



PLANNING STATEMENT

Proposal: Construction of one detached dwelling and associated works

Site address: Land adjacent to 9 Hyrst Gardens, Batley, WF17 7EH

Client: Adeel Ulhaq

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1.0 INTRODUCTION

This statement has been prepared on behalf of Adeel Ulhaq (the Applicant) in support of a planning application for the construction of one detached dwelling and associated works on land adjacent to 9 Hyrst Gardens. The land and adjacent dwelling is owned by the Applicant's father (Atsham Ul-Haq) and the proposal is for a self-build dwelling.

The main purposes of this statement are to address the reason for refusing the previous application (ref. 2023/62/90945/E, refused 07 June 2023), and to set out the case in favour of granting planning permission. It should be read alongside the architectural plans and drawings by Planet Architecture; the Arboricultural Impact Assessment and Method Statement (AIA) by Tree Plan; and the Preliminary Ecological Appraisal (PEA) by JCA.

Site Location & Description

The site is located at National Grid Reference (NGR) SE 23751 23099 on the northern side of a recently laid out cul-de-sac known as Hyrst Gardens, which is accessed from Track Road, Batley. Once existing consents have been fully implemented the cul-de-sac will serve five detached dwellings, one on the northern side of the highway and four to the south. The proposal seeks to make use of vacant land on the northern side of the highway, which is sited between no. 9 and Track Road. It includes a disused path but is predominantly surfaced with scrub and includes a number of trees.

The Proposal

The proposal is for a detached dwelling of two storeys plus attic accommodation. It has a symmetrical facade that features two projecting gables, chimney stacks and generous areas of glazing. High quality facing materials are specified including coursed natural stone, blue slates, and aluminium framed glazing.

In terms of architectural style, the building is a modern interpretation of early 20th century architecture, which is a feature of Track Road and the wider area.

A simple landscaping scheme is envisaged to complement the dwelling's wooded surroundings that are to be enhanced by the planting of 18 new select standard sized trees and 40 new holly plants to the understorey. Three parking spaces are proposed that are to be surfaced with a permeable material.

Planning History

The most relevant and recent planning history is that provided by application ref. 2023/62/90945/E (hereon in referred to as the previous application or proposal), which was refused 7 June 2023 for the following reason:

1. There are multiple trees subject to Tree Preservation Orders within the red line boundary of the site. The proposals for a dwelling on this site would result in a significant impact on the protected trees on this site. Trees have previously been removed as part of the existing surrounding residential development, and the loss of three trees and cutting back of others is proposed in the submitted Arboricultural Impact Assessment. However, the long-term effects of the adjacent trees to the proposed dwelling from nuisance and shade impacts would likely result in a significant pressure to prune or fell the trees. The loss of further trees on this site and the long-

term threat of the proposed dwelling so close to retained trees is contrary to Policies LP24 and LP33 of the Kirklees Local Plan and guidance contained within Chapters 12 and 15 of the National Planning Policy Framework.

HPD agrees the impact upon trees was not justified. The new proposal seeks to address this reason by:

- Considering any tree loss in the current and wider policy context, taking into account housing constraints and the benefits of the proposal.
- Significantly reducing the footprint of the building with no pruning or root protection area incursions required in respect of retained trees.
- Planting 18 new select standard sized trees and 40 new hollies to the understorey, thus providing a significant net increase in trees.
- Offering to provide funds for additional off-site tree planting, should the LPA consider this necessary.

In addition, the proposal seeks to address previous concerns regarding insufficient ecological information by providing a PEA.

2.0 LEGISLATIVE & POLICY CONTEXT

Legislation

Section 38 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. It is well established by Case Law that the development plan must be read as a whole.

Local Planning Policy

The main development plan document for the district is *Kirklees Local Plan Strategy and Policies* (adopted 2019). The following policies are of most relevance:

- LP3 - Location of new development
- LP20 - Sustainable travel
- LP21 - Highways and access
- LP22 - Parking
- LP24 - Design
- LP28 - Drainage
- LP30 - Biodiversity & geodiversity
- LP33 - Trees
- LP35 - Historic environment
- LP52 - Protection and improvement of environmental quality
- LP53 - Contaminated and unstable land

Applicable guidance is also provided by the *Housebuilders Design Guide* Supplementary Planning Document (HDG) (adopted 2021).

National Planning Policy

The most relevant parts of the *National Planning Policy Framework* (NPPF) (updated 2025), are:

- Chapter 2 - *Achieving sustainable development*, in particular para 11
- Chapter 5 - *Delivering a sufficient supply of homes*, in particular paras 61, 63, and 73
- Chapter 9 - *Promoting sustainable transport*, in particular para 115
- Chapter 11 - *Making efficient use of land*, in particular para 124 and 125
- Chapter 12 - *Achieving well-designed places*, in particular para 135 and 136
- Section 14 - *Meeting the challenge of climate change, flooding and coastal change*, in particular para 181
- Chapter 15 - *Conserving and enhancing the natural environment*, in particular para 187 and 193
- Chapter 16 - *Conserving and enhancing the historic environment*, in particular para 219

3.0 ASSESSMENT

The main planning issues, which are considered below, are:

- Principle of development
- The benefits of providing a new home
- Design and visual amenity
- Heritage impact
- Tree impact
- Ecology
- Other matters

Principle of Development

The Officer Report for the previous application found the site was in a sustainable location for new housing, in accordance with Local Plan policies LP3 and LP20. As no specific Local Plan allocations apply, the proposal was therefore considered to be acceptable in principle. However, at the time of determination, in June 2023, the LPA reported a 5.17 year supply of deliverable housing sites and was awaiting results of the 2022 Housing Delivery Test. The presumption in favour of sustainable development, now set out at NPPF para 11 d), was not therefore applied.

In December 2023 the Government published the 2022 Housing Delivery Test results. The threshold for passing the test was and remains 75% but the result for the three years to 2022 was 67% and has since worsened to 54% for the three years to 2023¹. The test has therefore been failed and by a considerable margin. Under the terms of NPPF footnote 8 the Local Plan is therefore out-of-date and this both invokes the presumption in favour of sustainable development and requires that a 20% buffer be applied to the required five-year supply of deliverable housing sites. As a partial consequence of the buffer, the LPA is now also unable to demonstrate an adequate supply of deliverable housing sites, the most recently published figure of which HPD is aware, being 3.96 years².

NPPF para 11 d) states:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance⁷ provides a strong reason for refusing the development proposed; 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.

NPPF para 136 does seek to retain existing trees “whenever possible” but under the terms of footnote 7, para 11 d) i only harmful impacts upon ancient or veteran trees would provide a strong reason for refusing an application. As ancient and veteran trees are unaffected para 11

¹ Link here: <https://www.gov.uk/government/publications/housing-delivery-test-2023-measurement>

² Kirklees Housing Delivery Test Action Plan (May 2024)

d) ii is therefore applicable and the loss of the trees proposed would need to significantly and demonstrably outweigh the benefits to justify refusal of the new application.

The Benefits of Providing a New Home

To reiterate, NPPF para 11 d) ii must be applied:

...having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes...

As already established, the location is sustainable. Furthermore, the proposal will make effective use of vacant land, contribute to the creation of a well-designed place (as expanded on below), and provide a self-build dwelling for the Applicant in proximity to their family. The proposal is therefore very much in line with the policies to which particular regard must be had, which include NPPF paras:

*61. To support the Government's **objective of significantly boosting the supply of homes**, it is important that a sufficient amount and variety of land can come forward where it is needed, that the **needs of groups with specific housing requirements** are addressed...*

*63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include... **people wishing to commission or build their own homes.***

*73. **Small and medium sized sites can make an important contribution to meeting the housing requirement** of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:*

*b) **seek opportunities, through policies and decisions, to support small sites** to come forward for community-led development for housing **and self-build and custom-build housing**;*

*c) use tools such as area-wide design assessments, permission in principle and Local Development Orders **to help bring small and medium sized sites forward**;*

d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes...

*124. Planning policies and decisions should **promote an effective use of land in meeting the need for homes** and other uses...*

125. Planning policies and decisions should:...

*d) promote and support the development of **under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained...***

(HPD's emphasis)

In the planning balance (which is tilted in favour of approval) substantial weight must therefore be given to the benefits of delivering a self-build home for the Applicant and their family.

The argument that a single home makes an insignificant contribution to meeting housing needs is incompatible with the NPPF, which places strong emphasis on both small sites and self-build development.

Design & Visual Amenity

The previous application was for a two storey building with a flat roof, which had a larger footprint that extended further to the north. In terms of its appearance, it shared many similarities with no. 9, which is inspired by contemporary Californian architecture but related to its context through the use of local natural stone. The Case Officer considered that (subject to conditions) the proposal was visually acceptable and in accordance with local and national policies, but permission was refused due to conflicts with trees.

The current proposal seeks to address tree concerns, in part by reducing the footprint of the building. To compensate for some of the lost floor space an alternative design with pitched roof and including attic accommodation is proposed.

Some dwellings at Hyrst Gardens are still under construction but all are of contemporary design and feature the use of natural stone and/ or render, and most include a combination of both flat roofs and pitched roofs faced with natural slate. The wider surrounding area is diverse in terms of building ages, types, styles but the vast majority of buildings are dwellings of traditional design and feature pitched roofs.

As outlined above, the proposed dwelling is a modern interpretation of early 20th century architecture that includes a symmetrical façade, two projecting gables, chimney stacks and generous areas of glazing. It is to be constructed from high quality materials including coursed natural stone, blue slate, and aluminium framed glazing. Externally the building is complemented by a landscaping scheme that includes 18 new select standard sized trees and 40 new holly plants to the understorey.

The proposal is considered to be of high visual quality and an appropriate response to its diverse context. It is therefore consistent with Local Plan policy LP24, NPPF chapter 12, and the HDG.

Heritage Impact

The proposal is supported by a separate Heritage Statement. In-line with the Officer Report for the previous application, this finds that the current proposal will uphold the setting of Hyrstlands. It is therefore compliant with Local Plan Policy LP35 and chapter 16 of the NPPF.

Tree Impact

The proposal is supported by an AIA. To enable the development this identifies three category U trees or groups of trees (G4, T9, T11) and three category B trees (T3, T7, T10) that are proposed for removal. No root protection area incursions, pruning or other works are required to retained trees.

Removal of the category U trees requires no justification as by definition they are unsuitable for retention. However, removal of the category B (moderate quality) trees requires further consideration. Local Plan policy LP33 states:

The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

This policy is not entirely consistent with the NPPF and PPG, which only seeks to provide for the strict protection of ancient or veteran trees, which are irreplaceable. Nevertheless, the amenity value of the trees proposed for removal is a relevant issue. 'Amenity' is not defined in law but assistance with interpretation is provided by Planning Practice Guidance (PPG):

What might a local authority take into account when assessing amenity value?
When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

Paragraph: 008 Reference ID: 36-008-20140306

Revision date: 06 03 2014

Hyrst Gardens is a private cul-de-sac and there are no public rights of access. As the AIA highlights and illustrates, the trees are internal to the site with only one tree (T10) being partially visible from Track Road. In HPD's opinion (which is shared by Tree Plan), as an individual tree, T10 is not of significant amenity value and T3 and T7 are even less notable. However, the wider group of trees is of amenity value, with the most significant contribution being made by the best and most publicly visible trees.

As the AIA explains (p.6):

The current wooded/overgrown area in which the development is proposed has a number of Ash and Elm trees which are dying or dead. This application is recommending the planting of 18 trees (strategically located in canopy gaps) which will mature to be 10-20m high and 40 Holly trees randomly planted (but in a defined area)

to provide below 10m height cover and improve the woodland understorey. As such the planting gain is likely to improve the tree type, planting density and longevity of the wooded area, that would otherwise not occur.

In HPD's judgement there will be a net increase in the amenity provided by trees taking into account: the limited amenity value of the trees proposed for removal; the current condition of the site; the improvement and significant net increase in trees proposed; and the public visibility of some of the new trees proposed, in particular a group of three lime trees and a group of three field maple trees, which will be visible from Track Road.

Notwithstanding the above, the Applicant is also willing to provide a financial contribution (via a section 106 agreement) towards additional off-site planting, if the LPA considers this necessary. It is noted such contributions were required to enable the approval of the neighbouring mosque (application ref. 2017/94255), presumably because sufficient tree replanting could not be accommodated on-site.

In addition to tree loss (which was not adequately compensated for) the previous application was partly refused due to longer-term conflicts between the proposed dwelling and trees. These have been addressed by substantially reducing the footprint of the building and the planned replacement of trees to avoid the need for repeated pruning. The dwelling, retained trees, and new trees, will all be compatible for the foreseeable future.

In summary, the proposal will result in a significant net increase in trees and the amenity they provide. On balance, it is therefore considered that the proposal is consistent with Local Plan policies LP24, LP33, and NPPF chapters 12 and 15 in this regard.

Ecology

The previous application was criticised by the LPA's Ecology Unit for providing no ecological information. The new application is therefore supported by a PEA. Subject to mitigation measures, this concludes that the proposal will not have an adverse impact upon protected species.

As the proposal is for a self-build dwelling, it is exempt from the requirement to provide a 10% Biodiversity Net Gain (BNG). Nevertheless, the significant net increase in trees proposed is expected, in time, to provide a net gain for biodiversity.

The proposal is consistent with Local Plan policy LP30 and NPPF chapter 15.

Other Matters

The previous proposal addressed matters including residential amenity, highway safety, contaminated land, and drainage, to the satisfaction of the LPA. There are no material changes in these regards and (subject to conditions) the proposal remains consistent with Local Plan policies LP21, LP22, LP24, LP 8, LP52, LP53 and the NPPF.

4.0 CONCLUSION

The proposal will provide a new self-build home in a sustainable urban area. As Kirklees has failed the Housing Delivery Test and has an inadequate supply of deliverable housing sites, the presumption in favour of sustainable development, set out at NPPF para 11 d) ii, applies. Planning permission must therefore be granted unless:

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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

The benefits of the proposal are aligned with many of the policies to which particular regard must be had, including NPPF paras 61, 63, 73, 124, 125 and 135. They are therefore considered to be substantial.

The only identified harm arising from the proposal is the removal of three category B trees. To some degree this conflicts with NPPF para 136 that seeks to retain existing trees “wherever possible”. However, the NPPF only seeks to strictly limit development that would harm ancient or veteran trees, which are irreplaceable. It does not seek to strictly protect and retain trees of moderate quality and limited (if any) individual amenity value.

The proposal includes 18 new trees of select standard size plus 40 hollies to the understorey. HPD is of the view that the net increase in trees will result in a net increase in the amenity and benefits provided by trees and that, on balance, the proposal is consistent with NPPF paras 136 and 187.

In the event the LPA were to consider the net impact upon trees and the amenity they provide is negative, the harm identified would need to be balanced against the substantial benefits of the proposal, which could include a contribution to provide off-site planting, if required.

In HPD’s opinion, the proposal complies with the Local Plan and NPPF, when read as a whole, having had specific regard to Local Plan policies LP3, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP35, LP52, LP53; NPPF paras 11, 61, 63, 73, 115, 124, 125, 135, 136, 181, 187, 193, 219; and the HDG.

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