

**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:	2025/62/90768/E
Site Address:	Land Adj, 2, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EP
Description:	Erection of detached dwelling and associated external works
Recommending Officer:	Edward Cheseldine

DECISION - REFUSED

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

Emma Thompson

AUTHORISED OFFICER

Date: 30-May-25

Officer Report

2025/90768 - Land Adj, 2, Hopton Hall Lane, Upper Hopton, Mirfield, WF14 8EP

Site Description

The site is part of residential garden space of 2 Hopton Hall Lane. The area of development is located to the south of the existing dwelling. There are residential dwellings to the north, south and west of the site. To the east are open fields which are part of the Green Belt. The site contains 1no. protected tree (22/95/t45). There is a mild gradient that slopes from south to north.

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

Hopton Hall Lane is a road with a countryside character due to the traditional dwellings on the street, views towards open fields and trees that line the road.

Description Proposal

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

The proposed dwelling will have an 'L' shaped footprint. It will be 13.20m(w) x 27.70m(l). The front section of the house will have an eaves height of 4.20m and a ridgeline height of 7.90m. The rearward projection will have an eaves height of 3.40m and a ridgeline height of 6.10m.

The roof design will be formed of a hipped-cross-pitched roof. A glazed front façade will be erected on the east facing elevation.

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

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

Amendments/Negotiations

The applicant recently received a decision following an application for residential development, reference 2024/93055. The Officer report provides clear assessment and reasons for refusal, which have not been overcome within this new proposal. Reason for refusal 1 related to the scale and roofline of the dwelling. Reason for refusal 4 related to the impact to protected tree (22/95/t45). These matters have not been overcome within this application.

The scheme requires a complete redesign, reduction in scale, altered position and layout and hardstanding material in order to overcome the reasons for refusal. As per the Kirklees DM Management Charter, if planning applications require significant amendments, the agent will be informed, and a decision issued.

The previous Officer Report details the reasons for refusal. The new application fails to address the relevant matters and as such it is considered the application can be determined as per the Kirklees DM Management Charter.

Public Representations

The application was advertised by neighbourhood notification letters, which expired on 07 May 2025. As a result of the publicity, 3 representations have been received summarised below:

- The size and scale of the property is overpowering.
- The appearance of the dwelling is out of character with the surrounding buildings as are the proposed materials
- The property will dominate views from all sides
- The storage areas could be converted into bedrooms, increasing the number of occupants and adding to traffic on Hopton Lane.
- The garage and parking spaces appear very large for a three bedroom house
- The dwelling will impact on traffic on Hopton Lane
- It would also appear that the new building would still overlook the existing dwellings at 2 Hopton Hall Lane, 5 Chiltern Drive and possibly the ones on Fairways
- The revised proposal is still an extremely large overbearing development which is out of character with the surrounding properties.
- The revised proposal is no further away from our boundary than the original submission. It is still approximately 1m from our boundary at the closest point.
- The size and proximity of the development would result in a loss of outlook and light

- There are now 8 ground floor windows and 7 windows in the roof space which face numbers 1 and 3 Fairways. With these windows being so close to the boundary, we feel these would result in an even greater invasion of privacy to these 2 properties than the original proposal.
- The revised Planning Application will adversely affect the enjoyment of my property.
- Unless the windows are below the current boundary, a dry stone wall 3 feet high, my property will be overlooked by the proposed development. This will affect my enjoyment of the garden at the rear of my house.
- Currently, 2 Hopton Hall Lane is "screened" from the gardens at Nos 1 and 3 Fairways, by laurel and conifer hedging. The proposed development shows the removal of the laurel and conifer hedging that will only be partially replaced by ornamental trees that will not provide a "screen" between Nos 1 and 3 Fairways and the new building at 2, Hopton Hall Lane
- The revised plan states that the original entrance to the proposed dwelling will be changed. Hopton Hall Lane is a narrow, winding lane leading from Hopton Lane into Hopton village. A great deal of traffic uses this lane - cars, HGVs, delivery vans and farm machinery. The creation of another driveway onto Hopton Hall Lane is not practicable. I suggest that the proposal is referred back to Kirklees Highways with the additional information of the numbers and types of vehicles already using this lane.
- I am also concerned that the proposal does not indicate how foul sewage will be removed from the proposed dwelling

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

Consultation Response

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

KC Environmental Health – Informal comments. No objection, subject to conditions.

KC Trees – Objection

KC Highways – Informal consultation. No objection.

Relevant Planning History

2024/93055 - Erection of detached dwelling and associated external works – Refused

Pre-application Advice

The applicant has previously received pre-application advice for residential development on the site, in 2019. Block plans were submitted, without the submission of elevation plans or an Arboricultural Impact Assessment. The scale, position and layout of the indicative plans has changed significantly from when the advice was received.

Policy & Legislation

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

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

Kirklees Local Plan (LP):

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

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first

launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations

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

The following matters are considered in the assessment below –

- 1) Principle of Development
- 1) Impact on Visual Amenity
- 2) Impact on Residential Amenity
- 3) Impact on Highway Safety
- 4) Environmental Issues
- 5) Representations
- 6) Conclusion

Principle of development

Sustainable Development

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

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be assessed.

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

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

New Dwellings

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

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

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

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

Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate 3 dwellings. It is recognised that there are a number of constraints within the site, including a protected tree and aspects of highway safety due to the access onto Hopton Hall Lane. There are large, detached dwellings off Hopton Hall Lane and a sense of openness throughout the area. Therefore, for the purposes of density, 1 dwelling would be acceptable providing the plans meet the requirement of footnote 8 of the NPPF.

Impact on Visual Amenity

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

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

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Application 2024/93055 sought planning permission for residential development on the same site. It was refused (reason 1) as follows: *the development, due to scale and roofline, would introduce a form of*

development that fails to consider the wider existing urban grain and topographical features of the landscape. Introducing such a development would harm the sense of place along Fairways, appearing cramped within its locality introducing a scale that departs from the existing character found within the local site context. It would therefore be contrary to Principles 2, 4, 5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

This application has introduced a hipped roof design, reduced the width of the building by 0.40m, reduced its length by 1.30m, reduced the eaves height of the front section by 0.40m and ridgeline by 0.45m. The height of the ridgeline of the rear extension has been reduced by 0.75m. The overall scale of the building has, therefore, only been marginally reduced and does not go far enough to overcome the impact presenting a dwelling that sits uncomfortably within the plot and against the urban grain of the area.

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

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

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

The proposed dwelling will accommodate a significant proportion of the housing plot due to its scale, concerns in this regard were previously raised, and this development introduces only minor amendments in terms of scale. There is a considerable vertical massing on the southern boundary as the pitched roof extensions along it to a height of 7.10m at a length of 27.70m.

2 Hopton Hall Lane is a large Farmhouse dwelling with a generous residential curtilage, the plot of which will be reduced by the introduction of a large dwelling. There is low housing density at this particular point in the street. Existing residential development typically has generous side space. In addition, there is a mild gradient as the land slopes downward from south to north.

As a consequence of the scale and design, the dwelling appears disproportionate to the size of the plot. It contains a large rear projection that appears disconnected to the front section. Vertical massing is located along the length of the site in the form of a two-storey section that reduces to a 1.5 storey section. The built form therefore dominates the plot given the remaining space around the property. It is acknowledged that the some of the vertical massing of the dwelling has been reduced since the previous application, due to the change to a hipped section of roofing, however the overall footprint and scale has only marginally been changed, leading to a cramped form of development.

Given the overall scale and roofline of the proposed dwelling, the development would introduce incongruity within the existing development which fails to assimilate into the building group due to its disproportionate scale and vertical mass in considering of the plot and wider local context.

The impact in consideration of local context is relatively unchanged since application 2024/93055 and is not considered to overcome reason for refusal 1 in totality.

Principle 4 regards density in a visual sense, paragraph 7.2 states, '*Density should positively respond to the scale, form and massing of the surrounding locality*'. When considering the size of the plot, the dwelling is significantly large dominating the area of development along Hopton Hall Lane. At sections the plot is ~16.20m wide, whilst the dwelling proposed is ~13.20m. The scale of the building is not appropriate to the size of the plot. There is a large rearward projection that leaves a ~2.30m space to the rear boundary. It is noted the scale of the dwelling is relative to the Park Farm building, however the proposed development plot is considerably smaller. The dwelling will therefore appear cramped within its locality introducing a scale that departs from the existing character found within the locality of the site.

The spacing and scale of the dwellings has only been marginally amended, it is still considered the development remains too large a dwelling for a relatively small plot, therefore reason for refusal 1 of 2024/93055 has not been overcome to this regard.

Principle 5 regards the coherence of layouts and the visual connection to surrounding areas. The ridgeline of the proposed dwelling sits in a position against the properties on Fairways. The design has been amended to reduce the ridgeline of the rear projection and create a hipped roof on the front element of the building. It will reduce the visibility of the dwellinghouse from viewpoints along Fairways, although it is still considered the front section of the building will be visible. The roofline of this section of the building is 13.30m in length. It appears above the boundary treatment along Fairways and will be present due to the higher land to the south and from the rear of the dwellings that line Fairways. In terms of this, the visual connection of the surrounding landscape will be harmed therefore, Principle 5 has not been overcome.

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

External materials will be stone walling, with stained wooden edge boards details. The roof will be clad in stone slates. In addition, there will be a large wooden glazed frame on the east elevation. Notwithstanding the above assessment in terms of scale, the appearance of the materials are considered suitable to the setting of the area, they relate to Park Farm dwelling and have a rural character.

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

The property features a hipped-cross-pitched roof. The hipped roof form at the front of the building, removes the block appearance of the front of the dwelling from the previous application. The build-up of vertical massing along the southern boarder has been minorly reduced, however remains dominant. The design of which does not respect the existing spatial pattern or the topography of the site. Considering how the rooflines join, the design is incongruent.

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

The development, due to scale and roofline, would therefore introduce a form of development that fails to consider the wider existing urban grain and topographical features of the landscape. Introducing such a development would harm the sense of place along Fairways, appearing cramped within its locality introducing a scale that departs from the existing character found within the local site context. It would therefore be contrary to Principles 2, 4, 5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF. The concerns outlined reflect those raised under the assessment for 2024/93055 (Reason 1) which have not been overcome.

Impact on Residential Amenity

Section B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”* The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

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

Impact on 2 Hopton Hall Lane

2 Hopton Hall Lane sits ~18.80m to the north of the application dwelling. In terms of privacy, there is a window within the gable-end which the floorplans indicate will be a bathroom. If the application was approved, it would be conditioned this window is obscurely glazed to meet the requirements of LP24b. In addition, there are several side facing skylights and ground floor windows. In terms of the ground floor windows, in the interest of privacy, it will be conditioned that a landscaping plan is submitted to be discharged. A key is present on drawing: (20)002, however for clarity of placement and confirmation of size and materials, this will be conditioned.

The Kirklees Housebuilders Design Guide SPD states a 2.0m distance of separation should be provided between the side elevation and boundary, which is achieved. The roof has been hipped drawing the central mass away from the boundary, given this, the relationship is acceptable in terms of complying with Policy LP24 (b) and will not create an overbearing structure.

The change in window placement and hipped roof shape will therefore overcome the reason for refusal in relation to the impact to the amenity of residents of 2 Hopton Hall Lane.

Impact on 1 Fairways

1 Fairways is set away at a 45 degree angle to the application dwelling. In terms of privacy, there are 3 skylights at a first-floor level and several ground-floor windows that face towards the property. One skylight will light a w/c area it will be conditioned this window is obscurely glazed to protect privacy.

The additional areas light a room indicated as a 'void' that light the ground-floor. As the windows are high level, lighting a ground floor level, there will be no impact to privacy.

In addition, there are several ground-floor windows, however the boundary treatment would obstruct the outlook of these windows. For clarity regarding the proposed boundary treatments, this would be conditioned as they do not appear clearly on plans.

There is vertical and horizontal massing on the southern border of the application site due to the roofline. A hipped roof has been introduced to reduce the mass of the tallest part of the structure being located adjacent to the boundary. 1 Fairways is a two-storey dwelling and is set a 45-degree angle to the application dwelling. The pitched roof of the front section of the building sits approximately 15.30m from the outlook of 1 Fairways, set at an angle. Given the distance and angle of outlook from the first-floor windows, there will not be a loss of outlook, light or an overbearing impact from the new

dwelling. The changes to the previous design will therefore overcome reason for refusal 2 of the previous application in relation to 1 Fairways.

Impact on 3 Fairways

3 Fairways is a 1.5 storey property that is located to the south of the application dwelling. It has a direct relationship with the proposed side elevation.

The application property includes skylight and ground-floor windows. In terms of the skylights, these will be high level and set within the roof plane, they will have an angled outlook. Given the windows will not host views of the property, the relationship is acceptable. Ground floor windows will have a view towards the landscaped area. The dwelling is set down and there is an existing boundary treatment. In any event, it will be conditioned that a full boundary scheme is submitted for clarity.

Windows at 3 Fairways light a kitchen/diner and a bedroom. At this particular point in the ridgeline height is 12.45m. The ridgeline will be set away from habitable windows by 19.45m. Therefore, there will not be a loss of outlook, or a loss of light.

As the roofline is set away from the boundary, there will not be an overbearing impact when the garden space is in use given the height and distance between the ridgelines.

Impact on 5 Fairways

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

The south-west corner of the property will be ~3.80m from the boundary. Due to the low eaves height, it is not considered there will be a loss of outlook, loss of light or an overbearing impact.

5 Chiltern Drive

5 Chiltern Drive is located to the north-west of the development site. The plot shares its boundary with the west of the development site. Windows of the rear projection will be from high level skylights, the nearest is 7.10m from the boundary. They face upwards and the outlooks are angled away from the property. Given the relationship, the windows are acceptable in terms of privacy. Overcoming reason for refusal 2 of application 2024/93055 in terms of an impact to 5 Chiltern Drive.

Due to distance from the property and the eaves height of the rear projection, there will not be a loss of light, outlook or an overbear impact.

The new dwelling would therefore be acceptable in terms of Local Plan Policy LP24b&c, Principle 6 of the Kirklees Housebuilders Design Guide SPD Paragraph 135 of the National Planning Policy Framework in terms of impact to neighbouring occupiers.

Amenity of the Proposed Occupiers

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers.”* *“The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers.”*

Internal space standards are outlined within the Nationally Described Space Standard (NDSS). Space standards indicate a 2 storey dwelling with 3 bedrooms requires a minimum internal floorspace of 74m².

Double bedrooms must be at least 11.5m² with the first been a width of 2.75m.

The internal space of the dwelling far exceeds the minimum space standards set out within NDSS.

Notwithstanding this, an assessment should not just be conformed to a numerical calculation but of the quality of the functionality of habitable space. All bedrooms have a good flow of natural light from window openings and are spacious to allow for storage and walkways.

Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

In terms of outdoor space for the enjoyment of occupiers, the dwelling includes a courtyard to the rear which is considered private. This area is spacious allowing for a suitable enjoyment for the number of occupants.

Impact on Highways Safety

Policy LP21 states all proposal should ensure the safe and efficient flow of traffic within the development and on the surrounding highway Network.

Policy LP22 and the Kirklees Highways Design Guide Supplementary Planning Document are relevant insofar as they relate to parking provisions.

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

KC Highways had no objection to the access. Visibility splays of 2.4m x 43m with a 1m offset are achieved. Plans indicate there will be 5 car parking spaces. The number of parking spaces accords with Key Design Driver 20 of the Kirklees Highways Design Guide Supplementary Planning Document given the number of bedrooms the dwelling will host.

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

Environmental Matters

Paragraphs 187, 193, 194 and 195 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission for minor sites granted pursuant to an application submitted after 02 April 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

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

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

Historic Coal Legacy

LP53 relates to contaminate an unstable land.

The site falls within a high-risk development area. A Coal Mining Risk Assessment was subsequently submitted and reviewed by The Mining Remediation Authority. The report identifies a risk to the proposed development from possible past unrecorded shallow and surface mining activity.

The Mining Remediation Authority recommended suitable conditions to determine the extent of any works or mitigation that may be required which will be included as part of the decision for approval. In the event that planning permission is approved, appropriate conditions will be attached.

Trees

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

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

Once again, as stated previously, these proposals cause concern from an arboricultural perspective, as the total overlap of the driveway and access route covers a significant portion of the total RPA.

According to BS5837: 2012 new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA. It is acknowledged that a pink rectangular area has been added to access driveway to suggest that it could be constructed using cellweb panels however, the AMS details

root pruning within the blue portion of the RPA. Therefore, the use of Cellweb in this area would be somewhat redundant as tree roots would already be severed in this area to accommodate the proposals.

There remains an objection to the development from an arboricultural perspective.

The amount of hardstanding material to the front of the dwelling, would cover a significant proportion of the tree roots. The AMS details significant pruning of roots and the coverage of roots by hardstanding material which would cause harm to the health of the protected tree. It is considered a design within the plot could be achieved that would allow for a dwelling whilst reducing the harm to the protected tree. This would in turn reduce the scale of the dwelling, its position and the amount of pruning required due to the hardstanding material. The development therefore conflicts with LP33 of the Kirklees Local Plan and would result in damage and the pruning of a significant proportion of the roots of TPO 22/95/t45.

Contaminated Land

Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 198 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

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

Construction Site Working Times

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

Electric Vehicle Charging Points

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

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Representations

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

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

Visual Amenity

- The size and scale of the property is overpowering.
- The appearance of the dwelling is out of character with the surrounding buildings as are the proposed materials
- The property will dominate views from all sides
- The revised proposal is still an extremely large overbearing development which is out of character with the surrounding properties

Officer Comment: The new dwelling has been assessed within the *Visual Amenity* section of the report. It fails to meet 2, 4, 5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document that relate to the size, scale and appearance of the building.

Residential Amenity

- It would also appear that the new building would still overlook the existing dwellings at 2 Hopton Hall Lane, 5 Chiltern drive and possibly the ones on Fairways
- The revised proposal is no further away from our boundary than the original submission. It is still approximately 1m from our boundary at the closest point.

- The size and proximity of the development would result in a loss of outlook and light
- There are now 8 ground floor windows and 7 windows in the roof space which face numbers 1 and 3 Fairways. With these windows being so close to the boundary, we feel these would result in an even greater invasion of privacy to these 2 properties than the original proposal.
- The revised Planning Application will adversely affect the enjoyment of my property.
- Unless the windows are below the current boundary, a dry stone wall 3 feet high, my property will be overlooked by the proposed development. This will affect my enjoyment of the garden at the rear of my house.
- Currently, 2 Hopton Hall Lane is "screened" from the gardens at Nos 1 and 3 Fairways, by laurel and conifer hedging. The proposed development shows the removal of the laurel and conifer hedging that will only be partially replaced by ornamental trees that will not provide a "screen" between Nos 1 and 3 Fairways and the new building at 2, Hopton Hall Lane

Officer Comment: In terms of residential amenity, the applicant has not sufficiently demonstrated that privacy will be retained as plans that include all proposed boundary treatments have not been submitted. A planning condition would be set if the application was due to be approved that boundary treatments are sufficient to screen the plots of neighbouring dwellings. However, the view from first-floor windows are not considered to lead to an impact to residential amenity that would be refusable. Skylight windows in the rear projection are angled away from 3 Fairways and are high level. On the front section, 1 window will be obscurely glazed, the other windows light the ground floor level through the floor void. This will not amount to a greater impact upon privacy.

In terms of the close relationship with the boundary to the south, whilst it does contravene with space specifications, due to the land slope and roof form, it will not lead to a negative impact to neighbouring occupants that would be refusable. Matters of outlook, light and an overbearing impact have been assessed in the *Residential Amenity* section of the report.

Highway Safety

- The storage areas could be converted into bedrooms, increasing the number of occupants and adding to traffic on Hopton Lane.
- The garage and parking spaces appear very large for a three bedroom house

- The dwelling will impact on traffic on Hopton Lane
- The revised plan states that the original entrance to the proposed dwelling will be changed. Hopton Hall Lane is a narrow, winding lane leading from Hopton Lane into Hopton village. A great deal of traffic uses this lane - cars, HGVs, delivery vans and farm machinery. The creation of another driveway onto Hopton Hall Lane is not practicable. I suggest that the proposal is referred back to Kirklees Highways with the additional information of the numbers and types of vehicles already using this lane.

Officer Comment: Matters in terms of parking and safe access onto Hopton Hall Lane have been assessed by KC Highways, they raised no concern. There are a number of car parking areas, there are no planning policy requirements restricting such spaces.

Environmental Matters

- I am also concerned that the proposal does not indicate how foul sewage will be removed from the proposed dwelling

Officer Comment: The Council's GIS mapping system indicates a mains sewer runs along Hopton Hall Lane. There are no planning concerns in consideration of the removal of waste sewage.

Other Matters

Officer Comment: One objection, referenced representations previously disclosed under 2024/93055. These comments were addressed by the Officer under the previous Officer Report.

Conclusion

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development does not accord with LP24(Design), LP33(Trees) and Chapter 12 & 15 of the National Planning Policy Framework. The benefits of one additional dwelling is not considered to outweigh the harm to the character of the area or the harm to a protected tree. It is considered that the

proposed development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refusal

Reason(s) for Refusal

1. The development, due to scale and roofline, would introduce a form of development that fails to consider the wider existing urban grain and topographical features of the landscape. Introducing such a development would harm the sense of place along Fairways, appearing cramped within its locality introducing a scale that departs from the existing character found within the local site context. It would therefore be contrary to Principles 2, 4, 5 & 15 of the Kirklees House Builders Design Guide Supplementary Planning Document, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.
2. The proposed development would result in damage to the roots of a significant trees in terms of age and stature, which provides public benefits due to its location close to the public highway and collection of buildings. No public benefits are apparent which would outweigh the benefits of the tree. The proposed development would therefore contravene policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan	(EX)001	-	20 March 2025
Existing site layout	(EX)002	-	20 March 2025
Proposed site layout	(20)003	-	20 March 2025
Proposed grouped plans	(20)001	A	20 March 2025
Site section plan	(70)001	-	20 March 2025
Tree Survey	22345 A	A	08 May 2025
Coal mining risk assessment	-	-	20 March 2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application.

The applicant recently received the decision for residential development, reference 2024/93055. The Officer report provides clear assessment and reasons for refusal, which have not been overcome within this application proposal. Reason for refusal 1 related to the scale and roofline of the dwelling.

Reason for refusal 4 related to the impact to protected trees. These matters have not been overcome within this application due to the inconsequential changes that have occurred.

The scheme would require a complete redesign, alteration the scale, position and layout of the dwelling and hardstanding material to overcome the reasons for refusal. As per the Kirklees DM Management Charter, if planning applications require significant amendments, the agent will be informed, and a decision issued.

Given the agent was issued with a previous Officer Report that detailed the reasons for refusal and a new application was received that failed to recognise relevant matters, it is considered the application can be determined as per the Kirklees DM Management Charter.

The applicant applied for pre-application advice in 2018 for residential development in this location. The scale, position and layout of this application has changed since the advice was given.

