP24 and LP51 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

Drainage

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

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

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

Biodiversity and Trees

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

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

In addition, Policy LP30 and LP31 of the Kirklees Local Plan is relevant. Principle 9 requires proposals to consider incorporating net gains. It is important to note that Principle 9 itself does not state a required minimum net gain percentage, similarly to Chapter 15 of the NPPF, but seeks to reasonably

enhance the biodiversity conditions of the site so that cumulative impacts to biodiversity is limited. The proposal self-certifies in the application form that it is exempt from supplying BNG under legislation due to being a 'self-build/custom build' development for the use of the applicant. An informative is added to the Decision for avoidance of doubt.

The site is considered to have the potential to contribute to net gains in particular being sited in or close to sensitive areas for biodiversity within a bat alert and twice layer and the Strategic Green Infrastructure Network. It is considered that there is the opportunity to provide net gain by the provision of facilities such as bat boxes, bird boxes, hedgehog holes and enhanced landscaping with the planting of native species. Officers recommend a condition be placed on any forthcoming consent that will allow a biodiversity enhancement at the site in line with national and local planning policies. This would be in line with LP24h), LP30 and LP31 of the Kirklees Local Plan, Chapter 15 of the NPPF and Principle 9 of the Housebuilders Design Guide SPD.

Contaminated and unstable land

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

The Local Planning Authority's policies and decisions is also required to consider land stability under LP53 and the Planning Practice Guidance 'Land Stability' and under paragraph 189 of the NPPF to ensure that:

- "a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation); and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."*

It is noted that there are proposed retaining walls within the site positioned at an adequate distance away from the access point. This was not previously conditioned to have retaining wall details submitted and confirmed by a competent person for the approval of the LPA.

In conjunction with paragraph 190 whereby the responsibility for securing a safe development resting with the developer and/or the landowner, Officers have considered that this would be sufficient to satisfy the requirements of both LP53 of the KLP and paragraphs 189c) and 190 of the NPPF in relation

to land stability and the safety of the surrounding neighbouring properties. A footnote is attached for avoidance of doubt.

6 – Representations:

One representation had been received.

7 – Conclusion:

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

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

Recommendation

Approve

Decision Authorisation - Delegated

Application Number: 2024/91809

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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

Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP01, LP02, LP03, LP07, LP21, LP22, LP24, LP28, LP30, LP31, LP51, LP52 and LP53 of the Kirklees Local Plan, the Principles of the Housebuilders Design Guide SPD, and Policies within Chapters 2, 4, 5, 9, 11, 12, 13, 14 and 15 of the National Planning Policy Framework.

3. Notwithstanding the submitted details, development above slab/foundation level shall not commence until details of all external materials including walls,

roofs and colour finishes to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. No materials other than those approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.

Reason: In the interests of visual amenity and to accord with Policy LP02 and LP24 of the Kirklees Local Plan, the Principles of the Housebuilders Design Guide SPD, and policies within Chapter 12 of the National Planning Policy Framework.

3. The proposed ground and finished floor levels of the development hereby approved shall be in complete accordance with details on the north- west elevation,

south-east elevation and section (B-B) as shown on drawing no. 4229-04-01.

Reason: In the interests of residential amenity and to accord with Policy LP02 and

LP24 of the Kirklees Local Plan, the Principles of the Housebuilders Design Guide SPD, and policies within Chapter 12 of the National Planning Policy Framework.

5. Prior to the development being brought into use, the areas to be used for the parking and manoeuvring of vehicles as indicated on drawing no. '4229-05-01' shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded. These shall thereafter be retained and kept clear of all obstructions to their use for the parking and turning of vehicles.

Reason: To achieve a satisfactory layout in the interests of highway safety, to mitigate flood risk and to accord with the aims of Policies LP21, LP22 and LP28 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD and Chapters 9 and 14 of the National Planning Policy Framework.

6. The turning facilities for the hereby approved and existing dwelling (no. 4 Downing

Street) shall be provided in accordance with the approved site layout no.

'4229-05-01' prior to the occupation of the hereby approved dwelling. The turning facilities shall

thereafter be made available for use at all times by vehicles and shall be kept free

from obstruction to such use.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policy LP21 and LP22 of the Kirklees Local Plan, the Highways Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

7. The study and W.C windows in the northeast side elevation, shall be non-opening or top-opening only and shall be fitted with obscure glass to give a

grade 5 degree of obscuration as shown on Drawing no. '4229-04-01' before the development is first brought into use. Notwithstanding the provisions of section 55(2) (a) (ii) of the Town and Country Planning Act 1990 and Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Act or Order with or without modification) these windows shall thereafter be so retained obscure glazed.

Reason: So as not to detract from the amenities of the adjoining property by reason of loss of privacy and to accord with policies LP24b of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

8. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) no further doors, windows or any other openings shall be created in the north east (side) elevation of the dwellinghouse hereby approved.

Reason: In the interests of the amenity of the occupiers of No. 4 Downing Street to accord with LP24b) of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

9. Notwithstanding the provisions of section 55(2)(a)(i) of the Town and Country Planning Act 1990 (or any statute or order revoking or re-enacting that Act with or without modification) the integral garages on lower ground floor as shown drawing no. '4229-04-01' shall be used for the garaging of private motor vehicles and shall not be converted to habitable accommodation.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policy LP21 and LP22 of the Kirklees Local Plan, the Highways Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

10. The development shall not be brought into use until a scheme of measures relating to the provision of habitat for wildlife and biodiversity enhancement has been submitted to the Local Planning Authority. The submitted scheme shall set out the existing biodiversity value of the site and propose sufficient biodiversity-led features to provide biodiversity net gain and include the provision of the following measures: - (i) Provision of bat tubes, (ii) provision of bird boxes, (iii) provision of hedgehog holes within boundaries and (iv) planting of native species including trees across the site. The development shall not be brought into use until the approved scheme has been implemented. The approved scheme shall be thereafter retained and maintained for the lifetime of the development.

Reason: To provide ecological enhancement in accordance with the requirements of LP24h), LP30 and LP31 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and policies within Chapter 15 of the National Planning Policy Framework.

11. Notwithstanding the details on the approved plans, before the new dwelling is first occupied, full details shall be submitted to and approved in writing by the Local Planning Authority of all new or retained screen walls or fences to the boundaries of the site and of any other measures to prevent overlooking of neighbouring land from windows facing the boundaries. The details shall include the location, design and height of fences or other boundary treatments, and shall indicate how they relate to finished ground levels within the site and outside it. The approved walls, fences, and any other privacy measures shall be erected, constructed, or incorporated into the design of the dwellings before the dwelling to which they relate is first occupied and thereafter retained.

Reason: To ensure that the development safeguards the privacy of future and existing residents and to accord with the aims of Policy LP24(b) of the Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any order revoking and re-enacting that order) any gates or barriers for or over a vehicular access or egress shall be set back a minimum of 1m from the carriageway edge of Downing Street and shall be hung as to only open inwards. So long as such gates or barriers are in position, they shall be retained to only open inwards.

Reason: In the interests of highway safety and to avoid the need for vehicles to wait in the Highway. This is to accord with Policy LP21 of the Kirklees Local Plan and policy contained within Chapter 9 of the National Planning Policy Framework.

13. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either

- (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or
- (b) the Local Planning Authority has confirmed in writing that remediation measures are not required.

The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures

identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors to accord with LP53 of the Kirklees Local Plan and policies contained within Chapter 15 of the National Planning Policy Framework.

14. Notwithstanding the provisions of the Town and Country Planning (General

Permitted Development) Order 2015 as amended (or any Order revoking or reenacting that Order) no development included within Class(es) A, AA, B, D and 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 residential and visual amenity and to ensure that they do not lead to an adverse effect on the openness of the Green Belt in accordance with

Policy LP24 of the Kirklees Local Plan, Principle 6 of the Council's Housebuilders Design Guide Supplementary Planning Document and Policies within Chapter 12 & 13 of the National Planning Policy Framework.

FOOTNOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2023. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

BIODIVERSITY NET GAIN – FOOTNOTE:

Based on the information available and confirmed by the agent, this permission is considered to be one whereby there is a statutory exemption under the Biodiversity Gain Requirements (Exemptions) Regulations 2024, Regulation 8:

“Self-build and custom build applications.

8.—(1) The biodiversity gain planning condition does not apply in relation to planning permission for development which—

(a) consists of no more than 9 dwellings;

(b) is carried out on a site which has an area no larger than 0.5 hectares; and

(c) consists exclusively of dwellings which are self-build or custom housebuilding.

(2) In this regulation “self-build or custom housebuilding” has the same meaning as in section 1(A1) of the Self-build and Custom Housebuilding Act 2015”

FOOTNOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00 hours, Saturdays.
- With no working Sundays or Public Holidays.

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

FOOTNOTE: In relation to the groundworks and the proximity to the retaining wall and raised banking, where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

FOOTNOTE: The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

FOOTNOTE: Building Regulations (2021 edition) control the provision of Electric Vehicle Charging Points for new residential buildings under Approved Document S ‘Infrastructure for the charging of electric vehicles’. Building work must meet all relevant requirements of the Building Regulations. To comply with the Building Regulations, it is necessary both to follow the correct procedures and meet technical performance requirements for building work to be found acceptable.

FOOTNOTE: Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the

remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected, including the impact of works to affect drainage and that the works carried out is lawful.

FOOTNOTE: The site is located within the Kirklees Bat Alert Layer and the Twite Buffer layer and there is an increased potential for harm to those protected species through development contrary to legislation. If bats or nesting birds are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan.	4229-05-03a	A	27/06/2024
Existing Site Plan.	4229-05-02	Unamended	27/06/2024
Proposed Site Plan.	4229-05-01	Unamended	27/06/2024
Proposed Elevation and Floor Plans.	4229-04-01	Unamended	27/06/2024
Design and Access Statement	-	Unamended	27/06/2024
Climate Change Statement	-	-	04/07/2024

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. To ensure that BNG obligations were correctly assessed, the Officer received confirmation from the agent that the property was a self build custom build home.

Report Dated: 15/08/2024

