

**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:	2025/62/90601/E
Site Address:	57, Thorncliffe Road, Staincliffe, Batley, WF17 7AS
Description:	Demolition of existing attached garage and erection of detached dwelling
Recommending Officer:	Elenya Jackson

DECISION - Refuse

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: 9-May-2025

Officer Report

Site Description

The application site is located on Thorncliffe Road across from Ashcroft Close.

No.57 currently has a single storey side extension which provides a double garage for the host dwelling. There is an existing hard standing in association with no.57. The current location of the garage would form the application site as the existing garage would be demolished.

The area is predominantly residential, the material palette is similar in that they are predominantly constructed out of red brick; however, there are variances in terms of scale and design.

The site is within a low risk coal zone and a bat alert layer.

Description of Proposal

This application has been received for the demolition of the existing garage and the erection of one detached dwelling.

The dwelling would feature a pitched roof with a gable end on its eastern and western elevation.

The dwelling would have a maximum height of 8.8m with an eaves height of 5.5m.

At ground floor level the dwelling would have a depth of 15.3m as there is a 5.4m single storey rear projection proposed. At first floor this would be approximately 9.9m.

The proposal would be set back from the street scene by 7.3m and will provide parking space for 4 vehicles.

The plans outline that the dwelling would be constructed from red brick.

History of negotiations/amendments received

During the course of the application, revisions were required in response to land ownership disputes. The agent was informed of the recommendation for the application, highlighting the advice provided at pre-application stage. Any amendments were deemed to be so significant to be determined under this application.

Relevant Planning History

Planning Application

009/92959: Erection of attached garage with store room over. Conditional Full Permission

Pre-application advice

2024/21026 - Replacement of the existing garage with a single dwelling.

Officers comments were largely supportive of the application with regards to visual amenity and highway safety. It was outlined within the pre-application response, that there were side windows on the adjoining neighbour that would need further consideration at full application stage.

Officers comments were as follows:

'No.1 features four side facing windows. These are thought to be secondary windows. Subject to confirmation that the windows are secondary, it is considered that, although there would be 3.3m between the side elevations of both properties, the proposal would not raise any significant concerns regarding overshadowing/loss of light. If the windows are the only source of light to habitable rooms any development would need to retain adequate space to prevent a loss of amenity. This is set out at paragraph 7.19 of the House Builders SPD'.

Representations

The application was advertised by a site notice which expired on 19/04/2025

No comments were received.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highways Development Management: No comments subject to appropriate advisory notes being attached to any decision requiring a section 184 approval for the widening of the access.

KC Environmental Health: No objections subject to conditions relating to contaminated land.

Policy

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.

Kirklees Local Plan:

- 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 - Highways Safety and Access
- LP 22 - Parking
- LP 24 - Design
- LP 28 - Drainage
- LP 30 - Biodiversity and Geodiversity
- LP 33 - Trees
- LP 43 - Waste Management Hierarchy
- 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 Healthy 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

Supplementary Planning Guidance

Housebuilders Design Guide SPD (2021)

Kirklees Council has adopted supplementary planning guidance on new housing development which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing development.

Highway Design Guide SPD (2019)

Kirklees Council has adopted supplementary planning guidance on highway design which carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding highway design and layout, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to highway design

Assessment

Principle of development:

NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan outline a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- b) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023

demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal.

Having visited the site, officers are of the opinion that the site is within a residential strip of development in a sustainable location. The location of the site has limited amenity or environmental value as it has previously been developed as such, the principle of erecting a new dwelling in this location may be acceptable, meeting the requirements of Policies LP1 of the Local Plan and Chapters 2, 5 and 9 of the NPPF in this regard.

Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 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...”

The NPPF states that design guides and codes can be prepared at an area-wide, neighbourhood or site specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents.

In addition to this, the NPPF outlines 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.

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

Principle 15 of the Kirklees Housebuilders Design Guide SPD states that the design of the roofline should relate well to site context. Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.

As previously highlighted, the site is currently developed and would be an infill dwelling between existing dwellings.

The proposal would respect the existing build line of the street scene as it would not be located forward of the properties to the east or west and would be of a height which would be similar to the properties either side.

The visual appearance of the dwelling has been reviewed by officers in the context of the character of the wider area. The properties in the immediate vicinity of the site are not uniform in design and scale; however, it is considered that the dwelling has incorporated appropriate characteristics from the local vernacular into its design. The use of red brick as the main material of construction would be acceptable. Samples of the materials or specific details have not been provided to support the application; however, officers consider that the material palette is reflective of the area. In the event that planning permission be approved, it is recommended that a condition be attached to ensure the proposed materials integrate with the context of the site.

The design of the proposal draws characteristics from the dwellings to the south. In terms of scale and details.

As the dwelling would be located within a collection of properties that are not uniform in appearance, it is considered that the use of sympathetic materials

and similar characteristics will act to integrate the dwelling in the street scene, with no significant harm created.

Given the above, the proposal is considered to be in accordance with Policies LP24 of the Kirklees Local Plan and Chapters 12 of the NPPF.

Residential Amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings. Further to this, 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.”

In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Builder’s Design Guide SPD goes into further detail with respect to Key Design Principle 6 on maintaining high standards of residential amenity.

1 Norfolk Avenue: The proposal would be located situated on the common boundary and 3.2m away from the side elevation of this neighbour.

Overlooking: The proposal would not feature any side facing windows.

Overshadowing/loss of light: No.1 features four side facing windows, two at ground floor and two at first floor. Officers have conducted two site visits to ascertain the use of the rooms associated with these windows as the property is currently undergoing renovation works. At ground floor level, one of the windows would be a secondary window to a front facing room with a bay window and the additional ground floor window would not serve a room large enough to be considered habitable. Officers have conducted additional site visits to discuss the proposal with the owner of no.1 as the property is not currently occupied and is undergoing internal works. Via the aforementioned site visit investigations, it was confirmed that at first floor level, the two side facing windows are to relate to additional bedrooms. As the proposal would

be located to the west of no.11, when coupled with the close proximity of the dwelling and the orientation of the properties, it is considered that the proposal would have an unacceptable impact on the residential amenity of these upper floor windows.

No.3 Norfolk Avenue: Adjoins the site to the northeast.

Overlooking: The proposal would feature rear facing windows. It is considered that this would have an offset relationship with the rear of no.3 and continue existing relationships in the street scene. Therefore, no significant issues would arise regarding overlooking.

Overshadowing/loss of light/overbearing: The proposal would largely be in-line with existing development in the street scene and would have an offset relationship with the rear of no.3. Therefore, no significant issues would arise regarding overshadowing/loss of light or overbearing.

No.57 Thorncliffe Road: Adjoins the application site to the west:

Overlooking/Overshadowing/loss of light: No.57 has three side facing windows on the single storey rear projection and one window on the main dwelling that correlates to each floor. One of the windows on the single storey rear projection is overshadowed by the existing garage and the additional windows are multiple aspect; therefore, no significant issues would arise regarding overshadowing/loss of light. The ground floor window of the three windows on the main dwelling, would be a secondary window to a living room. The windows are located on the eastern elevation of the property and therefore no significant issues would be raised regarding overlooking or overshadowing.

Overbearing: The proposal would be located 2.6m away from the side elevation of no.57. Therefore, no significant issues would arise regarding overbearing.

It is considered that once occupied the dwelling is unlikely to generate significant levels of noise. However, the site is surrounded by residential properties and the occupiers of these could potentially be disturbed by noise generated during the construction process. To avoid this, it is recommended that in this instance a footnote is imposed limiting such works to between the hours of 7.30am and 6.30pm Monday to Friday, 8am and 1pm on Saturdays with no working permitted on Sundays or Public Holidays.

In view of the above, it is considered that the development would not be acceptable in regard to neighbour amenity terms and would fail to meet the requirements of policy LP24 of the Kirklees Local Plan and of the Housebuilders Design Guide SPD (2021) in this regard.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: "All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers.

Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”

Notwithstanding the above, National space standards require the following gross internal floor area for a two bed one storey dwelling:

- 3 Bedroom, 4-person dwelling set over 3storey's- 90 square metres
- 3 Bedroom, 5-person dwelling set over 3 storey's- 99 square metres
- 3 Bedroom, 6-person dwelling set over 3 storey's- 108 square metres

The proposed floor plans show the proposal would have three bedrooms and therefore is required to have an internal floor space of a minimum of 90m². The development would comfortably exceed due to having an internal floor space of 105m² at ground and second floor.

The proposal would have an acceptable impact on the future occupiers of the application.

Impact on Highway Safety:

With regards to Highways Safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options.

KC Highways DM have been formally consulted as part of this application, as the proposal would intensify the domestic use at the site.

Officers have not raised any objection to the proposal however their comments are that a section 184 license would be required for any alterations to the highway.

In the event that planning permission be approved, it is recommended that conditions are attached to ensure that the driveway is appropriately surfaced and drained in accordance with standard guidance. This is to ensure the additional hard surface does not result in an increase in surface water run-off and flood risk, details of how the alterations to the access will be provided.

Details of bin storage have also been presented on the proposed plans in and have been considered acceptable. Therefore, having taken into account the above, KC Highways Development Management consider the off street parking to be acceptable and the application can be supported subject to the aforementioned conditions.

In view of the above it is considered that the proposal will be acceptable in highway safety terms reasonably satisfying the requirements of Policies LP21 and LP22 of the Local Plan and of the Highway Design Guide SPD (2019) in this regard.

Other matters:

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 pre-dates 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.

The proposal is for the erection of a semi-detached pair. The details provided in the climate change statement are considered sufficient. This would comply with the aims of policy LP24 and LP51 of the KLP and chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Bats/ Ecology

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity and outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

The site is located within a bat alert layer on the councils GIS system. The proposal has not been supported by a preliminary roost assessment and it is unknown if the site has been the habitat of any protected flora and fauna.

Officers would usually request these details are provided during the processing of the application; however, as it has been identified that there are significant concerns regarding the proposals impact on the adjoining neighbours, it is considered it would be unreasonable at this time. It is noted that the garage is a reasonably new addition to the site and did not appear to have roosting potential at the time of the site visit.

However, it is recommended that this is added as a secondary reason for refusal at this time as there is insufficient ecological information to assess the proposals impact. To reach any other conclusions would fail to accord with policy LP30 of the Kirklees Local Plan.

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 requirement for BNG to be provided in respect of the aforementioned legislation

Contaminated land/Coal Mining Legacy:

The site is located in a low risk coal area. The Councils' Environmental Health officers have recommended that a condition is imposed on any approval requiring the submission of details relating to the unexpected discovery of contaminated land. In the event that planning permission be approved, it is recommended that a condition to this affect be attached.

Subject to the imposition of conditions, it is considered that the proposal will reasonably satisfy the requirements of Policy LP53 of the Council's adopted Local Plan and of Chapter 15 of the National Planning Policy Framework in land contamination terms.

Representations:

N/A

Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2025/62/90601/E

Officer Recommendation: Refuse

Reasons

1. Due to the scale, location and proximity and orientation of the proposal, it would result in an unacceptable overbearing and overshadowing relationship to the first floor side facing windows of the occupiers of 1 Norfolk Avenue contrary to Policy LP 24 of the Kirklees Local Plan, Key Design Principles 3, 5 and 6 of the Kirklees House Extensions and Alterations SPD and guidance contained within Chapter 12 of National Planning Policy Framework. – IS IT NOT JUST THE UPPER FLOOR WINDOWS??

1. The application provides insufficient information to adequately assess the ecological impact of the proposed development. Given the failure to submit a preliminary roost assessment to demonstrate whether protected species would be affected by the development, the proposal is contrary to Policy LP30 and LP52 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		1	2/022024
Site layout plans	01	2	5/02/2025
Grouped plans and elevations	01		27/09/2024
Climate change statement	July 2022		26/09/2024

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 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.

No revised plans were requested.

