

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	<b>2024/70/93464/E</b>
Site Address:	adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY
Description:	Variation condition 2 (plans) on previous permission 2023/91483 for demolition of garage and erection of detached dwelling
Recommending Officer:	Elenya Jackson

**DECISION – Variation of Condition - Approved**

**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: 17-Feb-2025

## **Site Description**

Land adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY.

The application site is located south-east of 33a Church Lane in Clayton West. The site currently serves a single storey garage and domestic garden associated with no.33a. It is apparent from historic imagery that the site has previously served garages. The surrounding area is predominantly residential dwellings which vary in terms of design and materials.

The site is unallocated within the Kirklees Local Plan but is located within the Strategic Green Infrastructure Network. There are protected trees within, and directly adjacent to the application site.

## **Description of Proposal**

This application is for the variation of condition 2 (plans) on previous permission 2023/91483 for 'Demolition of garage and erection of detached dwelling'.

This variation has been received due to officers being unable to discharge conditions associated with the site.

This variation would widen the width of the previously agreed car port to 7.7m from 5.8m.

The previous condition read as:

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

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14, and 15 of the National Planning Policy Framework.

The proposal seeks to amend the plans approved under the previous application.

## **History of Negotiations**

No amendments were sought.

## **Representations**

The application was advertised on the Kirklees Website and via neighbour notifications which expired on 15.01.2025.

Four objections were received which raised the following concerns:

- Impact of an additional dwelling
- Impact on protected trees
- Tree works not being carried out in accordance with tree works application
- Parking

One letter of support was received, setting out the impact to trees is considered acceptable.

### **Consultations**

The site is not within a Conservation Area and the proposal is related to the visual design aspects of the proposal and therefore no formal consultations have been deemed necessary.

### **Policy**

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

The site is unallocated within the Kirklees Local Plan but is located within the Strategic Green Infrastructure Network.

#### Kirklees Local Plan:

- **LP1 – Achieving sustainable development**
- **LP2 – Place shaping**
- **LP3 – Location of new development**
- **LP11 – Housing mix and affordable housing**
- **LP21 – Highway safety and access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP28 – Drainage**
- **LP30 – Biodiversity**
- **LP33- Trees**
- **LP35 – Historic Environment**
- **LP51 – Protection and improvement of local air quality**
- **LP52 – Protection and improvement of environmental quality**
- **LP53 – 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 (revised in February 2025) together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. NPPF relevant chapters:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

### **Assessment**

The proposed variations to the previously approved plans are set out in full above, within the 'Description of Proposal' section of the report. For the sake of ease, each variation shall be discussed individually.

### Proposed Variations

Previously, the proposal was approved for a dwelling with a carport on its eastern elevation.

This application has been received to revise the width of the proposed car port due to issues arising when the Swept Path Analysis was conducted to discharge other conditions attached to the original permission.

Officers have reviewed the plans and consider that the alterations would not have a significant impact on the visual aspects of the proposal as it would not significantly impact how the proposal would be perceived from the public realm.

Officers have informally discussed the application with KC Trees who have confirmed that providing the carport is constructed using the previously agreed cellular confinement system, no significant concerns would be raised regarding the proposals impact on the protected trees within the site.

There are further conditions outstanding relating but not limited to boundary treatments, contaminated land and a tree impact assessment.

It is considered that, as the proposed alterations would retain similar relationships with neighbouring dwellings, the proposal would result in an acceptable development in accordance with local plan policies LP24 and LP33 and Chapter 12 of the NPPF.

### **Representations**

- Impact of an additional dwelling  
Officer response: The principle of a dwelling in this location has previously been established.
- Impact on protected trees

- Officer response: Officers acknowledge comments in regards to the Arboricultural Impact Statement requiring updating. However, there is an outstanding condition to be discharged of which will address this matter.
- Tree works not being carried out in accordance with tree works application Officer response: This would be a separate matter to be investigated by KC Trees.

- Parking

Officer response: There would not be any reduction in the number of parking spaces on site and therefore no further impact on the highway in comparison to originally approved permission.

## **Conditions Review**

In the instance of any grant of approval of a Section 73 application, a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended.

Condition 1 would be amended to require the development to commence by 21<sup>st</sup> May 2027.

In the case of this current application, condition 7 would also need to be amended as it refers to the proposed elevations of the building; the plans list table would be updated to reflect the plans submitted as part of this application and those submitted as part of the original application.

## **Conclusion**

The proposed variations as set out above accord with all relevant national and local policy. This variation will still represent high quality sustainable development, whilst still maintaining a good standard of amenity for nearby dwellings.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2024//93464

**Officer Recommendation:** Approve

## **Conditions and Reasons**

1. The development hereby permitted shall be begun by 21<sup>st</sup> May 2027.

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

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

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14, and 15 of the National Planning Policy Framework.

3. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas are laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

**Reason:** In the interests of visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

4. Prior to occupation of the dwelling, one electric vehicle recharging point shall be installed. The scheme shall meet at least the following minimum standard for numbers and power output:

- A Standard Electric Vehicle Charging point providing a continuous supply of at least 16A (3.5kW) for each residential unit that has a dedicated parking space

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

**Reason:** In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

5. A bat and bird box shall be incorporated into the dwelling during the construction phase; the bird box shall be long-lasting Schwegler 'woodcrete' type or similar and shall be located away from sources of light and be sited at least 4 metres above ground level. The boxes shall be provided prior to first occupation of the dwelling and thereafter be retained.

**Reason:** To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders SPD and Chapter 15 of the National Planning Policy Framework.

6. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

**Reason:** In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

7. The development shall not be occupied until the obscure glazing, as demonstrated on the approved Proposed Plans and Elevations CVD 01 has been installed (to a minimum Grade 4). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the obscure glazing (to a Grade 4) shall thereafter be retained for the lifetime of the development.

**Reason:** To prevent overlooking to the neighbouring properties and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

8. No development shall commence (excluding the demolition of existing structures and site clearance) until:

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- a) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works

and/or mitigation necessary to address the risks posed by past coal mining activity.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

10. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

11. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 10 groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.

12. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 11 further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 12. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, 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. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local

Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

14. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

15. No development shall commence until a detailed Arboricultural Method Statement and Tree Protection Plan have been submitted to, and approved in writing by, the Local Planning Authority. The method statement shall include details of foundation design and how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. Thereafter, the development shall be carried out in complete accordance with the approved detail.

**Reason:** So as to protect to viability of the protected mature trees within close proximity to the application site and to accord with Policy LP33 of the Kirklees Local Plan. This is pre-commencement as it could affect the method of construction of the garden room.

16. Prior to development of the superstructure hereby approved, a swept path analysis must be submitted to, and approved by, the Local Planning Authority. The swept path analysis must demonstrate that all turning manoeuvres into and of the site with a large family car can be made in a safe and efficient manner.

**Reason:** To ensure adequate parking provision is provided in the interest of highway safety and to accord with LP21 and LP22 of the Kirklees Local Plan.

**NOTE:** A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof

- Standard charging points for single residential properties that meet the requirements specified in the latest version of “Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 socket outlet would be acceptable.

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation

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

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**NOTE:** It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

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

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

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

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

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

**Plans and Specifications Table:**

<b>Plans &amp; documents submitted for application 2023/91483</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	LOC		30/05/2023
Existing Site Plan	100(01)		30/05/2023
Planning Statement	2844		30/05/2023
Coal Mining Risk Assessment	J3596/16/EDS		30/05/2023
Tree Survey	230329		30/05/2023
<b>Plans &amp; documents submitted for application 2023/91483</b>			
Proposed elevations and site plan	CVD 01		11/02/2025
Arboricultural Impact Assessment	230329a AIA		16/02/2024

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.

Amended plans were requested during the course of the application to be able to determine the application and to reflect existing conditions.