

**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:	2024/62/92850/E
Site Address:	239, Staincliffe Road, Dewsbury Moor, Dewsbury, WF13 4RQ
Description:	Erection of detached dwelling
Recommending Officer:	Nina Sayers

DECISION - REFUSED

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

Emma Thompson

AUTHORISED OFFICER

Date: 18-Feb-25

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Officer Report

Site Description

The application site relates to a plot of land which currently serves a single storey, flat roofed, detached garage and parking area for 239 Staincliffe Road. The site is accessed off Staincliffe Road. The site is unallocated within the Kirklees Local Plan and is set within a predominantly residential area. There are trees along the front of the site which are protected by tree preservation orders.

Description of Proposal

The applicant is seeking permission for the erection of a detached dwelling. The scheme proposes a two-storey, pitched roofed dwelling, set within the northern part of the site. Parking is proposed to the side of the dwelling and a garden to the front and rear.

The dwelling would be finished in artificial sandstone walling, under grey plain roof tiles. Parking would be proposed to the south-west of the dwelling.

History of Negotiations

No amendments were sought or provided.

Relevant Planning History

2006/90908 Change of use of ground floor from residential to retail and office. Refused.

Representations

The application has been advertised by neighbour notification letters and on the web. Final publicity expired on 11th February 2025. No representations were received.

Consultation Responses

KC Highways Development Management – object.

KC Environmental Health – no objections subject to conditions.

KC Trees – no objections.

The Mining Remediation Authority – 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
- LP11 – Housing mix and affordable housing

- 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 12th December 2024, 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

1. Principle of Development

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 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 officer's 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 one dwelling. One dwelling is proposed in this instance, which is considered appropriate given the scale of the site.

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 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.

Staincliffe Road does not have a clear building line as the existing properties are staggered. The proposed dwelling would be set behind 239 Staincliffe Road but forward of 247 and 249 which would be in keeping with the existing development. Therefore, the general location of the dwelling within the site is considered acceptable in this instance.

The scheme proposes a pitched roofed detached dwelling oriented with the roof face sloping towards the highway. The doorway would be on the side elevation. The proposed design does not appear to draw from the design of the existing dwellings in the street so would not be in keeping with the wider street scene. Whilst the adjacent 247 and 249 do have pitched roofs, the proposed dwelling is significantly deeper than the existing adjacent dwellings and therefore the roof pitch would not match the existing dwellings. No street scene has been provided however based on the information available to officers, the proposal would appear incongruous within the wider street scene. The front elevation would have limited architectural detailing and therefore would not contribute towards the visual amenity of the wider street scene.

It is therefore considered that the proposed dwelling, by virtue of design, would not be in keeping with the wider street scene and would appear incongruous within the street scene at the detriment of visual amenity. The proposal therefore fails to accord 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.

The residential properties mostly likely to be affected by the proposed development are considered to be 239 and 247 Staincliffe Road and 2,4 and 8 Knowles Hill Road. The impact upon these properties will be discussed below. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect. Of note, whilst there are a number of other properties near the site, the proposed dwelling would be >21 metres from the surrounding properties.

Impact on 239 Staincliffe Road and 2 and 4 Knowles Hill Road

The submitted location plan shows 239 Staincliffe Road and 2 and 4 Knowles Hill Road, which are all within the same building group, within the applicant's ownership. It is not clear from the site visit how the dwellings are split within the building and as such the impact on the amenity of the occupiers will be assessed together.

The adjacent building abuts the southern boundary of the site and there are openings in the northern elevation which face the proposed dwelling. Given these are the only openings on the northern elevation, officers believe it is reasonable to assume these serve habitable spaces. There would be a separation distance of ~10.5m between the northern elevation of the adjacent building and the southern elevation of the proposed dwelling. At ground level the dwelling proposes a secondary living room window in the southern elevation. Should approval be recommended officers would condition this window should be obscurely glazed to prevent any harmful overlooking harm to current occupiers of the neighbouring property or the future occupiers of the proposed dwelling. The other openings in the southern elevation would be secondary windows. The proposed separation distance on 10.5m would therefore not comply with Principle 6 of the Housebuilders Design Guide SPD and officers consider the proposal would cause significant harm to the amenity of the occupiers of the neighbouring property.

Impact on 247 Staincliffe Road

247 Staincliffe Road is the adjacent property to the north of the application site. It is a two-storey semi-detached dwelling with a single storey garage erected to the side. There are two openings at first floor level which face the application site. These would appear to serve a hallway and bathroom and therefore would provide light or outlook to a habitable space.

There is one opening proposed in the northern elevation of the proposed dwelling which would front the site however this would serve a bathroom so would be obscurely glazed. This can be secured by condition should approval be recommended.

The proposed dwelling would be 1.8m from the side elevation of the garage and ~4.8m between the dwelling and the first-floor side elevation of no.247. Therefore, no significant harm is considered to be caused to the amenity of the neighbouring occupiers as a result of the proposal.

Impact on 8 Knowles Hill Road

8 Knowles Hill Road is the residential dwelling to the west of the application site. The proposed dwelling would have openings in the rear (western) elevation which all serve habitable rooms. The proposed dwelling would be set approximately 3.2m from the boundary of no.8. The proposed openings, particularly those at first floor, would face directly onto the amenity space for no.8. therefore the proposal is considered to cause significant overlooking harm to the amenity of the occupiers of number 8 as a result of the proposal.

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 a good 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.

Therefore, it is considered the proposed development would result in significant overlooking and overbearing harm to the occupiers of 237 Staincliffe Road, 2,4 and 8 Knowles Hill Road at the detriment of residential amenity. The proposal therefore fails to comply 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 116 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 proposal would include 2 off-street parking spaces within the application site. The Kirklees Highways Design Guide SPD states that at least 2 on-site spaces are required for dwellings with 2-3 bedrooms. The proposed parking is therefore considered sufficient off-street parking for a 3-bedroom dwelling. The application site currently serves a detached garage and off-street parking provision for 237 Staincliffe Road and 2 and 4 Knowles Hill Road which would be lost as part of the proposal. No information has been provided as to where the parking for 237, 2 and 4 would be following development. Due to the location of the site on a busy main road, adjacent to a crossroads, the on-street parking is limited, and a majority of the on-street parking is permit holders only. It is therefore considered that the displacement of the existing parking for the adjacent property would result in harm to the safety and efficiency of the highway.

Sight lines from the access onto Staincliffe Road to the north are poor because of the relatively narrow footway, the height of existing trees and vegetation, an existing telegraph pole and a street lighting column. Pedestrian intervisibility is poor to the south between the access and Zebra Crossing. Buses waiting at the stop will also restrict visibility at the access.

Given the sub-standard width of the access, which is not wide enough to allow two vehicles to pass, poor sight lines and poor pedestrian inter-visibility, loss of existing off-street parking and the proximity to the Staincliffe Road/ Knowles Hill Road/Heald's Road crossroads junction, zebra crossing and bus stop, KC Highways Development Management object to this application on highway safety grounds.

Bin storage is proposed to the northern side of the property which is considered appropriate. There is an existing point for collection adjacent to the access and this is considered sufficient.

It is therefore considered that the proposal would cause detrimental harm to the safe and efficient operation of the highway network, failing to accord with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Biodiversity

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 12 February 2024 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 application form outlines that the application falls under the self-build and custom-built exemption. Therefore, BNG is not required under this application.

The submitted information is therefore considered acceptable in terms of ecology and would comply with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design Guide SPD.

Contaminated Land

The proposed site is not situated on land identified as potentially contaminated. It is however identified as high-risk development by the Mining Remediation Authority and has what appears to be a large garage or storage shed, the use of which may have resulted in contamination. KC Environmental Health (EH) officers were consulted on the proposed scheme and have reviewed the submitted Coal Mining Risk Assessment (CMRA). THE CMRA recommends further intrusive investigation to assess potential shallow coal, mine gas and spontaneous combustion risk. In light of this and the potential from the existing garage, KC EH recommend conditions in relation to contaminated land.

The Mining Remediation Authority were also consulted on the proposal due to the site being located within a high-risk development area. They note the conclusion of the supporting CMRA; that coal mining legacy potentially poses a risk to development at the site and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, they recommend that conditions requiring intrusive investigations, remediation works and signed declaration are included on the Decision Notice:

Subject to conditions, the proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan and paragraphs 196 and 197 of the NPPF.

Trees

KC Trees were consulted on the proposal. A survey has been carried and submitted as part of an Arboricultural Impact Assessment (AIA) and draft Arboricultural Method Statement (AMS). The tree survey records one hedge, which is suggested for removal to facilitate the proposed development. A draft

tree protection plan is also included, should the applicant wish to retain the hedge to screen the site from the road. KC Trees are no objections to the removal of the boundary hedge.

Two trees with tree preservation orders (TPOs) are recorded at the site. These are referenced as 42/89/t3 Sycamore and 42/89/t4 Ash. These trees are shown on the Eastern boundary of the site. However, a desk-based study has revealed that both trees were removed in the period between the years of 2011 and 2017. No application was received by the council for any works to be carried out on these protected trees and were therefore illegally felled without the consent of Kirklees Council and are now subject to a replanting order.

As two TPO trees were illegally felled without consent it is required to replant two trees to replace them. Ordinarily a replanting order stipulates 1:1 replacement with the same species as were lost. However, due to ash dieback disease it is ordered that two sycamore are planted rather than one sycamore and one ash.

KC Trees therefore object to the proposed development from a trees perspective as this site is subject to a replanting order and it is considered unlikely, due to the size of the site, that any development could take place without harming the trees.

6 – Representations:

No representations were 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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Recommendation

REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2024/92850

Officer Recommendation: Refuse

Conditions:

1. The proposed development, by virtue of design, would not be in keeping with the existing built development on Staincliffe Road and would be an incongruous addition to the street scene to the detriment of visual amenity. The proposal therefore fails to accord with Policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.
1. The proposed scheme would not provide sufficient separation distances between the proposed dwelling and the adjacent 237 Staincliffe Road, 2, 4 and 8 Knowles Hill Road, resulting in overbearing harm to the occupants and overlooking harm to the primary amenity space of 8 Knowles Hill Road. This would be at the detriment of residential amenity and would fail to accord with accord with Policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.
2. The proposed development would have: a sub-standard width of the access which is not wide enough to allow two vehicles to pass, poor sight lines in close proximity to the Staincliffe Road/ Knowles Hill Road/Heald's Road crossroads junction, zebra crossing and bus stop, poor pedestrian inter-visibility and would result in the loss of existing off-street parking which would not be replaced. As such, the scheme would not ensure the safety or efficiency of the surrounding highway network. The scheme would have a detrimental impact upon highway safety and to permit it would be contrary to Policy LP21 of the Kirklees Local Plan and Paragraphs 115 and 116 of the National Planning Policy Framework.
3. The development results in the loss of two protected trees which have been removed and require replacing under a tree replantation order. The submitted AIA and AMS do not include the TPOs. Based on the information available to officers it is considered a development cannot be accommodated without detrimental impact to the protected trees. Therefore, the proposed development would not comply with LP33 of the Kirklees Local Plan or Chapter 15 of the National Planning Policy Framework.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan			06/01/2025
Existing Site Plan	1		06/01/2025

Proposed Site Plan	2		06/01/2025
Proposed Floor Plans	3		06/01/2025
Proposed Elevations	4		06/01/2025
CMRA	71009810602001		06/01/2025
Arboricultural Impact Assessment			06/01/2025

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. Officers consider that to render this application acceptable, significant amendments would be required which would need to be submitted as part of a new application therefore no amendments were sought or provided.

Report Dated: 17/02/25