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:	**2024/62/92050/E**
Site Address:	adj, 403, Bradford Road, Birkenshaw, BD19 4BQ
Description:	Erection of detached dwelling
Recommending Officer:	Nina Sayers

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 09 October 2024

Officer Report

Site Description

Land adjacent to 403 Bradford Road, Birkenshaw, BD19 4BQ

The site relates to a plot of land which is currently serves 403 Bradford Road and its associated domestic curtilage. The part of the site to which the development relates is predominantly grass covered with a detached garage to the western side and a section of hardstanding to the east. The site is set within a residential area with properties of a variety of size and designs.

The site is unallocated within Kirklees Local Plan, although it is adjacent to land allocated for housing.

Description of Proposal

The applicant is seeking permission for the erection of a detached dwelling.

The proposed dwelling would be two-storey, with a pitched roof and gable end feature to the front. The dwelling would have a roof ridge height of 9.1m, set down slightly from the existing no.403 Bradford Road. The exterior of the dwelling would be finished in coursed stone to first floor level, and painted render above. The roof would be finished in clay pantile roof tiles to match no.403. There would be a hipped roofed feature at ground floor level which would cover the roof of the bay window and extend over the doorway to form an open porch.

The proposed dwelling would serve 4 bedrooms with associated living accommodation.

History of Negotiations

Pre-application advice was sought and provided. Additional clarity was requested regarding the proposed parking provision. This was provided and considered acceptable. The applicant also submitted a revised red line boundary plan to remove a section of land within third party ownership. This was not readvertised as there would be no additional impact on residential amenity and the revisions address concerns raised in objection.

Relevant Planning History

2022/90510 Erection of single storey extension to side and associated alterations. Conditional full permission.

Representations

The application has been advertised by neighbour notification letters and on the web. Final publicity expired on 6th September 2024. 7 representations were received, 6 in objection and 1 general comment. They raised the following concerns which will be addressed in section 6 of this report:

- Dormer window would overlook rooms and garden of properties to the rear
- Overlooking harm to neighbouring gardens
- Some of the land in the red line boundary is within different ownership
- Queries legal obligations regarding adjacent housing development
- Inadequate parking provision
- Additional vehicles park on street during school drop off/events

- Noise and disturbances during construction

General comment

- Will increase the number of vehicles using the road
- Low water pressure and drainage issues

Consultation Responses

KC Highways Development Management – no objections subject to conditions.

KC Environmental Health – no objections subject to conditions.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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.

Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and geodiversity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Housebuilders Design Guide SPD
- Biodiversity Net Gain Technical Advice Note

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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

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
5) Representations
6) Conclusion

<u>1. Principle of Development</u>

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

Policy LP1 goes on further to stating that: "The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area''.

In this case, the application site is unallocated land within a residential area. As such, it is appropriate to consider the Local Planning Authority's overall housing position.

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, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.'

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate two to three dwellings. One dwelling is proposed in this instance. It must however be noted that the site boundary includes the existing 403 Bradford Road and the development would result in two dwellings on the site overall. Therefore, the proposed single dwelling would be considered appropriate in terms of density and efficient use of land.

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

In respect of the above, the quantum of development is considered acceptable although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

2 – Impact on visual amenity:

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

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

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also 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.

LP24 states that proposals should promote good design by ensuring:

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

Paragraph 134 of the NPPF 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. Relevant to this is the Kirklees Housebuilders Design Guide SPD, 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."*

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 area surrounding the site is primarily residential. The properties vary in terms of design, materials and scale but are predominantly two-storey detached and semi-detached dwellings. The proposed dwelling would be similar to the existing no.403 in terms of design and materials, albeit with a slightly lower ridge height and set back marginally. It is noted that the applicant has taken on board officers' pre-application recommendations and have included a gable feature to the front as this is a feature which is repeated within the wider street scene. It is noted that the dwelling has been set back to allow for sufficient parking provision.

It is therefore considered that the proposed dwelling would not cause significant harm to the visual amenity of the surrounding area. The proposal is

therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

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

"…maintain appropriate distances between buildings' and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

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

Principle 6 of the 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 403 Bradford Road
The proposed dwelling is set 5.5m from the existing no.403 Bradford Road. There would be two openings serving a utility and bathroom in the southern elevation of the proposed dwelling which would front the existing openings in no.403. It is noted that these are shown on the plans as obscurely glazed and this could be secured by condition. Therefore, no significant overlooking harm is considered to be caused.

Impact on 397 and 399 Bradford Road
The front elevation of the proposed dwelling would be opposite the rear elevation of nos.397 and 399 Bradford Road, which both serve openings to habitable rooms. There would be a 20.5m separation between the properties at ground floor level however it is noted that there are single storey outbuildings to the rear of both no.397 and 399 which would screen any potential overlooking harm at ground floor level. At first floor, the openings would have a separation of 22.5 metres which is considered a sufficient distance to prevent any significant overlooking harm. The scheme therefore complies with Principle 6 of the Housebuilders Design Guide SPD.

Impact on 5, 7 and 9 Navigation Court
The proposed dwelling would face directly onto a highway to the rear however it is noted that the front elevation of no.5 and no.7, and the rear elevation of no.9 Navigation Court are to the rear. No.7 is located closest to the proposed dwelling, at 18.2 metres between openings. It is noted that no.7 is at an angle, and would not directly align with the openings at the proposed dwelling. The openings in the rear of Nos. 5 and 9 Navigation Court would be more than 21m away from the proposed openings which is considered a sufficient distance. It is therefore considered that no significant harm would be caused to the amenity of the properties on Navigation Way.

Impact on 409a Bradford Road
409a Bradford Road is located 19m north of the proposed dwelling although at an indirect angle; there would be two openings in the northern side elevation of the proposed dwelling which would serve a hallway. The separation distance is therefore considered acceptable.

Amenity of the Future Occupiers

Principle 16 of the 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 proposed dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed garden is considered to be an adequate size for a dwelling of this scale. It is considered the proposed window would have sufficient outlook and natural light for the amenity of future occupants. There would also be sufficient amenity space retained for the existing no.403.

Therefore, it is considered the proposed development would not cause significant harm to the residential amenity of the existing or neighbouring occupiers and is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Paragraph 111 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."

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

The scheme proposes one, four bedroomed dwelling. The Kirklees Highways Design Guide SPD states that at least 3 on-site spaces are required for dwellings with 4+ bedrooms. The proposed site plans show off-street parking provision for three vehicles for both the proposed dwelling and the existing no.403. KC Highways Development Management (HDM) requested clarity that the parking could be achieved with the proposed gates. A revised site plan was provided showing this and this was considered acceptable.

The proposal would result in a new access to the east of the proposed dwelling. The proposed access would be onto a section of Bradford Road which has a dead-end so therefore has minimal vehicular use and any vehicle use will be at a slow speed. Therefore, KC HDM have no objections to the proposal.

Details of bin collection and storage points have been provided. These are considered acceptable.

It is noted that representation has been received regarding parking issues on the street and highway safety concerns. The proposed dwelling is providing off-street parking provision for three vehicles which is sufficient for such a dwelling, and the three parking spaces are being provided for the existing no.403. Therefore, no additional harm is considered to be caused to on-street parking as a result of the proposed development, over and above the existing arrangements on site.

It is therefore 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 and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 2 April 2024 (for minor and other applications) is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

The submitted BNG Metric shows a baseline of 0.0.4 habitats units. The proposed planting and grass would result in 0.05 post development habitat units which demonstrates a calculated net gain of 33.23%. Hedgerow planting would also result in an increase of 16.58% of hedgerow units.

Under the legislation, a condition is in place by law. The biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As such, it is not considered necessary for any further condition to be in place upon any grant of permission given the statutory requirements in relation to biodiversity and the fact that the provision of the measures set out in the submitted ecological assessment would meet the requirements of the aforementioned policy.

The applicant has also shown detail of a bat box on each dwelling which is a welcomed addition in term of ecology. The proposal therefore complies with LP30 of the Kirklees Local Plan.

Contaminated Land
The site of the proposed development is not shown to be on potentially contaminated land, it is however close to a small quarry. Whilst Environmental Health have no objections to permission being granted, groundworks are proposed, and a watching brief should be maintained, and KC Environmental Health therefore recommend a condition in relation to unexpected contamination. The site is within a low-risk coal mining area, so no additional information is required regarding Coal Mining.

Subject to condition, the proposed development complies with LP52 and LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the NPPF.

6 – Representations:

The application has been advertised by neighbour notification letters and on the web. Final publicity expired on 6th September 2024. 7 representations were received, 6 in objection and 1 general comment. They raised the following concerns which will be addressed in section 6 of this report:

- Dormer window would overlook rooms and garden of properties to the rear
- Overlooking harm to neighbouring gardens
  Officer response: This is a material planning consideration which has been carefully considered in the residential amenity section of this report.
- Some of the land in the red line boundary is within different ownership
  Officer response: The applicant has revised the red line boundary since the application was advertised. The granting of planning permission does not override any private rights of ownership, and it is the applicant's responsibility to ensure they have the legal right to carry out the approved works.
- Queries legal obligations regarding adjacent housing development

Officer response: this is not relevant to the application under consideration.

- Inadequate parking provision
- Additional vehicles park on street during school drop off/events
- *Officer response: This is a material planning consideration which has been*
  carefully considered in the highway safety section of this report.
- Noise and disturbances during construction
  Officer response: An advisory footnote would be added to any decision to minimise noise disturbance.

General comment

- Will increase the number of vehicles using the road
  Officer response: This is a material planning consideration which has been
  carefully considered in the highway safety section of this report.
- Low water pressure and drainage issues
  Officer response: The development is within Flood Zone 1 and therefore drainage is not a material planning consideration for a development of this scale.

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 proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation **APPROVE**

Decision Authorisation - Delegated Powers
Application Number: 2024/92050
Officer Recommendation: Approve
Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works 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. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

4. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas are laid out with a hardened and drained surface 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 as

amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.
Reason: In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

5. The development shall not be occupied until the openings in the southern side elevations of the dwellings hereby approved has been obscurely glazed (to a minimum Grade 4). 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) the obscure glazing (to a Grade 4) shall thereafter be retained. **Reason**: To prevent overlooking to the neighbouring properties and to accord with Policy LP24 of the Kirklees Local Plan and the aims 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

NOTE: Any 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.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. 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.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether bats are present or not. If bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: 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 13.00hours, 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.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Existing Layout Plans	296-02-01		22/07/2024
Proposed Dwelling	296-02-03		22/07/2024
Proposed Site Layout Plan	296-02-04B	Rev.B	01/10/2024
Proposed Site Block Plan	296-02-02B	Rev.B	01/10/2024
Existing and Proposed Street View	296-02-05		22/07/2024
Biodiversity Metric			22/07/2024
Climate Change Statement			22/07/2024

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 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. Pre-application advice was sought and provided. Additional clarity was requested regarding the proposed

parking provision. This was provided and considered acceptable. The applicant also submitted a revised red line boundary to remove a section of land within third party ownership. This was not readvertised as there would be no additional impact on residential amenity and the revisions address concerns raised in objection.

Report Dated: 03/10/2024

BIODIVERSITY NET GAIN – INFORMATIVE NOTE:

Based on the information available, this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 2 April 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i)the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii)the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
i the application for planning permission was made before 2 April 2024;
ii planning permission is granted which has effect before 2 April 2024; or

i planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

i does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
ii impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric). 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
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4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Self and Custom Build Development, meaning development which:
i consists of no more than 9 dwellings;
ii is carried out on a site which has an area no larger than 0.5 hectares; and
iii consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.
* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.
Irreplaceable habitat
If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.
The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

i do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

ii in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.