

**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:	2024/62/93055/E
Site Address:	Land Adj, 2, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EP
Description:	Erection of detached dwelling and associated external works
Recommending Officer:	Edward Cheseldine

DECISION – Refused

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 18-FEB-2025

Officer Report

2024/93055 - Land Adj, 2, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EP

Site Description

The site is part of the residential garden space of 2 Hopton Hall Lane. The area of development is location to the south of the existing dwelling. There are residential dwellings to the north, south and east of the site. To the west are open fields which are part of the Green Belt. The site contains No.1 protected tree.

2 Hopton Hall Lane is a large detached dwelling. It is present on the 1922 County Series OS map, named as Park Farm. Residential development along Fairways and Chiltern Drive was erected in the 1970/80s. Properties on these streets border the application site. They consist mainly of detached two-storey and 1.5 storey buildings.

Hopton Hall Lane is a single lane road with a countryside character due to the traditional dwellings on the street and views towards open fields.

Description Proposal

The application is seeking planning permission for erection of a detached dwelling and associated external works.

The proposed dwelling will have an 'L' shaped footprint. It will be ~13.60m(w) x 29.00m(l). The front section of the house will have an eaves height of ~4.65m and a ridgeline height of ~8.35m. The rearward projection will have an eaves height of ~3.30m and a ridgeline height of ~6.85m.

The roof design will be formed of a cross-pitched roof. A glazed front façade will be erected on the east facing elevation. There are several gable-end dormers that sit within the roof space.

An access for the dwelling will be formed off Hopton Hall Lane.

In terms of landscaping details, a driveway will sit to the front of the dwelling, with a courtyard to the rear of the house. A grassed trim will remain around the dwelling.

Amendments/Negotiations

It is considered that the development significantly departs from the design principles outlined within the Kirklees House Builders Design Guide SPD and that overcoming the policies could not be achieved through minor amendments or justifications.

The applicant did submit a justification statement after it was communicated the application would be refused. However, such a justification did not overcome concerns the development would require significant amendments to reach a positive outcome.

Public Representations

The application was advertised by neighbourhood notification letters, which expired on 17-Jan-2025. As a result of the publicity, there were 4 representations. The comments are outlined as follows:

- The proposed plans show that the new building will be very close to the boundary between our garden and the side of the house.
- The six windows on the top floor over the courtyard will directly overlook our house and garden, giving views directly into all our back rooms, resulting in a significant loss of privacy.
- These windows will also directly overlook our back garden again with a significant loss of privacy.
- The proposed building is significantly larger than others directly surrounding it, or in the local area, and is also out of character with those buildings in its design and construction.
- There is no mention about plans to change the existing established hawthorn hedge separating the development and the garden of 5 Chiltern Drive. Is it intended to keep this hedge.
- The proposed entrance to the property is directly onto the very busy Hopton Hall Lane, very close to a blind narrow band, and will be a significant hazard.
- Will this application be considered in open chamber by the Planning Committee? If so, I wish to attend so please advise me of the hearing date and location etc.
- This is an extremely large overbearing development which is approximately 1m from our boundary at the closest point. Given that 2 Hopton Hall has a large area in which to develop, it seems unreasonable to build so close to our property. There is certainly scope to build the property further away.
- The proximity could also create issues with access to maintain the boundary wall at the closest points.

- There are 4 ground floor windows which face nos 1 and 3 Fairways which were omitted from the original plans. With these windows being so close to the boundary, we feel these would result in an invasion of privacy to these 2 properties.
- The proximity of this building may contravene Kirklees Policy on minimum distances set out in Paragraph 7.19 of the Housebuilders Design Guide SPD.
- The boundary wall between our property and 2 Hopton Hall Lane is also the retaining wall for our garden, our garden being approximately 1.2m above the proposed development site. This wall is the responsibility of 2 Hopton Hall Lane and is in poor condition in some places. Because of the proximity of the building works to the wall we have concerns that the wall would be in danger of collapsing and our garden falling into theirs. This would also be a health and safety issue for operatives on site. Consequently, should this work proceed, we would like assurances that the wall would be adequately supported and repaired where necessary prior to, and during, the construction of these works and suitably maintained afterwards.
- There are 2 very large old trees in the grounds of 2 Hopton Hall Lane up against the above mentioned wall which have been chopped to a height of approximately 3m. There is also a substantial laurel hedge planted up against the wall, (incorrectly shown as being on our property on 2 plan no (70)001 section c-c). There is no mention of these trees and the laurel hedge in the Tree Work Schedule, so we would like confirmation of what the proposals are for these. (From the Block Plan it would appear they are to be removed which would exacerbate the issues with the boundary wall mentioned above.)
- Should the work proceed, we would like to request that all site plant, equipment and contractors vehicles are parked within the site boundary and on 2 Hopton Hall Lane land, where possible, and not parked on Fairways. There is limited scope for parking on Fairways and we have had issues in the past with their contractors' vehicles causing obstructions, and damaging grass verges which are privately owned.
- Our bedroom is on the ground floor, faces the development and is only a few metres away. We would therefore like to request that construction work is only carried out Monday to Fridays within normal working hours with no work commencing prior to 08.00. We would also request that builders show consideration to neighbouring properties and that procedures are put in place to mitigate the adverse impact of noise (including builder's loud music) dust, vibration and traffic.
- I am concerned that the proposed building will:
 - (a) overlook my property;
 - (b) result in the loss of my right to light;

- (c) invade my privacy;
- (d) affect my enjoyment of my garden;
- (e) devalue my property;
- (f) create another driveway onto/off Hopton Hall Lane of which there already several plus two road endings - Fairways and Cheviot Way - either side of the proposed dwelling
- (g) cause nuisance down Hopton Hall Lane with another entrance/exit onto a narrow winding road/lane. A great deal of traffic (cars and HGVs) use this road/lane already,
- Disturbance and Noise pollution will be caused to residents of Fairways during proposed construction if the plans are passed. Vehicles from workmen littered Fairways when alterations were made to Park Farm (2 Hopton Hall Lane)
- The boundary wall between 2 Hopton Hall Lane is and numbers 1 and 3 Fairways is currently a dry stone wall, the sole property of the owners of 2 Hopton Hall Lane. The boundary wall is in poor repair.
- Mature trees of similar age and height to those since 1995 with TPOs, were at the top garden between 2 Hopton Hall Lane and numbers 1 and 3 Fairways. These were removed or cut down to create the football pitch and replaced with laurel and conifer hedging.
- On the proposed Block Plan, there is a gap between the ornamental trees and the boundary between numbers 1 and 3 Fairways.
- The entrance to the proposed property will be concealed on what is already a narrow lane. I use this road every day and I am concerned that another property with vehicles entering and exiting will be a danger.

These comments will be assessed throughout the application and concluded within the *Representation* section of the report.

Consultation Response

The Mining Remediation Authority – No objection, subject to conditions relating to further intrusive investigations.

KC Environmental Health – No objection, subject to conditions.

KC Trees – Objection due to the entrance conflicting with the root protection area of a protected tree.

KC Highways – No objection.

Relevant Planning History

None relevant.

Policy & Legislation

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

The site is unallocated on the Kirklees Local Plan Proposals Map.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 20** – Sustainable Travel
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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 4** – Decision-Making
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 8** – Promoting Health and Safe Communities

- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations

- Kirklees Highways Design Guide SPD (2019).
- Kirklees Housebuilders Design Guide SPD (2021).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Gov Uk Biodiversity Net Gain Technical Guidance (2023).

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) Environmental Issues
- 5) Representations
- 6) Conclusion

Principle of development

Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. 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 assessed.

The site is UNALLOCATED on the KLP Policies Map. Policy LP2 states that:

“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”

New Dwellings

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.

In this case, one additional unit would make a small contribution to that supply. Good design is a key aspect of sustainable development which contributes to creating better places. Therefore, a balance will be formed, within this assessment, against the benefits one dwellings would bring.

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 3 dwellings. It is recognised that there are a number of constraints within the site, including a protected tree and a highway safety aspects due to the access onto Hopton Hall Lane. There are large detached

dwelling off Hopton Hall Lane and a sense of openness throughout the area. Therefore, for the purposes of density, 1 dwelling would be acceptable so long as long as the plans meet the requirement of footnote 8 of the NPPF.

Impact on Visual Amenity

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

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

Kirklees Local Plan policies LP1, LP2 and 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 2021, which aims to ensure future housing development is of high-quality design.

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

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*

- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Hopton Hall Lane is a single lane road with a countryside character due to the traditional dwellings on the street and views towards open fields. This character is further enhanced by the mature trees that run along the roadside. There are large detached and semi-detached properties on the street. The density of the late 20th century dwellings to the south and west is slightly increased, however there is still an open character to the dwellings due to the generous side space and front gardens.

The proposed dwelling will accommodate a significant proportion of the housing plot due to its scale. 2 Hopton Hall Lane is a large Farmhouse dwelling with a generous residential curtilage, the plot of which will be reduced by the introduction of a large dwelling. There is a low residential density at this particular point in the street. Residential development typically has generous side space. In addition, there is a mild gradient as the land slopes downward from south to north. Paragraphs 5.12 & 5.13 of the Kirklees Housebuilders Design Guide relate to the existing urban grain of the area and design in relation to topographical features found within the landscape. The proposed plot is relatively narrow in consideration of the proposed dwellinghouse. The majority of the massing is focused on the south aspect of the site, which is its highest point of the site. It is considered that a dwelling that is relative to the plot and is designed in harmony with the landscape could be acceptable on the site. However given the overall scale and massing of the proposed dwelling, the development would introduce an incongruity within the existing development which fails to assimilate into the building group in part due to its relationship with the topography of the site.

Principle 4 regards density in a visual sense, paragraph 7.2 states, *'Density should positively respond to the scale, form and massing of the surrounding locality'*. When considering the size of the plot, the dwelling is significantly large dominating the area of development along Hopton Hall Lane. At sections the plot is ~16.20m wide, whilst the dwelling is ~13.90m. The scale of the building is not appropriate to the size of the plot. There is a large rearward projection that leaves a ~2.20m space to the rear boundary. It is noted the scale of the dwelling is relative to the Park Farm building, however the proposed development plot is considerably smaller. The farm building is also set down within the topography of the hill. The dwelling will therefore appear cramped within its locality introducing a scale that departs from the existing character found within the locality of the site.

Principle 5 regards the coherence of layouts and the visual connection to surrounding areas. The ridgeline of the proposed dwelling sits in a position

against the properties on Fairways. The proposed dwelling will be visible from the spaces between these properties, namely the gap between No. 1 & No. 3. There is a large rearward projection with a significant massing due to the ridgeline height. The backdrop of these gaps includes the surrounding valley and mature trees found within the area. The development will reduce the sense of space by infilling these gaps. The dwelling therefore fails to respect the sense of place of the wider area.

Principle 13 of the Kirklees Housebuilders Design Guide SPD states '*applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.*'

External materials will be stone walling, with stained wooden edge boards details. The roof will be clad in stone slates. In addition, there will be a large wooden glazed frame on the east elevation. Notwithstanding the above assessment in terms of scale, the appearance of the materials will be suitable to the setting of the area.

Principle 15, *the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.*

The property features a cross-hipped roof form. As per the assessment relating to Principle 4, the vertical massing of the ridgeline is not proportionate to the site due to its length being ~28.60m. The massing runs down the side of the plot at a height of ~6.80m. The design of which does not respect the existing spatial pattern or the topography of the site.

Landscaping is an important aspect of visual amenity. The property will be visible from Hopton Hall Lane which has a countryside character. Landscaping plans include the retention of stone walling to the front, the retention of the protected tree and a lawned area with shrubbery. There is a ~10.50m outdoor area to the front of the dwelling. This area presents a sufficient buffer from the public domain, that is relative to the farm building. The retention of the landscaping features is appropriate. However, a significant proportion of site will be hardsurfaced. A smaller dwelling, would in turn allow for more soft landscaping which would be appropriate given the edge of development location.

The development, due to scale and roofline, would therefore introduce a form of development that fails to consider the wider existing urban grain and topographical features of the landscape. Introducing such a development would harm the sense of place along Fairways, appearing cramped within its locality introducing a scale that departs from the existing character found within the local site context. It would therefore be contrary to Principles 2, 4,

5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

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 135 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 properties affected will be 2 Hopton Hall Lane, 1 Fairways, 3 Fairways, 5 Fairways, 4 Chiltern Drive.

Impact on 2 Hopton Hall Lane

2 Hopton Hall Lane sits ~18.80m to the north of the application dwelling. In terms of privacy, there is a window within the gable-end which the floorplans indicate will be a bathroom. If the application was approved, it would be conditioned this window is obscurely glazed to meet the requirements of LP24b. In addition, there are several side facing dormer windows facing the direction of this dwelling which are 9.35m from the boundary. In terms of an impact to the privacy, Principle 6 states there should be 10.50m between windows and boundaries of undeveloped land. The dwelling sits at a greater

land level height than No.2, which will lead to an overlooking impact to neighbouring private amenity space which would not be acceptable.

The Kirklees Housebuilders Design Guide SPD states a 2.0m distance of separation should be provided between the side elevation and boundary. The gable-end at this point is ~8.20m in height. The perception of height will be increased due to the land gradient. The separation distance would therefore be inappropriate to be in such close proximity to the neighbouring garden resulting in an overbearing and oppressive feature which would be to the detriment of the residential amenity of the occupant's contrary to Policy LP24 (b).

Impact on 1 Fairways

1 Fairways is set away at a 45 degree angle to the application dwelling. In terms of privacy, there is a bathroom window on the gable-end with a close relationship. As before, if the application was minded for approval, it would be conditioned it is obscurely glazed. In addition, there are ground-floor windows, however the existing boundary treatment would obstruct the outlook of these windows.

There is significant vertical and horizontal massing on the southern border of the application site due to the gable-end of the front section of the building. 1 Fairways is a 2 storey dwelling. It is acknowledged that 1 Fairways is set a 45 degree angle to the application dwelling, however, the gable-end is ~8.70m in height at a section that is observable from the rear facing windows. Sight section plans indicate the sitting of the gable-end will result in a partial loss of outlook which is against Principle 6 of the House Builders Design Guide Supplementary Planning Document.

The gable-end is ~1.80m from the boundary treatment, at the point of the centre of the garden space. Due to the height and massing of the gable-end, there would be a sense of enclosure within the garden and from habitable rooms to the rear of the property.

Impact on 3 Fairways

3 Fairways is a 1.5 storey property that is located to the south of the application dwelling. It has a direct relationship with the proposed side elevation. The ground floor rear windows of the property light a kitchen/diner and a bedroom. It has been considered whether there will be a loss of outlook from the vertical massing of the building. The application dwelling will have a pitched roof, shifting the bulk of the property away from the boundary. The ridgeline is ~5.30 from the boundary and ~19.20m from the rear facing

windows. The proposed dwelling will be regressed into the landscape by ~0.20m. When considering the distance from the boundary and the low eaves height, it is not considered there will be a loss of outlook that would be to the detriment of residential amenity. As the roofline is set away from the boundary, there will not be an overbearing impact when the garden space is in use given the height and distance between the ridgelines.

Due to the window layout, there will be no impact to privacy.

Impact on 5 Fairways

5 Fairways is located to the south-west of the application dwelling. There are no windows with a direct relationship facing towards the property.

The south-west corner of the property will be ~3.20m from the boundary. Due to the low eaves height, it is not considered there will be a loss of outlook, loss of light or an overbearing impact.

5 Chiltern Drive

5 Chiltern Drive is located to the north-west of the development site. The plot shares its boundary with the west of the development site. The nearest overlooking window lights a 'multi-use' room (living room) on the first-floor of the rear projection. There is an overlooking relation from the window into neighbouring outdoor amenity space. The window is positioned at a first-floor height, it will have unobstructed views into neighbouring, private outdoor amenity space. The outlook is positioned ~19.00m from the nearest window on the first-floor of No.5. Principle 6 states, there should be distance of separation of 21 metres between facing windows of habitable rooms at the backs of dwellings, which the plans do not accord with.

Due to distance, there will not be a loss of light, outlook or an overbearing impact.

Summary

The proposed development, by reason of its sitting and window placement would result in an overlooking relationship into neighbouring private amenity space and habitable windows which would significantly reduce the privacy of occupants of 2 Hopton Hall Lane and 5 Chiltern Drive, contrary to Policy LP24 (b) of the Kirklees Local Plan and Principle 6 of the Housebuilder's Design Guide Supplementary Planning Document.

The proposed development, by reason of its design, mass and siting adjacent to the boundary with 2 Hopton Hall Lane & 1 Fairways, would result in an overbearing and oppressive feature, partially reducing outlooks from habitable windows, which would be to the detriment of the residential amenity of the occupant's contrary to Policy LP24 (b) of the Kirklees Local Plan and Principle 6 of the Housebuilder's Design Guide Supplementary Planning Document.

Impact on Highways Safety

Policy LP 21 & LP 22 regard impact to highway safety and parking.

The site will be accessed through a new entrance leading onto Hopton Hall Lane. KC Highways were consulted in relation to the impact the new development would have on the safety of the existing highway network and parking provisions.

KC Highways had no objection to the submitted drawings, which indicated visibility sight lines of 2.4m x 43m with a 1m offset from the newly formed access. Plans indicate there will be 5 car parking spaces. The number of parking spaces accords with Key Design Driver 20 of the Kirklees Highways Design Guide Supplementary Planning Document given the number of bedrooms the dwelling will host.

Therefore, the plans accord with LP21 & LP22 of the Kirklees Local Plan.

Environmental Matters

Paragraphs 187, 193, 194 and 195 of 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. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

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 for minor sites granted pursuant to an application submitted after 02 April 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 agent has stated the application falls under the 'self-build' exemption category within the application forms. The agent has confirmed the development complies with the Self-build and Custom Housebuilding Act 2015, and the officers has no reason to dispute this, therefore the application is exempt from a BNG uplift.

Nonetheless, Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD, the Biodiversity Guidance Note, and Chapter 15 of the National Planning Policy Framework state that biodiversity net gain is required for all development. To create this net gain, if the application was minded to be approved, a condition to secure a bird box into the external walls of the new dwelling is recommended to be added to the decision notice. This mitigation will ensure that the proposal minimises the impact on biodiversity and provides a net biodiversity gain through good design by incorporating biodiversity enhancements.

Historic Coal Legacy

LP53 relates to contaminate an unstable land.

The site falls within a high-risk development area. A Coal Mining Risk Assessment was subsequently submitted and reviewed by The Mining Remediation Authority. The report identifies a risk to the proposed development from possible past unrecorded shallow and surface mining activity. The Mining Remediation Authority recommended suitable conditions to determine the extent of any works or mitigation that may be required which will be included as part of the decision for approval. In the event that planning permission is approved, appropriate conditions will be attached.

Trees

Policy LP33 relates to the protection of trees. One tree within the site of the proposed development (Land adjacent to 2 Hopton Hall Lane, Mirfield, West Yorkshire, WF18 8EP) is subject to Tree Preservation Order [TPO Ref. 22/95/t45].

KC Trees were consulted to assess the impact of the development on the protected tree and other shrubs that are to be removed from the site. Comments are provided:

An Arboricultural Method Statement and Tree Protection Plan have been produced by JCA Ltd. [ref. 22345-A]. The survey schedule records four items of vegetation. The tree identified as T1 within the JCA report is subject to TPO Ref. 22/95/t45.

It is acceptable for the two hedges (Identified in the JCA report as H3 and H4) to be removed as these are of BS5837: 2012 Category C quality, and replacement planting has been proposed as part of the soft landscaping scheme.

The Root Protection Area (RPA) of T1 tree overlaps with the proposed driveway and access route onto the site. These proposals cause concern as the total overlap of the driveway and access route covers a significant portion of the total RPA. According to BS5837: 2012 new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA.

To reduce the tree impacts to protected tree T1, a no-dig methodology is proposed for the construction of the driveway. However, root-pruning is currently proposed for the access route onto the site. The proposed area of root pruning would represent a loss of 11% of the total RPA. This level of root pruning could jeopardise the long-term health of protected tree T1.

To avoid root pruning within the RPA of T1, it is suggested that the area of no-dig construction for the proposed driveway is extended to include the area of the site access. The use of a cellular confinement system, or suspended driveway would prevent root damage and soil compaction, helping to avoid unnecessary damage to the long-term health of the protected tree.

Ideally the cellular confinement driveway (or similar) would be constructed first to serve as permanent ground protection. This would minimise compaction to the soil as vehicles access the site throughout the remaining duration of the construction phase.

Furthermore, it would be preferable if the tree protection fencing would be realigned once the driveway is completed, in order to protect the edge of the canopy over the new driveway and site access to reduce the risk of any damage to branches in the lower canopy.

Replacement planting is not advisable beneath the canopy of protected tree T1, as digging planting pits close to the stem would further damage the roots of the protected tree. Lastly, please note that any proposed utilities routes should not pass within the canopy or through the RPA of T1.

KC Trees therefore objected to the proposal until an alternative solution is submitted to minimise the conflict between the RPA of the protected tree T1 and the proposed site access route.

In lieu of the above, the development would require significant amendments, including changes to the access and the design of the dwelling. Due to the level of alterations required, it was not considered appropriate to request protective measures of alterations to the access in order to overcome significant concerns in relation to the protected tree.

The proposed development would result in damage to the roots of a significant trees in terms of age and stature, which provides public benefits due to its location close to the public highway and collection of buildings. No public benefits are apparent which would outweigh the benefits of the tree. The proposed development would therefore contravene policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Contaminated Land

LP53 relates to contaminate an unstable land.

A Coal Mining Assessment authored by Envirosolutions (2nd December 2024, ES03459) has been received in support of the application. The report identifies a potential risk from shallow coal, coal workings, and mine entries associated with two coal seams. KC Environmental Health assessed the report. As the report identifies a potential risk from shallow coal, coal workings, and mine entries associated with two coal seams there may be a potential risk to end users. For these reasons, should the application be approved contaminated land conditions and a footnote would be issued.

Construction Site Working Times

Construction working times are covered by other regulations, therefore it is not deemed necessary to add a secondary planning condition, however a footnote may be added.

Electric Vehicle Charging Points

The requirements for EV charging points are set out within the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group, therefore a secondary planning condition is not necessary.

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon

emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Representations

It has been considered whether the objections brought forward would have a material weight to the decision for planning permission.

Material weight has been considered for the following, assessments are concluded in the paragraphs above;

Visual Amenity

- The proposed building is significantly larger than others directly surrounding it, or in the local area, and is also out of character with those buildings in its design and construction.

Officer Comments: The impact to the spatial character of the area and the architectural design of the building had been assessed within the Visual Amenity section of the report. The development departs from the existing character within the wider context of the site.

- The proposed plans show that the new building will be very close to the boundary between our garden and the side of the house.

Officer Comments: The scale within its plot is considered to lead to a cramped form of development.

- The proximity of this building may contravene Kirklees Policy on minimum distances set out in Paragraph 7.19 of the Housebuilders Design Guide SPD.

Officer Comments: The sitting of the dwelling within the plot has been assessed as having a negative impact to visual and residential amenity.

Residential Amenity

- (a) overlook my property;

Officer Comments: It has been assessed the development will have an overlooking relationship with 2 Hopton Hall Lane and 5 Chiltern Drive.

- (b) result in the loss of my right to light;

Officer Comments: It is not considered there will be a loss of sunlight due to the orientation of the sun.

- (c) invade my privacy;

Officer Comments: It has been assessed that there will be an overlooking relationship with 2 Hopton Hall Lane and 5 Chiltern Drive.

- There are 4 ground floor windows which face nos 1 and 3 Fairways which were omitted from the original plans. With these windows being so close to the boundary, we feel these would result in an invasion of privacy to these 2 properties.

Officer Comments: Updated elevation drawings were received on 13/01/2025. As the ground floor windows had no impact to privacy, the application was not readvertised.

- This is an extremely large overbearing development which is approximately 1m from our boundary at the closest point. Given that 2 Hopton Hall has a large area in which to develop, it seems unreasonable to build so close to our property. There is certainly scope to build the property further away.

Officer Comments: The development has been assessed as having an overbearing relationship to the current and future occupants of No.2 Hopton Hall Lane & No1. Fairways.

- The six windows on the top floor over the courtyard will directly overlook our house and garden, giving views directly into all our back rooms, resulting in a significant loss of privacy.

Officer Comments: It has been assessed that the window placement will result in an overlooking impact to rear facing windows of 5 Chiltern Drive.

- These windows will also directly overlook our back garden again with a significant loss of privacy.

Officer Comments: It has been assessed the window placement will result in an overlooking impact to the garden space of 2 Hopton Hall Lane and 5 Chiltern Drive.

- (d) affect my enjoyment of my garden;

Officer Comments: The impacts in terms a loss of outlook and an overbearing impact have been assessed within the residential amenity section of the report.

Highway Safety

- The entrance to the proposed property will be concealed on what is already a narrow lane. I use this road every day and I am concerned that another property with vehicles entering and exiting will be a danger.
- The proposed entrance to the property is directly onto the very busy Hopton Hall Lane, very close to a blind narrow band, and will be a significant hazard.
- (g) cause nuisance down Hopton Hall Lane with another entrance/exit onto a narrow winding road/lane. A great deal of traffic (cars and HGVs) use this road/lane already,
- (f) create another driveway onto/off Hopton Hall Lane of which there already several plus two road endings - Fairways and Cheviot Way - either side of the proposed dwelling

Officer Comments: The safety of the proposed access has been assessed by KC Highways, who raised no objections due to the sufficient visibility of the access.

- Should the work proceed, we would like to request that all site plant, equipment and contractors vehicles are parked within the site boundary and on 2 Hopton Hall Lane land, where possible, and not parked on Fairways. There is limited scope for parking on Fairways and we have had issues in the past with their contractors' vehicles causing obstructions, and damaging grass verges which are privately owned.
- Disturbance and Noise pollution will be caused to residents of Fairways during proposed construction if the plans are passed. Vehicles from workmen littered Fairways when alterations were made to Park Farm (2 Hopton Hall Lane)

Officer Comments: The development is for 1 new dwelling, which would not require a construction management plan as it does not meet the threshold.

Environmental Matters

- Mature trees of similar age and height to those since 1995 with TPOs, were at the top garden between 2 Hopton Hall Lane and numbers 1 and 3 Fairways. These were removed or cut down to create the football pitch and replaced with laurel and conifer hedging.

Officer Comments: Comment noted. There is currently only 1 protected tree on the site.

- There are 2 very large old trees in the grounds of 2 Hopton Hall Lane up against the above mentioned wall which have been chopped to a height of approximately 3m. There is also a substantial laurel hedge planted up against the wall, (incorrectly shown as being on our property on 2 plan no (70)001 section c-c). There is no mention of these trees and the laurel hedge in the Tree Work Schedule, so we would like confirmation of what the proposals are for these. (From the Block Plan it would appear they are to be removed which would exacerbate the issues with the boundary wall mentioned above.)

Officer Comments: The trees are not protected, they are outside of the control of the Planning Authority. There are trees marked within this area on drawing (20)002.

- There is no mention about plans to change the existing established hawthorn hedge separating the development and the garden of 5 Chiltern Drive. Is it intended to keep this hedge.

Officer Comments: The hedge border is not protected, it is outside of the control of the Planning Authority. If the application was approved, it would be recommended that a hard and soft landscaping plan be conditioned.

Other Considerations

- Will this application be considered in open chamber by the Planning Committee? If so, I wish to attend so please advise me of the hearing date and location etc.

Officer Comments: The application will be determined under delegated authority (this application). It will not be decided by a planning committee.

- On the proposed Block Plan, there is a gap between the ornamental trees and the boundary between numbers 1 and 3 Fairways.

Officer Comments: If the application was approved, it would be recommended that a hard and soft landscaping plan be conditioned.

- The boundary wall between 2 Hopton Hall Lane is and numbers 1 and 3 Fairways is currently a dry stone wall, the sole property of the owners of 2 Hopton Hall Lane. The boundary wall is in poor repair.
- The boundary wall between our property and 2 Hopton Hall Lane is also the retaining wall for our garden, our garden being approximately 1.2m above the proposed development site. This wall is the responsibility of 2 Hopton Hall Lane and is in poor condition in some places. Because of the proximity of the building works to the wall we have concerns that the wall would be in danger of collapsing and our garden falling into theirs. This would also be a health and safety issue for operatives on site. Consequently, should this work proceed, we would like assurances that the wall would be adequately supported and repaired where necessary prior to, and during, the construction of these works and suitably maintained afterwards.

Officer Comments: All structural impacts would be assessed by Building Control.

- (e) devalue my property;

Officer Comments: Property prices are not a material planning consideration.

- Our bedroom is on the ground floor, faces the development and is only a few metres away. We would therefore like to request that construction work is only carried out Monday to Fridays within normal working hours with no work commencing prior to 08.00. We would also request that builders show consideration to neighbouring properties and that procedures are put in place to mitigate the adverse impact of noise (including builder's loud music) dust, vibration and traffic.

Officer Comments: Construction work times are covered under Building Regulations, they fall outside the remit of the Planning department. However, in the event that planning permission were approved, an advisory footnote would be recommended

- The proximity could also create issues with access to maintain the boundary wall at the closest points.

Officer Comments: Maintenance of shared boundaries is a private matter, which falls outside of the remit of the planning system. However, the siting of

the development has been assessed within the visual and residential amenity section of the report.

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 does not accord with LP24(Design), LP33(Trees) and Chapter 12 & 15 of the National Planning Policy Framework. It is considered that the proposed development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refusal

Reason(s) for Refusal

1. The development, due to scale and roofline, would introduce a form of development that fails to consider the wider existing urban grain and topographical features of the landscape. Introducing such a development would harm the sense of place along Fairways, appearing cramped within its locality introducing a scale that departs from the existing character found within the local site context. It would therefore be contrary to Principles 2, 4, 5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.
1. The proposed development, by reason of its sitting and window placement would result in an overlooking relationship into neighbouring private amenity space and habitable windows which would significantly reduce the privacy of occupants of 2 Hopton Hall Lane and 5 Chiltern Drive, contrary to Policy LP24 (b) of the Kirklees Local Plan and Principle 6 of the Housebuilder's Design Guide Supplementary Planning Document.
2. The proposed development, by reason of its design, mass and siting adjacent to the boundary with 2 Hopton Hall Lane & 1 Fairways, would result in an overbearing and oppressive feature, partially reducing the outlook from habitable windows, which would be to the detriment of the residential amenity of the occupant's contrary to Policy LP24 (b) of the Kirklees Local Plan and Principle 6 of the Housebuilder's Design Guide Supplementary Planning Document.
3. The proposed development would result in damage to the roots of a significant trees in terms of age and stature, which provides public benefits due to its location close to the public highway and collection of buildings. No public benefits are apparent which would outweigh the benefits of the tree. The proposed development would therefore contravene policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan	(EX)001	-	25 October 2024
Existing block plan	(EX)002	-	25 October 2024
Proposed block plan	(20)003	-	25 October 2024

Plan Type	Reference	Version	Date Received
Proposed grouped plans	(20)001	RevA	13 January 2025
Proposed street scene plans	(70)001	-	25 October 2024
CMRA	ES03459	-	25 October 2024
Tree Survey	22345-A/AJB	-	25 October 2024
Transport assessment	AT/24023/TS/0	-	25 October 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.

It is considered that the development significantly departs from the design principles outlined within the Kirklees House Builders Design Guide SPD and that overcoming the policies could not be achieved through minor amendments or justifications.

The applicant did submit a justification statement after it was communicated the application would be refused. However, such a justification did not overcome concerns the development would need significant amendments to reach a positive outcome.

