

**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:	<b>2025/62/90862/E</b>
Site Address:	Land Adj, 26, Track Lane, Batley, WF17 7AA
Description:	Erection of detached dwelling
Recommending Officer:	Emma Thompson

**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.**

John Holmes

***AUTHORISED OFFICER***

**Date:** 15<sup>th</sup> December 2025

## **Officer Report**

### **Site Description**

The application relates to an area of land adjacent to 27 Track Lane, Batley within a group of dwellings known as Hyrst Gardens. The site is relatively level and is heavily vegetated with several trees which are subject to Tree Preservation Orders. The site is accessed from Track Road via Hyrst Gardens.

The site is located in a predominantly residential area. The surrounding dwellings are varied in age, size, style, and materials of construction. The neighbouring dwellings on Hyrst Gardens are modern in age and design. To the northeast is a Grade II listed building (Al Hikmah Centre). To the north, construction appears to have begun on a place of worship / faith centre granted permission in 2019 (2017/94255).

The site is not within a conservation area however it forms part of the historic curtilage of Hyrstlands which is a Grade II Listed Building. There are no Public Rights of Way within close proximity to the site.

### **Description of Proposal**

The applicant is seeking permission for the erection of a detached dwelling.

The proposed dwelling would be a three-storey building with gable end features to the front. It would measure a maximum of 12.5m deep and 16.1m wide, with an overall height of 8.8m.

The dwelling would be faced in coursed natural stone, under blue slate roofing and with aluminium framed windows. The proposed dwelling would have a modern design, with large areas of glazing to the front and rear. There would also be openings to each side elevation and rooflights in the roof.

### **History of negotiations/amendments received**

The submitted plans were considered unacceptable due to the impact of the proposal on trees covered by Tree Preservation Orders. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Amended plans have not been sought as it was considered there were no amendments which could overcome officers' concerns within the scope of this application.

### **Relevant Planning History**

97/90303 – Erection of 6 detached dwellings and garages. Refused [appeal dismissed].

98/91139 – Erection of one detached dwelling with garage. Refused [appeal dismissed].

97/93014 – Erection of 6 no. detached dwellings and garages. Withdrawn.

2015/92068 – Outline application for residential development. Conditional outline permission.

2016/93134 – Outline application for erection of 2 dwellings. Withdrawn.

2016/93603 – Reserved matters application pursuant to outline permission 2015/92068 for erection of one detached dwelling. Approved.

2017/93967 – Outline application for erection of one detached dwelling. Pending consideration.

2017/94255 – Demolition of existing building and erection of Place of Worship/Faith Centre. Section 106 Full Permission.

2018/90330 – Reserved Matters application for erection of 4 dwellings pursuant to outline permission 2015/92068 for erection of residential development. Approved.

2020/93533 – Non-material amendment to previous permission 2018/90330 for Reserved Matters application for erection of 4 dwellings pursuant to outline permission 2015/92068 for erection of residential development. Refused.

2021/92929 – Erection of detached dwelling. Conditional Full Permission.

2023/90945 – Erection of detached dwelling. Refused.

2024/91351 – Outline application for erection of residential development. Conditional Outline Permission.

2025/90390 – Listed Building Consent for Demolition of a Listed Building. Granted.

2024/91352 - Outline application for erection of residential development. Conditional Outline Permission.

### **Publicity and Representations**

The application was advertised by site notice and in the press due to the close proximity to a Listed Building. Publicity expired 12/05/2025

As a result of the above publicity, no representations have been received.

No parish/town council comments are required in this instance.

## **Consultation Responses**

KC Highways Development Management (HDM) – no response received.

KC Ecology – No objection subject to conditions for CEMP and Lighting Scheme.

KC Trees – object to the proposal.

## **Policy**

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

The site is unallocated within the Kirklees Local Plan. The site does fall within an area with a known presence of bats / newts and an area at lower risk of ground movement as a result of former mining activity.

## **Kirklees Local Plan (KLP):**

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and geodiversity
- LP33 – Trees
- LP35 – Historic Environment
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.

Kirklees Council has adopted (as of 29<sup>th</sup> June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. 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), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach

and outcomes relating to development. In this case the follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Housebuilders Design Guide
- Biodiversity Net Gain Technical Advice Note

#### National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 12<sup>th</sup> 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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

#### **Assessment**

##### 1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy LP1 goes on further to stating that: “The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.

In this case, the application site is unallocated land within a residential area. As such, it is appropriate to consider the Local Planning Authority’s overall housing position.

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 officer’s assessment.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, 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 4 to 5 dwellings. One dwelling is proposed in this instance, which is considered appropriate given the density of development would not be dissimilar from the existing dwellings within Hyrst Gardens.

Paragraph 70 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should...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”.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

When making decisions on planning applications for development that would affect a Listed Building or its setting, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Any

impact on heritage assets (including the setting of the Listed Building to the northeast) will be given consideration having regard to Policy LP35 of the Kirklees Local Plan, and Chapter 16 of the National Policy Planning Framework.

In this case, the principle of development can be considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

## 2 – Impact on visual amenity and the historic environment:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 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, which aims to ensure future housing development is of high-quality design.

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

- *Taking cues from the character of the built and natural environment within the locality.*

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

Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

There are a mix of roof forms, within Hyrst Gardens with the adjacent property having a flat roof. The proposed dwelling would be more traditional in design compared to the existing detached dwellings on Hyrst Gardens. The two dwellings opposite have pitch roofed features which are not dissimilar from the gable end features proposed on the dwelling. Given the variety in design of the existing buildings, the proposed design is considered acceptable on balance.

The dwelling would be faced in coursed natural stone, under blue slate roofing and with aluminium framed windows which would somewhat reflect the material used in the existing buildings in Hyrst Gardens. To ensure that the dwelling would sit comfortably within the street scene, it is considered appropriate to impose a condition requiring samples of materials to be submitted, should planning permission be granted.

The application site is of a sufficient size to support a dwelling, as proposed with a parking area to the front and amenity space to the rear. The dwelling would have two storeys with rooms at second floor level utilising the roof space; this is considered acceptable as the majority of the neighbouring dwellings also have two and a half stories. In terms of footprint and massing, the proposed dwelling would not be out of keeping with the neighbouring dwellings on Hyrst Gardens. The scale is considered acceptable. However, whilst a dwelling may be acceptable, it is considered appropriate to include a condition (should planning permission be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

The proposed dwelling, by virtue of its design, scale, massing and roof line, is considered to be in keeping with the existing development on the site and as such, it is considered that the proposed dwelling would sit comfortably within the existing street scene and against the neighbouring properties.

The submitted plans provide little information regarding the proposed boundary treatments. It is considered appropriate to impose a condition (should planning permission be granted) requiring details of the proposed boundary treatment to be submitted to and approved in writing by the Local Planning Authority before the development commences in the interest of visual amenity.

Although the proposed parking provision would be to the front of the dwelling, this is considered acceptable in terms of visual amenity as there are other dwellings within the street scene with parking/hardstanding to the front. It is considered appropriate to recommend a condition requiring details of landscaping to be submitted, should planning permission be granted, to promote good design by ensuring the development enhances the landscape.

Details of the materials of construction and finished floor levels of the development in relation to neighbouring land levels has been provided / demonstrated within the submitted plans. Condition(s) would be included to ensure the development is undertaken in accordance with these details in the event of any approval.

With the inclusion of appropriate conditions, the proposal is considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the Kirklees Local Plan, Principles 2, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

Policy LP35 of the Kirklees Local Plan states:

*“Development proposals affecting a designated heritage asset... should preserve or enhance the significance of the asset.”*

In this instance, a separation distance of ~36m would be retained between the application site and the neighbouring listed building. Given that dwellings of a similar appearance have been approved and built at a similar separation distance (9 Hyrst Gardens), it is considered that the proposed development would not result in any additional harm to the heritage asset. The proposal would therefore comply with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

### 3 – Impact on residential amenity:

Section B and C of Policy LP24 state 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 mostly likely to be affected by the proposed development are considered to be nos. 3 and 9 Hyrst Gardens. The impact upon these properties will be discussed below. It is also noted that there is outline permission for two dwellings to the south of the site. Although the layout has not yet been approved, the sites are >21m from the proposed dwelling so considered to be a sufficient distance away from to prevent any impact to residential amenity.

The proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect. Of note, whilst there are a number of properties to the west of the site (on Track Road), a separation distance of ~30m would be maintained between the front elevations of these dwellings and the western boundary of the application site.

#### *Impact on 3 Hyrst Gardens*

This is the neighbouring property to the southeast of the application site. The front elevations of these dwellings would face each other; however, the properties are offset such that the habitable rooms on the front elevation would have an oblique relationship to each other. A separation distance of ~18.4m would be proposed between the openings in both properties. This is slightly less than the 21m recommended in Principle 6 of the Kirklees Housebuilders Design Guide SPD. However, given the oblique angle, this is considered acceptable in this instance. As such, it is considered that there would be no significant detrimental overlooking impact on no.3 as a result of the proposed development. Given the separation distances that would be retained, and that the proposed dwelling would not have a direct relationship with no.3, it is considered that there would not be any detrimental overbearing impact on no.3 as a result of the proposed development. Given that the application site would be located to the north of no.3, it is considered that there would be no detrimental overshadowing impact on no.3 as a result of the proposed development. Officers are satisfied that the proposed development would have no significant detrimental impacts on the amenities of 3 Hyrst Gardens.

#### *Impact on 9 Hyrst Gardens*

This is the neighbouring property to the east of the application site. There are a number of openings on the eastern side elevation of the proposed dwelling which would all serve as secondary openings. At first floor the openings would serve a bathroom and an secondary opening for a bedroom so both could be obscurely glazed which can be secured by condition. Moreover, a separation distance of ~43.5m would be maintained between no.9 and the eastern boundary of the application site. As such, it is considered that there would be no significant detrimental overlooking impact on no.9 as a result of the proposed development. Given the separation distance that would be retained, it is considered that there would not be any significantly detrimental overbearing or overshadowing impacts on no.9 as a result of the proposed development. Officers are satisfied that the proposed development would have no significant detrimental impacts on the amenities of 9 Hyrst Gardens.

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

Further to this, 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.”*

The proposed dwelling comfortably exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed rear garden is considered to be a good size for a dwelling of this scale.

As discussed above, it is considered appropriate to remove permitted development rights for any additions (should planning permission be granted), so extensions/buildings reducing the area of amenity space would need to be approved by the LPA. Therefore, the proposal is considered to provide a sufficient level of external amenity space for future occupiers of the property.

To the north, construction appears to have begun on a place of worship / faith centre granted permission in 2019 (2017/94255). It appears that a separation distance of ~22m would be maintained between the proposed dwelling and the place of worship. There would be windows in the place of worship facing the rear elevation of the proposed dwelling; however, these would be at an angle and would be screened by the mature vegetation to the rear of the proposed dwelling. As such, it is considered that there would be no significant overlooking impact on the proposed dwelling from the place of worship. Given the separation distance that would be maintained, and that the place of worship would be located to the north, as well as the mature vegetation to the rear of the proposed dwelling, it is considered that there would be no

significant overbearing or overshadowing impact on the proposed dwelling from the place of worship.

Having considered the above factors, it is considered that this proposal would not result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policies LP24 and LP52 of the Kirklees Local Plan, Principles 6, 16, and 17 in the Council's Housebuilders Design Guide SPD, and chapter 12 of the National Planning Policy Framework.

#### 4 – Impact on highway safety:

Paragraph 116 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

A 6-bedroom dwelling is proposed at the site, and the Kirklees Highways Design Guide SPD states that at least 3 off-street spaces are required for dwellings with 4 or more bedrooms.

KC Highways Development Management were consulted; however, no response was received. Officers note that 3 off-street parking spaces are to be provided, which is considered acceptable for a dwelling of this size.

Principle 19 of the Housebuilders Design Guide SPD sets out how provision for waste storage and recycling should be incorporated into the design of new developments. No details of bin storage and presentation has been provided. It is recommended that these details are secured by condition, should planning permission be granted.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

#### 5 – Other matters:

##### *Protected Trees*

Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any

valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

There are multiple trees subject to Tree Preservation Orders (TPO) within the red line boundary of the site. An Arboricultural Impact Assessment (AIA), Method Statement (AMS) and Tree Planting Plan have been submitted alongside the application and this has been reviewed by KC Trees. The Tree Impact Plan shows that 5 trees would be removed as part of the scheme, all of which are protected under a TPO. KC Trees object to the proposal as the scheme fails to comply with policy LP33 of the KLP which states:

The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity value. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the wildlife Habitat Network and green Infrastructure networks. Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction.”

As well as LP24(i) which says : “Proposals should promote good design by ensuring:- i) the retention of valuable or important trees”.

The loss of TPO protected trees on this site and the long-term impact of the proposed dwelling so close to retained trees is contrary to Policies LP24 and LP33 of the Kirklees Local Plan.

In addition to the loss of trees the proposal would require the significant pruning of existing trees, and would lead to a continued pressure for the pruning or total removal of these trees in response to the resultant impact they would have upon the occupiers of the dwelling in terms of leaf drop and overshadowing.

### *Biodiversity*

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 granted pursuant to an application submitted after 12 February 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.

With regards to Biodiversity Net Gain, the applicant has stated within their application form that the application is exempt under Development subject to the self-build exemption. Officers agree that the development would fall under the self-build exemption as the site is grass covered and has a number of trees, however the application form also states the applicant is proposing a self-build dwelling for their own occupation and therefore officers are satisfied that would fall under the self-build exemption.

This is acceptable in terms of the aims of Policy LP30 of the Kirklees Local Plan, Principle 9 of the Council's Housebuilders Design SPD, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.

There are no other matters considered relevant to the determination of this application.

#### 6 – Representations:

No representations have been received.

#### 7 – Conclusion:

This application for the erection of a detached dwelling has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework 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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the National Planning Policy Framework and other material considerations.

**Recommendation**

**Refuse**

## Decision Authorisation - Delegated Powers

**Application Number:** 2025/90862

**Officer Recommendation:** Refuse

### Conditions and Reasons

1. There are multiple trees subject to Tree Preservation Orders within the red line boundary of the site. The proposal for a dwelling and the associated works would result in the felling of 5 protected trees on this site. Trees have previously been removed as part of the existing surrounding residential development, and the loss of trees and pruning of others is proposed in the submitted Arboricultural Impact Assessment. The long-term effects of the adjacent trees to the proposed dwelling from nuisance and shade impacts would result in additional pressure to prune or fell trees. The loss of 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.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	001		28/03/2025
Site Plan as proposed	002		28/03/2025
Elevations and floor plans as proposed	003		28/03/2025
Heritage Statement	February 2025	0	03/04/2025
Arboricultural Impact Assessment, Method Statement & Tree Planting Plan	November 2024		03/04/2025
Planning Statement	February 2025	0	28/03/2025

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 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.

The submitted plans were considered unacceptable due to the impact of the proposal on trees covered by Tree Preservation Orders. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Amended plans have not been sought as it was considered there were no amendments which could overcome officers' concerns within the scope of this application.

**Report Dated:** 11/12/2025