

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:	2024/62/93359/W
Site Address:	Brayside, 71, Coach Road, Cowcliffe, Huddersfield, HD2 2NW
Description:	Demolition of existing dwelling and garage and erection of detached dwelling with detached garage including associated works
Recommending Officer:	John Holmes

DECISION – Full Conditional Permission

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 8-Jul-2025

Officer Report

Reference: 2024/93359

Location: Brayside, 71, Coach Road, Cowcliffe, Huddersfield, HD2 2NW

Proposal: Demolition of existing dwelling and garage and erection of detached dwelling with detached garage

Site Description.

71 Coach Road is a detached bungalow, with accommodation in the roof. The external walls of the property are faced in brickwork and the roof is infilled with profile interlocking concrete tiles. The property benefits from a large extent of garden amenity space to the southern elevation and side elevations, as well as on-site parking amenity space.

Within the wider streetscene there are a variety of property types and construction styles established. However, the property shares a strong sense of similarity with neighbouring properties to the north and north west, which are detached brick bungalows, with accommodation in the roof.

Part of the land within the red line boundary of the site falls within land the subject of a Green Belt Allocation in the Kirklees Local Plan.

The site is located in close proximity to public footpaths HUD/388/20 and HUD/389/20.

Description of Proposal.

Planning permission is sought for the demolition of the existing dwelling and garage and erection of detached dwelling with detached garage including associated works.

The replacement detached dwelling would be situated within a similar position within the plot.

The dimensions of the proposed replacement dwelling would be 15m x 10.2m

The new dwelling would be three storey's in height, with a lower ground floor, ground floor and first floor. The maximum height of the dwelling (measured from the southern elevation) would be 10.8m.

When measured from the northern elevation, the height to the eaves would be 4.4m and height to the ridge would be 7.3m. The sloping ground upon which the dwelling would be sited is such that it would increase the height along the side elevations such that the southern elevation would be a larger element of the dwelling than the northern elevation.

The external walls of the new detached dwelling would be faced in natural local coursed stone and the roof would be infilled with concrete interlocking roof tiles.

A raised terrace would be present to the south of the dwelling, with glazed balustrade. A raised walkway access would be to the east of the dwelling.

The detached garage would be situated to the south east of the dwelling, of a flat roof design and sited within an area of the garden which is sloped downwards from north to south.

The flat roof garage would be 3m in height to the northern elevation and 4m in height at the southern elevation, have a floorspace of 6.6m x 7.5m and is annotated as having a green roof.

The extent of hard surfacing around the dwelling would be increased, to wrap around the north and eastern part of the dwelling.

Garden amenity space would be retained to the western and southern parts of the site.

History of Negotiations/Amendments Received.

Discussions were undertaken in relation to the size and scale of the proposed development. Further plans were subsequently submitted to address matters relating to the reasons of refusal of the previous application at the site.

Relevant Planning History.

2023/93237 – Demolition of existing dwelling and garage and erection of detached dwelling with detached garage – Refused 1st February 2024 for the following reasons:

- 1. The proposed dwelling and detached garage, by reason of their overall size, scale, massing and incongruous design, as well as the extensive engineering works including excavation and hard surfacing, would represent a form of development that would appear as overly dominant and would fail to sympathetically integrate with the existing development in the locality. The development would be out of keeping with the immediate area and would fail to harmonise with the character of the street, introducing an incongruous addition to Coach Road contrary to policies LP1, LP2, LP11 and LP24(a) of the Kirklees Local Plan, Principles 2, 5, 14 and 15 of the Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.*
- 1. The proposed dwelling, detached garage and boundary treatments, by reason of their siting, scale, massing, orientation and close proximity to neighbouring land would have a significant overbearing and oppressive impact upon the amenity and outlook of No's 8 and 9 Fixby Park Drive*

contrary to policy LP24 (b) of the Kirklees Local Plan, Principle 6 of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

- 2. The proposed habitable room windows and raised terrace, in relation to No's 8 and 9 Fixby Park Drive and their private amenity spaces, are considered to result in an unacceptable level of overlooking contrary to policy LP24 (b) of the Kirklees Local Plan, Principle 6 of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.*
- 3. In the absence of the submission of information relating to whether demolition and construction works can be undertaken without significant impact to biodiversity and the existing trees within and adjacent to the application site, a full and proper assessment of the impact of the development cannot be undertaken contrary to Policies LP30 and LP33 of the Kirklees Local Plan and policies within Chapters 12 & 15 of the National Planning Policy Framework.*

The scheme the subject of this application has been amended in a number of ways, including the following:

- Re-siting the dwelling and amending its footprint to be further from neighbouring properties. Specifically, the northern elevation is now 6.7m from the northern boundary (4.8m in relation to the refused application).
- Amending the location of the detached garage to the south eastern part of the site.
- The footprint has been reduced from 12.5 to 10.2m in relation to the depth when measured along the side elevations.
- The height to the ridge when measured from the lower ground floor level has reduced from 11.5m to 10.8m.
- The height when measured from the northern elevation is reduced from 5.1m to the eaves and 8m to the ridge (to 4.4m / 7.3m).

Whether the amended scheme has suitably addressed and overcome the previous reasons for refusal is addressed within the relevant sections of the 'Assessment' section of this report.

Representations.

The application was publicised in accordance with the Council's adopted Development Management Charter as in place at the time and publicised by neighbour notification letter and upon the Council's website. The publicity period expired 21 January 2025.

The description as advertised did not make reference to associated works. Whilst considered necessary for clarity as to the nature of the development, it is considered the description as advertised adequately alerted the public to the nature of the development.

Amended plans have been received during the processing of this application. These reduced the quantum of development of the site, and therefore it has been concluded that further publicity of the description / amended plans received was not necessary in this case.

In response to publicity, two objections have been received raising the following, summarised, concerns:

- No mention of where the removed soil and rock etc will be disposed of in relation to excavation works.
- Impact of a 2.1m high fence in relation to existing boundaries and also light / outlook.
- Ability for sight lines in relation to neighbouring properties beneficial in terms of security
- Repositioning of the dwelling would improve impact to neighbouring properties
- Proposal fails to take proper account of the relationship between the proposed development and their neighbouring dwelling at 9 Fixby Park Drive.
- Northern elevation will be taller and wider than the existing northern elevation of the dwelling at site.
- The neighbouring dwelling at 9 Fixby Park Drive has a ground floor conservatory / lounge window in its southern elevation which is 1.4 metres from the boundary.
- Suitable assessment in relation to light has not been carried out.
- Severe reservations over rights of light to 9 Fixby Park Drive
- Full and objective study to prove there will be no impact / injury on the right to light to neighbouring properties at 9 Fixby Park Drive is required.
- Site is inadequate to accommodate development of the scale, height and massing presently proposed.
- Due to proximity to neighbouring dwellings, it is vital the proposal is not overbearing, oppressive or leads to overshadowing.
- Boundaries are currently low walling, the proposal indicates it is likely that a higher boundary treatment would be installed.
- Excavations of substantial volume of excavated material and associated HGV movements to / from the site required.
- Engineering operations associated with the development have the potential to disrupt groundwater drainage
- Consider there to be unresolved issues required to be addressed.
- The proposal would be contrary to policy LP24 of the Kirklees Local Plan and principles 2, 5 and 15 of the Housebuilders Design Guide SPD.
- The proposal is contrary to paragraphs 135(f) and 139 of the NPPF.
- Visual impact of the proposal is unacceptable.

- As presently submitted, the proposals adversely impact upon the character and appearance of this established residential area / residential amenity

The representations received are taken into account and addressed within the 'Assessment' section of this report.

Consultation Responses.

KC Trees – No objection. They confirm that the submitted Arboricultural Impact Assessment (AIA) sufficiently details that there is no impact on the protected trees and that the development will be outside of the recommended 15meter buffer zone. They go on to state that the trees recommended for removal to facilitate the development are low amenity category C trees and this is deemed an acceptable loss that can be mitigated with new planting which is secured by condition.

Forestry Commission – No objections raised.

KC Highways Development Management – No Objection. Advised that they consider the proposals provide ample off-street parking and internal vehicle turning and confirm they have no objection to the proposals.

KC Environmental Health – No objection subject to condition relating to submission of details should unexpected contamination be identified during the construction phase. Informative notes are recommended relating to land quality, hours of construction and provision of an electric vehicle charging point.

Officer Note: It is noted that Electric Vehicle charging points are a requirement of building regulations and would be covered by that requirement in the event of any approval.

During the processing of application 2023/93237, the Council's Ecologist stated that although the submitted information details that there will be no impacts to roosting bats as a result of the proposed demolition of the structures within the site, the site is located directly adjacent to Grimescar Wood Local Wildlife Site (LWS), which is also designated as ancient woodland. They recommended that the proposals look to relocate the proposed garage at the site, as the proposals lie within 15m of the boundary of the woodland.

Given the amendments proposed as part of this application, whilst the Ecology Teams response to application 2023/93237 is noted, it is considered this application has addressed the concerns they raised through the re siting of the garage.

Planning Policy Background.

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).

Part of the land within the red line boundary of the site falls within Green Belt Allocation in the Kirklees Local Plan, however, given that no development is taking place within this part of the site and that it appears to form part of the residential curtilage of the existing dwelling, it is not considered that this allocation is relevant to the determination of this planning application.

The site is located in close proximity to public footpaths HUD/388/20 and HUD/389/20.

The application site is located within an area with a known presence of bats and within an area identified by the Mining Remediation Authority as been a low risk of ground movement as a result of former mining activity.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP7 – Efficient and Effective Use of Land
- LP11 – Housing Mix and Affordable Housing
- LP20 – Sustainable Travel
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP33 – Trees
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development

- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective 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 Guidance Documents:

- Kirklees Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Kirklees Waste Management Design Guide for New Developments (2020)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Nationally Described Space Standards
- National Design Guide

Legislation:

- The Town & Country Planning Act 1990 (as amended).
- The Planning and Compulsory Purchase Act 2004.
- The Conservation of Habitats and Species Regulations 2017

Assessment

1) Principle of 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 explored.

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. The NPPF was updated on 20th December, with paragraph 76 setting out the following:

Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five

years' worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*

The Council's Local Plan was adopted in February 2019 and is currently less than 5 years old.

Policy LP7 of the Kirklees Local Plan states encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

The site measures around 1,282,83sqm. Given that the proposed dwelling is to replace the one existing dwelling at the application site, in this instance, it is considered that the principle of the density of the development of the site for one dwelling has been established and in this case a higher density has potential impacts in terms of access and residential amenity of neighbouring occupiers.

In this case, the area of land to be developed is without notion within the Kirklees Local Plan. Given the existing residential use of the site, it is considered that the principle of redevelopment of the existing use in this location is acceptable, subject to the assessment of impacts on visual and residential amenity, highway safety and other matters.

1) Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed 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.

Policy LP24 of the Kirklees Local Plan 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...”

Policy LP11 of the Kirklees Local Plan sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities.

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.”*

Regarding the layout and siting of the proposed dwelling, Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street.

Principle 14 of the Housebuilders design guide states that the design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials.

Principle 15 of the above SPD sets out that the design of the roofline should relate well to the site context, including topography, views and heights of buildings and roof types.

In this instance, the existing building to be demolished comprises of a bungalow structure, with accommodation in the roof, with neighbouring properties to the north and north west also detached brick bungalows, with accommodation in the roof.

The dwelling to be constructed would be larger than that of the existing building / that of the previous refusal. It is noted that the case officer report of the previous refusal set out the following:

Officers would consider that a simpler and more traditional pitched roof with gable ends facing east and west would be more appropriate and sympathetic in this location, of a reduced height as to not appear overly dominating in the streetscene. The closest two-storey property to the site, 49 North Cross Road, has a simple pitched roof above, with small scale dormers incorporated.

The overall impacts of the height of the proposed dwelling are exacerbated further by the significant extent of engineering operations proposed to create the lower ground floor level. This further adds to the extent to which the new built form would be read as obtrusive when seen from the perspective of the southern elevation.

In this case amended plans have been submitted, which have revised the scheme down to a lesser quantum of development. Whilst it would be three storeys in appearance to the rear, the submitted plans demonstrate the land level at which the dwelling would be sited.

In addition, the submitted plans demonstrate that the re-sited dwelling would have a reduced footprint, height to eaves and height to the ridge.

The form and design of the dwelling has been amended to respect and reflect the character of the design of neighbouring dwellings to a greater extent than the previous refusal. First floor openings are incorporated within the eaves / roof level. The extent of glazing and the glazing curtain wall has been removed, in favour of a gable roof feature with glazing infill which is broken up through introduction of bay window features below.

On balance it is considered that reason 1 of the previous reason for refusal has been suitably addressed and whilst an extent of engineering operations would remain, and the dwelling would read as three storeys when viewed from the south, the impact would be reduced in size and scale from that of the previous refusal. Coupled with the design amendments proposed, it is concluded that the impact of the proposal would not be of such significance that the overall size, scale, massing and design would have a significant impact visually and that refusal on such a basis could not be reasonably substantiated in this case.

Principle 13 seeks to ensure consideration is given to use locally prevalent materials and finishing to reflect the locality.

In respect of materials, the dwelling is to be finished in natural local coursed stone. Whilst officers note that the existing dwelling is faced in brick, like neighbouring properties to the north and north west, the use of local coursed stone would be in keeping with the character of the area, with the adjacent

property of No. 49 North Cross Road faced in stone, as well as other properties located slightly further away.

The roof of the new dwelling would be infilled with concrete interlocking tiles, it is recommended these be of a grey colour finish, which would be in keeping with the character of the existing dwelling at the site, which is infilled with profile interlocking concrete roof tiles. A condition to ensure these suitable materials of construction is recommended to be included upon any grant of permission.

The proposed increase in hard surfacing is considered to be reduced from that of the previous refusal given it would not protrude as far within the site, although it is noted it would be sited to the east of the dwelling.

The previously proposed detached garage would be re-sited to the south eastern part of the site. This would be of a flat roof design with a green roof. Weight is afforded the fact this is of a lesser size and scale and given the siting, would not protrude significantly above the rear terrace.

It is noted the garage would be in an area of the site with increased level of prominence. The submitted plans indicate this would be located such that planting would screen the garage. Given the prominence of the garage and context, it would be viewed in connection with the host property, and affording weight to the fact permitted development rights allow for a certain level of development to the south of the existing dwelling for outbuildings in any event, it is considered it would be unreasonable of the Local Planning Authority (LPA) to refuse permission on the basis of this element of the scheme.

The scheme has been amended from that previously refused. The extent of the amendments is considered to lead to the conclusion that the development proposal has adequately overcome the previous reason for refusal (no.1) as detailed in the 'Planning History' section of this report. The quantum of development is considered to have been scaled down such that refusal on the basis of the previous reason (no.1) could not be substantiated in this case. This conclusion is drawn on the basis of conditions requiring a scheme of soft landscaping to be submitted for written approval by the LPA and the materials of construction being natural stone with grey tiles to the roof (and green roof to the garage).

The boundary treatments at the site are considered to be sufficient and have an acceptable visual impact, therefore it is not considered necessary for a scheme of boundary treatments to be submitted as part of this application. As part of this application, an identified ordnance datum is quoted on the submitted plan (drawing 2024/033/04RevF). It is recommended any approval requires the dwelling to be constructed in accordance with the level set out in this plan.

On the basis of inclusion of the recommended conditions, the proposal is considered to meet the requirements of policies LP1, LP2, LP11 and LP24(a) of the Kirklees Local Plan, Principles 5, 14 and 15 of the Housebuilders

Design Guide SPD and Chapter 12 of the National Planning Policy Framework with respect to its design and is therefore concluded to be acceptable in this regard.

2) Impact on Residential Amenity

Sections B & C of the Kirklees Local Plan Policy LP24 which 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 occupiers.

Principle 6 of the House Builders Design Guide sets out 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.

Principle 6 of the Housebuilders Design Guide SPD highlights that *‘the space between buildings can help maximise residential amenity in terms of maintaining privacy, reducing overlooking and ensuring natural light is able to penetrate the buildings...normally new build development should seek appropriate separation distances for servicing, accommodating future adaptations and creating attractive street scenes. These should be in keeping with the character and context of the site and proportionate to the scale of the dwellings’.*

The text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable room;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room windows 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.

Neighbouring properties with the most potential to be impacted by the proposals are discussed below.

No. 9 Fixby Park Drive:

This property neighbours the application site to the north.

The front elevation of the new dwelling would be separated from the shared boundary with No. 9 Fixby Park Drive by approximately 6.6m, an increase from 3.75 metres as proposed within the previous refused application.

The previously refused scheme sought to bring the new dwelling closer to the siting of this neighbouring property than the existing dwelling. The proposal the subject of this application increases the separation distance of the northern elevation of the dwelling by 1.8m. Further to this, the eaves and ridge of the proposal have been reduced.

In addition to these amendments, the submitted plans demonstrate that a 25° line, when taken from the centre of the ground floor window in the southern elevation of no.9, would not be cut by the proposal. This is a marginal improvement in terms of the existing dwelling which slightly cuts this line near the ridge of the roof (detailed upon drawing 2024/033/04RevF).

The glazing proposed to the first floor of the north facing elevation would not serve habitable rooms, with the floor plans showing it to serve a study at ground floor level. Four roof lights serving bedrooms, bathrooms and a hallway are proposed to the northern roof slope. A glazed entrance hallway is proposed at ground floor level. Given the siting of the roof lights, and the fact that openings at ground floor level would serve a study, the impact as a result of overlooking would not be significant in this case. A condition requiring the ground floor openings to serve the study to be obscure glazed is not considered to be required in this case given the option to install screen fencing which is available under Permitted Development Rights in this case (discussed in more depth towards the end of this section of the report).

Given the increased distance between the properties, and the revised design of the scheme, it is considered that the impact upon the residential amenity of no.9 would not be to such a degree that refusal could be reasonably substantiated in this case. The amendments to the scheme which have been undertaken are considered to be sufficient to enable the LPA to conclude the scheme has overcome reason no.2 and 3 of the previous refusal in relation to this property.

No. 8 Fixby Park Drive:

This property neighbours the application site to the north west.

The proposed new dwelling would have a minimum separation distance of approximately 6.6 metres from the shared boundary with No. 8 Fixby Park Drive (which is closer than the previous proposal by 1m). This distance is approximately the same as that of the house to be demolished.

The distance of no.8 and the proposed dwelling, at their closest points, is 11.2m.

The proposed detached garage has been re sited to the south east of the site, and intervening development would be between no.8 and the detached garage. An existing garage would be demolished which is in proximity to no.8.

Given the amendments to the site and the size and scale of the proposal (discussed in 'The Proposal' section and also 'Residential Amenity – no 9 Fixby Park Drive' section above), it is considered that the impact of the proposed development would not be significant in relation to no.8.

The terraced area is re-sited and screened by the proposed dwelling such that it would not lead to significant levels of overlooking as identified as present in the consideration of the previous refusal. Openings within the dwelling are designed such that one side window serving a bedroom would be angled and an obscure panel facing no.8 installed to overcome the identified conflict in this regard. In the event that planning permission be approved, it is recommended that this be secured by condition.

Ground floor openings would serve a lounge, although it is considered that the impact would not be significant taking account of the ground floor siting and land level the dwelling would be constructed.

It is therefore considered the proposal has suitably addressed and overcome reasons 2 and 3 of the previous refusal in respect of impact upon this property.

No. 49 North Cross Road:

This property is located to the north east of the application site.

The proposed new dwelling would retain a minimum separation distance of approximately 19 metres from this property. One habitable first floor window is proposed in the eastern facing elevation of the new dwelling which would achieve a distance of 21m from windows on the rear of no.49.

Given this extent of separation, it is not considered that the proposed dwelling would result in undue impacts of overbearing or overshadowing for the occupiers of No. 49 North Cross Road. It is also considered that the proposed first floor window to the eastern facing side elevation and the raised terrace would not result in undue impacts of overlooking.

Adjacent Undeveloped Land:

To the south of the application site is undeveloped land.

The rear elevation of the new dwelling proposed habitable room windows to all levels. The rear elevation of the new dwelling would retain a minimum separation distance from the shared boundary with adjacent undeveloped land of approximately 14 metres. Therefore, this separation is considered to appropriately accord with Principle 6 of the Housebuilders Design Guide SPD.

Amenity of future occupiers of the proposed dwelling:

Consideration must also be given to the amenity of future residents of the proposed dwelling. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accord with the 'Nationally Described Space Standards' document (March 2015). Internally, the proposed dwelling would have a GIA that would comfortably exceed the minimum space standards set out in the Nationally Described Space Standards (NDSS), therefore Officers are content that the proposed dwelling would provide an adequate standard of amenity for future occupiers. In addition, all habitable rooms benefit from at least one window and therefore Officers consider that there would be sufficient access to outlook and natural light.

In terms of amenity areas, Principle 17 of the Housebuilders Design Guide SPD discusses outdoor amenity areas. It highlights that external space should be able to provide space for activities such as playing, drying clothes and waste storage. Outdoor space should also be in part, able to receive direct sunlight for part of the day, all times of the year. The proposals in this instance would retain a large portion of the existing rear garden area and therefore the amount of garden space to be provided is deemed to be acceptable in relation to the scale and size of the proposed dwelling. In addition, given the orientation of the dwelling and its amenity areas it will benefit from direct sunlight throughout the day and therefore it is considered that the proposed amenity space would meet the requirements of Principle 17 of the Housebuilders Design Guide SPD.

Screen fencing in relation to ground floor openings.

Weight is afforded the fact there is an existing relationship between openings at the site and the existing dwelling.

The impact of fencing is considered to be acceptable on the basis that 2m high fencing is able to be undertaken via Permitted Development Rights in any event with any greater height of fence requiring permission.

Given the existing boundaries at the site, it is not considered necessary to require a condition for boundary treatments to be submitted to the LPA for written approval. The existing boundary treatments are concluded to be acceptable in terms of impact in relation to residential amenity given the realistic fall back that the dwelling could be utilised for residential purposes as stands at site now.

Furthermore, there is a realistic fall back that 2m high fencing can be installed in any case. Therefore, it would be unreasonable of the LPA to refuse permission on the basis of the impact of boundaries of the site / seek to control the boundaries of the site in this case.

Construction noise

Given the scale of the development, should planning permission be granted an informative will be attached which restricts noisy construction activities to certain times, this is due to there being potential for the loss of amenity to the

occupiers of nearby properties from noise and vibration during the construction phase of the development.

Residential Amenity – Conclusion

Weight is afforded the existing situation at the site / relationship between the existing dwellings, as well as the scale and design of the proposal and having regard to the planning history of the site.

The scheme has been amended and the most recent amendments have seen a development proposal which adequately addresses the residential amenity of neighbouring occupiers to ensure that the impact of the development is not to a degree which is concluded to be unacceptable.

The previously refused scheme has been revised and these revisions lead to the conclusion that the proposal has overcome the previous reasons 2 and 3 for refusal related to residential amenity impact and therefore it is concluded the proposal is acceptable in this regard.

3) Impact on Highway Safety

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

Principle 12 of the Housebuilders Design Guide sets out, amongst other things that parking to serve dwellings should not dominate streets and should be to the side/rear.

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

As part of the determination of this application, a formal consultation was undertaken with KC Highways Development Management. They confirm that as these proposals provide ample off-street parking and internal vehicle turning, they have no objection to these proposals.

There would be adequate space within the curtilage of the proposal for waste storage. New surfacing is proposed as part of the development and a condition to ensure this is adequately drained is recommended to ensure surface water discharge to the highway network does not occur.

Given the above, the proposals as submitted are therefore considered to comply with Local Plan Policies LP21 and LP22, subject to condition they

would comply with the guidance contained within the National Planning Policy Framework, and Principle 12 of the Housebuilders Design Guide SPD.

4) Other Matters

Contaminated Land:

With regard to land quality, Chapter 15 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development is relevant.

The proposed development site is not shown to be on land identified as potentially contaminated by its previous use, it is however shown as being close to historical quarries. The development involves groundworks, therefore, upon formal consultation with KC Conservation and Design, it was recommended that, upon any grant of approval, a condition regarding unexpected contamination be imposed.

On the basis of inclusion of this condition the proposal is considered to be acceptable in this regard.

Biodiversity & Trees:

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

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Principle 9 of the Housebuilders Design Guide SPD is also of relevance.

A bat survey report has been submitted with the application, which is welcomed. The report details that the buildings at the site provide negligible suitability for roosting bats and as such, the proposed development will have minimal impacts on roosting bats.

Although the submitted information details that there will be no impacts to roosting bats as a result of the proposed demolition of the structures within the site, the site is located directly adjacent to Grimescar Wood Local Wildlife Site (LWS), which is also designated as ancient woodland.

The scheme has been amended from that as proposed in relation to the previous refusal, re-siting the garage.

The National Planning Policy Framework, paragraph 193, states: "When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (70), and a suitable compensation strategy exists;”

Footnote 70, defines exceptional reasons as follows: “For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”

Regard should also be given for Policy LP30 (Biodiversity and Geodiversity) and LP33 (Trees) of the Kirklees Local Plan, with respect to the protection of ancient woodland and the natural environment.

Local Plan Policy LP33 relates to trees, within this policy it states that the Council will not recommend approval for developments which directly or indirectly threaten trees or woodlands of significant amenity.

The scheme has been amended to address the previous reason (reason no.4) for refusal whereby it was concluded *‘In the absence of the submission of information relating to whether demolition and construction works can be undertaken without significant impact to biodiversity and the existing trees within and adjacent to the application site, a full and proper assessment of the impact of the development cannot be undertaken’*.

In this case both the Council’s Tree Officer and the Forestry Commission have confirmed they have no objection to the proposal in light of the amended scheme. Therefore, it is considered the previous reason for refusal has been satisfactorily addressed in this case and the development is acceptable in light of the aforementioned policies.

The submitted details (Arboricultural Assessment) outline the trees to be removed. The Tree Officer states they have no objection to this on the basis that replanting is undertaken to mitigate this impact. This can be secured by condition which is recommended to be included should planning permission be approved.

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021), the development is considered to benefit from the self build exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no required for BNG to be provided in respect of the aforementioned legislation.

It is therefore concluded that the proposal would have an acceptable impact in this regard meeting the requirements of the aforementioned legislation and policy.

Climate Change:

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The application is supported by a Climate Change Statement, which sets out various mitigation measures.

In addition, and in accordance with Government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24 and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers would seek the provision of an electric vehicle charging point within the curtilage of the site to serve the new dwelling. The purpose of this is to promote modes of transport with low impact on air quality. This is now controlled by Part S of the Building Regulations which came into force in June 2022, and would not be repeated as a planning condition.

Drainage:

Policy LP28 of the Kirklees Local Plan & Section 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage.

The proposal would likely tie into existing drainage infrastructure, engineering operations would form part of the proposal although it is considered suitable measures to allow adequate surface water drainage to be in place can be accommodated given the land which would surround the proposed dwelling and could be utilised for this purpose.

It is therefore not considered necessary for a scheme of foul / surface water drainage to be submitted as part of this application and the proposal meets the requirements of the aforementioned policies in this regard.

Public Right of Way (PROW):

The site is located in close proximity to public footpaths HUD/388/20 and HUD/389/20.

Given that the proposed development would not prejudice the function, continuity, or implementation of these footpaths as walking or cycling networks, the proposal is considered to appropriately comply with LP23 of the Kirklees Local Plan.

In turn, it is considered that these footpaths would be protected following the erection of the proposed residential development.

There are no other matters for consideration.

5) Representations

The following representations which have been received are addressed as follows:

- No mention of where the removed soil and rock etc will be disposed of in relation to excavation works.
- Excavations of substantial volume of excavated material and associated HGV movements to / from the site required.
- Engineering operations associated with the development have the potential to disrupt groundwater drainage

Officer response: Given the scale of the development, it is not considered to be necessary for the LPA to require this detail to be submitted as part of this application and sufficient information is provided to enable the LPA to determine this case.

- Impact of a 2.1m high fence in relation to existing boundaries and also light / outlook.
- Ability for sight lines in relation to neighbouring properties beneficial in terms of security
- Proposal fails to take proper account of the relationship between the proposed development and their neighbouring dwelling at 9 Fixby Park Drive.
- Northern elevation will be taller and wider than the existing northern elevation of the dwelling at site.
- The neighbouring dwelling at 9 Fixby Park Drive has a ground floor conservatory / lounge window in its southern elevation which 1.4 metres from the boundary.
- Suitable assessment in relation to light has not been carried out.
- Severe reservations over rights of light to 9 Fixby Park Drive

- Full and objective study to prove there will be no impact / injury on the right to light to neighbouring properties at 9 Fixby Park Drive is required.
- Site is inadequate to accommodate development of the scale, height and massing presently proposed.
- Due to proximity to neighbouring dwellings it is vital the proposal is not overbearing, oppressive or leads to overshadowing.
- Boundaries are currently low walling, the proposal indicates it is likely that a higher boundary treatment would be installed.

Officer Response: This is addressed in section 3 of this report.

- Repositioning of the dwelling would improve impact to neighbouring properties

Officer Response: This application is assessed on the basis of the scheme as submitted against the relevant considerations.

- The proposal would be contrary to policy LP24 of the Kirklees Local Plan and principles 2, 5 and 15 of the Housebuilders Design Guide SPD.

Officer Response: This is addressed in sections 2 & 3 of this report.

- The proposal is contrary to paragraphs 135(f) and 139 of the NPPF.
- Visual impact of the proposal is unacceptable.
- As presently submitted the proposals adversely impact upon the character and appearance of this established residential area / residential amenity

Officer Response: This is addressed in section 2 of this report.

6) 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 subject to condition.

The conclusions drawn are that the scheme has been revised to overcome the previously identified reasons for refusal. It is considered the scheme is a size and scale whereby exceptional circumstances are present which require the removal of permitted development rights to ensure the visual impact, impact upon residential amenity and impact upon woodland can be ensured

and addressed should further development of the site be intended to be forthcoming.

Recommendation: Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/93359

Officer Recommendation: Conditional Full Permission

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 (as amended).

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

Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51 and LP52 of the Kirklees Local Plan, Principles 4, 5, 6, 12, 13, 14, 15, 16, 17 and 19 of the Councils adopted House Builders Design Guide, the Council's adopted Highways Design Guide and the policies within Chapters 2, 4, 5, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework

2. The roof of the dwelling hereby approved shall be constructed from concrete tiles of a grey colour finish, the external walls of the development hereby approved shall be constructed from natural stone, the roof of the detached garage shall be a green roof. The development shall not be brought into use until completed in accordance with the materials of construction approved by this condition which shall be retained thereafter.

Reason: In the interests of visual amenity to accord with Policies LP24 of the Kirklees Local Plan, Principle 13 of the Councils adopted Housebuilders Design Guide SPD and policies contained within Chapter 12 of the National Planning Policy Framework

3. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout to accord with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 of the Councils adopted

House Builders Design Guide, the Council's adopted Highways Design Guide and the policies within Chapter 9 of the National Planning Policy Framework

4. In the event that contamination not previously identified by the developer is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, No part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

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

5. The development shall not be brought into use until a scheme detailing hard and soft landscaping, tree/shrub planting, including the indication of all existing trees and hedgerows on and adjoining the site, details of any to be retained has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate the planting of native trees and hedgerows. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. The areas indicated for use as soft landscaping shall be retained as soft landscaped areas for the lifetime of the development and used for no other purpose.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity to accord with policies LP24 and

LP30 of the Kirklees Local Plan and the policies contained within Chapters 12 and 15 of the National Planning Policy Framework.

6. All openings annotated 'obscure glass' upon the first floor plan contained within submitted drawing titled 'Planning Drawing' ref 2024/033/04RevF shall be fitted with obscure glazing or a permanently affixed film which achieves a minimum privacy rating Grade 4. The development shall not be brought into use until the obscure glazing or a permanently affixed film which achieves a minimum privacy rating Grade 4 has been completed and which shall be retained thereafter.

Reason: To ensure the development has an acceptable impact upon the residential amenity of neighbouring occupiers and does not lead to overlooking to accord with policy LP24 of the Kirklees Local Plan, Principle 6 of the Council's adopted Housebuilder Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

7. The finished floor and slab levels of the development shall be in accordance with those shown on submitted drawing 2024/033/04RevF. The development shall not be brought into use until the finished floor and slab levels approved by this condition have been completed. The approved finished floor and slab levels shall be so retained for the lifetime of the development, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and the amenity of neighbouring occupiers to accord with Policy LP24 of the Kirklees Local Plan, principle 6 of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Class(es) A, AA, B, C and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity, residential amenity of neighbouring occupiers and protection of trees and woodland to accord with Policies LP24 & LP30 of the Kirklees Local Plan, Principles 6 of the Council's adopted Housebuilders Supplementary Planning Document and Policies within Chapters 12 & 15 of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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: No construction related noise should be audible beyond the site boundary outside the hours of: 07.30 to 18.30 hours Mondays to Fridays and 08.00 to 13.00 hours Saturdays with no construction related noise audible beyond the site boundary on Sundays or Bank/Public Holidays. Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited

Plans and Specifications Schedule: -

Plan Type	Reference	Date Received
Location Plan	LP01	03/12/2024
Site Plan – Planning Drawing	2024/033/05RevC	24/06/2024
South Elevations – Planning Drawing	2024/033/06	24/06/2024
Proposed Elevations and Floor Plans -Planning Drawing	2024/033/04RevF	24/06/2024
Survey Drawing	2024/033/02	03/12/2024
Topographical Survey		03/12/2024
Planning Drawing	2024/033/04RevF	24/06/2024
Arboricultural Report and Impact Assessment	22167/AJB	03/12/2024
Bat survey	231178	03/12/2024
Planning Statement		03/12/2024
Climate Change Statement		03/12/2024
Biodiversity Accounting	22175/ADo	03/12/2024

Assessment		
Application Form		11/12/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Discussions were undertaken to address areas of concern raised by the LPA.