

**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:	2025/62/90949/W
Site Address:	Whinney Close Farm, 106, Cockley Hill Lane, Kirkheaton, Huddersfield, HD5 0PF
Description:	Erection of detached dwelling with detached garage and associated landscaping
Recommending Officer:	Danielle Cooper

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 11 July 2025

Site Description

The site consists of a two-storey detached dwelling. The external walls of the dwelling are faced in stone and render. To the rear of the property, there is a two-storey flat roofed addition and a single storey lean-to extension.

The land to the north consists of tarmac hardstanding for parking and turning. The property benefits from extensive gardens to the south. Access to the adopted highway is gained by means of a narrow driveway extending north-west from the site to Cockley Hill Lane.

The property is in a rural area some 300 metres east of the built-up part of Kirkheaton. Viewed on a map, it appears within a loose-knit grouping of 10 dwellings, including former agricultural buildings. However, the site itself gives the impression of being self-contained, with no close neighbours.

The application site is located within the Green Belt.

Public Footpath KIR/9/30 goes through the site in a north / south direction within the western part of the site (close to the western boundary).

Description of Proposal

The applicant is seeking permission for the erection of detached dwelling with detached garage and associated landscaping.

The new dwelling would be of a symmetrical design, with a rectangular plan form, measuring 27.7 long and 12.7m wide. The highest part of the roof will be 12.4m tall and eaves of 8.7m. The building will incorporate some neo-classical elements in its design, including a pediment.

The existing access will continue to be used. The access will be widened.

The proposal would see the creation of terrace and associated engineering operations, the terrace to the rear being at an above ordnance level (AOD) of 155 AOD and the terrace to the front being 156 AOD. Steps from the front terrace would provide pedestrian access to the vehicular access to the site which is at a higher land level. The terrace to the rear is of a semi-circular shape and would see retaining structures constructed to retain the terrace level from the lower land level.

A detached double garage is proposed north west of the main building. The garage will measure 9m wide and 6m long. The garage will feature a hipped roof form with an overall height of 4.4m and eaves of 2.3m.

Within an area which currently hosts a tennis court, a formal garden is proposed, accessed through a terraced garden.

Hedgerows and a 1m high stone wall as indicated are being incorporated throughout.

The route of the public right of way which crosses the site is indicated as being re-routed along an alignment which it appears to currently be utilised. The area of the public right of way which is upon the Council's records appears unaffected on the submitted site plan.

Bin storage will be situated within the proposed garage.

History of Negotiations

The case officer raised concern in regard to the existing stone wall that has been erected around the perimeter of the site and the negative impact it would have on the rural green belt setting. The agent submitted a revised plan reducing the wall to 1m in height with hedging behind. Should permission be granted, a condition will be implemented to ensure the wall as annotated on plan is reduced to 1m in height within 3 months from the date of this permission.

Some ground works had occurred when the case officer visited the site. The applicant was told to cease any further works.

Relevant Planning History

2024/92351 - Erection of detached dwelling and associated landscaping – Refused

Officer comment: This application was refused as the proposed new dwelling was considered to have a greater impact on the openness of the green belt than the existing development.

2024/90607 - Erection of Outbuilding – Approved (Not implemented)

2023/92300 - Single storey side extensions – Approved

Representations

The application has been advertised by site notice and the final publicity period expired on 20th June 2025. 3 letters of support have been received in response to site publicity.

- Excellent proposal that puts something back into the local community
- Proposal will add value to the other properties in the area
- The design of the new residence looks thoughtfully conceived to reflect the traditional architectural elements that were characteristic of the Whitley Beaumont House
- The impact of introducing more trees in the vicinity will offer significant environmental benefits, such as improving air quality, providing shade, and reducing urban heat. They also create a sense of tranquillity something lacking on this hill side

Consultation Responses

KC PROW – PROW have stated that this path must remain open and available until any diversion application has been confirmed.

KC Ecology – No objection subject to conditions.

The Mining Remediation Authority – No objection subject to conditions.

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 located within the Green Belt as allocated within the Kirklees Local Plan.

Public Footpath KIR/9/30 goes through the site.

The Council's GIS mapping system identifies the site to be located within an area with a known presence of great crested newts.

The site is within an area identified by the Coal Authority as being at high 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
- LP11 – Housing mix and affordable housing
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and geodiversity
- LP35 – Heritage
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.
- LP57 – The extension, alteration or replacement of existing buildings
- LP59 – Brownfield sites in the Green Belt

Kirklees Council has adopted (as of 29th 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 SPD
- 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 12th 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 13 – Protecting Green Belt land
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

1. Principle of development (including impact on the green Belt)
1. Impact upon visual amenity
2. Impact upon residential amenity
3. Impact upon highway safety
4. Climate Change
5. Ecology
6. Contaminated Land
7. Public Right of Way
8. Representations

9. Conclusion

1 – Principle of Development (Including impact on the Green Belt)

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”.

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.

It is noted that this site is within the Green Belt. Irrespective of the Councils position on the five-year supply of deliverable housing sites, the National Planning Policy Framework at paragraph 11 is clear that in the event a Council cannot demonstrate a five-year supply of deliverable housing sites, the council should grant permission “unless the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”. Footnote 7 at paragraph 11di) states that the protected areas include land designated as Green Belt.

Therefore, the principle of developing in the Green Belt must be assessed in order to determine whether the principle of development is acceptable. The proposal will also be assessed against all other material considerations.

Green Belt

The site is located on Green Belt land. The NPPF states that 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'.

Paragraph 153 states that 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'.

Paragraph 154 of the NPPF states "*development in the Green Belt is inappropriate unless one of the following exceptions applies:*

- a) *buildings for agriculture and forestry;*
- a) *the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- b) *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- c) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- d) *limited infilling in villages;*
- e) *limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- f) *limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt."*

Paragraph 155 of the NPPF is also relevant and outlines:

"The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a. *The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
- a. *There is a demonstrable unmet need for the type of development proposed; and*

- b. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and*
- c. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below."*

The LPA acknowledges that the proposed development would meet the criteria of a-d as listed within Paragraph 155 of the NPPF. However, of particular relevance to this application proposal is part g) of paragraph 154, as the proposal would result in redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

The application site currently serves a residential dwelling which, for the purposes of assessment in the green belt, is considered to comprise previously developed land. The proposal comprises the demolition of the existing dwelling and outbuildings and the erection of a detached dwelling with a detached garage and associated landscaping.

Government guidance relating to assessments of the impact of a proposal upon the openness of the Green Belt states that each application will require a judgement to be made based on the circumstances of each case and that openness can be capable of having both spatial and visual aspects.

The existing residential building is of smaller volume in size and scale in comparison to the dwelling proposed and will therefore have a greater impact on the openness of the green belt setting.

The Local Planning Authority (LPA), notes that a similar proposal on the site was refused planning permission via application ref: 2024/92351. The reasons for this, were that the proposed replacement dwelling was considered to be materially larger than the existing dwelling and would therefore have a greater impact on the openness of the Green Belt than the existing development. The additional built form and associated engineering operations would also have a harmful impact on the visual and spatial openness of the Green Belt.

However, since this planning refusal, the wording of paragraph 154 (g) of the NPPF has been altered. The LPA must now therefore assess whether the proposed development will cause substantial harm to the openness of the green belt as set out in paragraph 154 part (g). Substantial harm to openness must be so harmful that it in some way undermines the purposes of the Green Belt and results in seriously harmful urban sprawl.

The LPA acknowledges the supporting information submitted which relates to the sites PD fall back position and the structural report, that concludes the building requires significant works to ensure the long-term serviceability and structural stability.

The proposed design, scale and location of the proposed dwelling is considered acceptable in this instance and will not result in harmful urban sprawl that would constitute substantial harm to the openness of the green belt setting. This is because the proposed dwelling, although significantly taller in height, would be sited within a similar footprint, and also maintaining a sense of openness surrounding the dwelling. To add to this, the proposal will see the removal of the existing garage and outbuilding and as such the proposed double garage sited in front of the dwelling is therefore also considered to be of an appropriate scale and size to accommodate the new dwelling. It is also noted that the proposal will increase the amount of hardstanding to the rear of the dwelling to create a terrace, removing existing grassland. Whilst this will have some impact on the openness of the green belt setting, as the site will retain generous areas of soft landscaping, including the removal of the existing tennis court, the LPA consider the increased hardstanding to the site to be acceptable.

As the proposal would have a greater footprint and will introduce a more urbanising use, it is considered that to ensure the impact is sympathetic and does not substantially impact upon openness, a degree of soft landscaping be achieved as part of the development, and a condition to ensure this is the case is recommended.

As such, although the new dwelling will have a greater impact on the openness of the green belt, the LPA does not consider the impact to result in substantial harm to the openness of the Green Belt and the proposal is therefore considered to meet the requirements of the exception set out at paragraph 154(g).

For the reasons discussed above, it is therefore considered that the principle of the proposal does not constitute inappropriate development within the Green Belt and it accords with paragraph 154 exceptions G of the NPPF. Limited weight is afforded to policy LP59 in this case given the recent update to the NPPF in December 2024 and the fact the proposal does not accord with policy LP59(b) is not considered to be a reason for refusal that could be substantiated in this case.

Notwithstanding the conclusions drawn, it is noted that the development would have potential to undertake substantial additions through utilisation of pd rights, which could lead to the conclusion the impact is substantially harmful upon the openness of the green belt. As such it is therefore considered exceptional circumstances exist in this case which justify the inclusion of a condition by the LPA removing permitted development rights for development within Classes A, AA, B, C, E & F of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (As amended).

2 – Impact upon visual amenity

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.

Under Policy LP35(2), a development resulting in the complete removal of any heritage asset should only be permitted where the benefits (that is, public benefits) outweigh the harm caused having regard to the significance of the

heritage asset and its contribution to local character. LP35(3) states that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure that they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. A heritage asset is defined as a building, place or other feature identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Paragraph 14.6 of the policy justification says that where the impact of a planning proposal upon a heritage asset is not fully understood, the developer may be expected to carry out a Heritage Impact Assessment to inform their planning application.

A Design & Access and Heritage Statement has been submitted which sets out how the development will have a positive effect in terms of visual amenity.

The following paragraphs from the NPPF are judged to be of relevance to the question of how to assess non-designated heritage assets in particular:

“216. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

“217. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.”

The existing dwelling is believed to date from the late 18th or early 19th century. As part of the consultation undertaken with KC Conservation & Design under previous planning applications on the site, in particular application ref: 2023/90643, KC Conservation and Design officers expressed the view that the building has retained enough of its vernacular character to be classed as a non-designated heritage asset, despite some very unsympathetic modern additions. Whilst recognising that this involves an element of subjective judgement, in the absence of a local list for heritage assets, the case officer on balance concurs with this view.

Taking into account the advice in paragraphs 216-217, it is considered that, as the heritage asset is non-designated, it would be difficult to justify a refusal of planning permission, unless it could be demonstrated that the replacement building would be of poorer quality.

The dwelling incorporates some features of Neoclassical architecture but without wholly adopting its language. The proportions of the building are not Neoclassical. In particular, the relationship between the upper and lower floor windows; in a true Neoclassical building, there would be more space between the lintels of the ground floor windows and the sills of the first-floor windows, which would be smaller (vertically) in comparison. It is considered however

that the replacement building would have a coherent design, and in many respects resembles the type of country house that would have been popular among the upper- and upper-middle class in the late 18th and early 19th centuries. Whilst much of the nearby development to the north, north-west and north-east of the site is of more modest and unassuming character, and more influenced by the local domestic and agricultural vernacular, the new dwelling would not be seen in the same context owing to the mature trees at the northern end of the site blocking the line of vision. The proposed use of stone and slate is considered acceptable, however a condition will be imposed to ensure sample materials are submitted prior to the construction of the building.

In regard to the size and scale of the new dwelling, the proposed new dwelling will be taller in height, but smaller in overall length than the existing dwelling and located largely within the existing footprint. As such the proposed consolidated form of the dwelling is therefore considered acceptable. It is also noted that from viewing aerial images and online street-view images it can be inferred that it would have very limited visibility from the adopted highway (approximately 600m to the south) although it might be viewable from the public footpath, KIR/10/10, which is approximately 250m away.

It is therefore considered that the design, scale and siting of the replacement dwelling is therefore acceptable, complying with LP24 and LP35 of the Kirklees Local Plan.

It is noted that the existing garage and outbuilding is to be demolished, and a new double garage is proposed. This new built form, northeast of the main building is considered visually acceptable as it would not harmfully impact the site in regard to character and appearance. Materials of the proposed garage will be conditioned to ensure visual amenity is protected.

It is noted there would be engineering operations / creation of terraces and hard standings all of which would add to the impact the site would have visually. However, as the proposal also includes proposed landscaping within the curtilage of site, which includes replacing an existing tennis court with a formally laid garden. The LPA consider the proposed hardstanding areas to be acceptable and will not result in a harmful urbanising impact that would warrant a refusal. It is also noted that a condition will be implemented to ensure a landscaping scheme is submitted to the LPA to ensure the openness of the green belt setting is protected.

The proposed block plan shows that the existing stone wall along the perimeter of the site will be reduced to 1m in height and will have hedging behind. The proposed boundary wall is therefore considered acceptable and will be conditioned to be implemented within 3 months from the date of permission. This is to ensure visual amenity of the green belt setting is protected.

It is therefore considered that proposed development will accord with policies LP24 and LP35 of the Kirklees Local Plan, the aforementioned parts of the Housebuilders' Design Guide SPD, and guidance contained within the NPPF.

2. 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 130 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.

There are no other dwellings nearby that are in a position to be affected by the development.

The proposed dwelling would allow a good outlook and receipt of natural light to its occupants, the landscaping of the site would ensure that a generous amount of outdoor amenity space would be provided, and floorspace would be comfortably in excess of that required under the Nationally Described Space Standards for a five-bedroom house.

In conclusion, it is considered that the proposals are acceptable with regard to impacts on residential amenity, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapters 12 and 15 of the National Planning Policy Framework. The proposals are also considered to accord with Principles 6, 16 and 17 of the Council's Housebuilders Design Guide SPD.

An informative will be attached to control the hours of construction to protect residential amenity of surrounding residential properties.

3. Impact on Highway Safety

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.

The proposed block plan shows that the existing access will be widened in order to allow turning in both directions from Cockley Hill Lane which is considered acceptable. Any works to the highway will require the applicant to enter a section 184 agreement which will be attached by informative.

The proposed garage and hardstanding in front will provide ample parking for the proposed dwelling.

Internal turning is available to ensure vehicles can enter and leave the site in forward gear.

The approved vehicle parking areas would need to be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded. This will be conditioned.

Bin storage will be within the proposed garage which is accepted.

No information has been provided on waste collection. However, it is expected that this will remain the same as for the existing property.

As such, the proposed development is considered acceptable in regard to highway safety, complying with policy LP21 of the Kirklees Local Plan.

4. Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

In this case, it is considered that the resultant residential development would have an acceptable impact on Climate Change, given the requirements in relation to building regulations. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

5. Ecology

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.

The submitted application form outlines that the application falls under the self-build and custom-built exemption. Therefore, BNG is not required under this application.

The Council's GIS mapping system identifies the site to be located within an area with a known presence of great crested newts (GSN).

A Preliminary Ecological Assessment has been submitted and has been reviewed by KC ecology and deem the assessment reasonable and acceptable.

The site is within a West Yorkshire Wildlife Habitat Area, with Priority Habitat Inventory. It shows in the proposed habitat map that this will not be disturbed during works.

A number of trees are located north of the proposed dwelling and garage. These trees are not protected, and all groundwork for the new buildings will be built within existing hardstanding. Nevertheless, tree protecting measures will be imposed.

The report also refers to a Bat Survey and Assessment from 2023. Whilst no bats were found roosting in the building; there is a possibility of encountering bats, and reasonable avoidance measures are therefore required to be submitted as part of a construction environmental management plan (CEMP), which will be conditioned.

The report also refers to a GCN Risk Assessment from 2023. This assessment concluded it would be unlikely that GCN would be encountered during the demolition of the buildings and that a Natural England Licence would not be required for the building demolition. However, a Reasonable Avoidance Measures Method Statement and supervised by a suitably qualified ecologist was recommended, which will be conditioned as part of the CEMP.

Construction and habitat works are also to take place in areas suitable for reptiles, hedgehogs, birds, and badgers and so a Protected Species Method Statement, will also be conditioned as part of a CEMP.

To protect existing habitats surrounding the site, an artificial lighting strategy condition will be imposed also if the applicant decides to install any external lighting.

As the site is for one dwelling, a condition would be implemented to ensure habitat boxes would be installed to the new dwelling.

Given the above, an informative will also be imposed to ensure that if any evidence of bats, nesting birds, or other protected species is found during the course of works, all activity must cease immediately, and advice should be sought from a suitably qualified ecologist.

The submitted information is therefore considered acceptable in terms of ecology and would comply with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design Guide SPD

6. Land contamination

Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 197 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.

The site is located within a Coal Referral Area, in which the risk of instability arising from past coal mining activity is deemed to be significant.

As part of this application, a Coal Mining Risk Assessment report was submitted. The report concluded that, in light of the potential risks of instability at the site from the working of shallow coal, it cannot be recommended that development takes place without further investigation to conclusively determine the presence of such workings, including physical drilling methods to explore the ground conditions. As such, a Phase II intrusive site investigation is therefore required to be submitted.

The Mining Remediation Authority have reviewed the report and raise no objection subject to the imposition of conditions relating to an intrusive site investigation and any remediation works. It is therefore considered that there are no grounds to object to the application on potential land stability issues.

7. Public Right of Way

The existing PROW runs through the site. PROW are in receipt of an application to divert the public footpath KIR/9/30, however this application process has not commenced. PROW have stated that this path must remain open and available until any diversion application has been confirmed. When the case officer visited the site, the PROW had already been diverted, but was open and available to be used and ran along the perimeter of the curtilage of the site.

The submitted plans indicate a new route of the PROW, this would need to be subject to a separate process and whilst indicative and potentially forthcoming through successful application for the stopping up / diversion of a public right

of way, this would be a separate legislative process and therefore it is considered little weight can be afforded to this matter given there is potential for such an application to fail. Therefore, an informative note will be imposed to ensure the continued operation of the right of way is considered both reasonable and necessary.

8. Representations

Three letters of support have been submitted in response to site publicity. These comments are acknowledged.

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 would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation: Delegated Powers

Application Number: 2025/90949

Officer Recommendation: Approve

Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP21, LP22, LP24, LP28, LP30 and LP33 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 2, 5, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. Notwithstanding the submitted details, development above slab/foundation level shall not commence until details of all external walling and roofing materials to be used on the approved dwelling and garage have been submitted to and approved in writing by the Local Planning Authority. The

development shall not be brought into use until the approved scheme has been completed. No materials other than those approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.

Reason: In the interests of visual amenity and to protect the green belt setting to accord with Policy LP 24 of the Kirklees Local Plan, The Kirklees Housebuilders Design Guide SPD and guidance contained within Chapter 12 and Chapter 16 of the National Planning Policy Framework.

4. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives on Drawing No. (02)106, received 03/04/2025, are laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

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

5. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that ground conditions have been investigated at an appropriate time, in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (5) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: This is a pre-commencement condition to ensure that adequate remediation measures have been investigated at an appropriate time, in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (6). In the event that remediation is unable to proceed in accordance with the approved

Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

8. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

9. No above ground development shall commence until (excluding demolition of existing structures and site clearance);

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

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

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

10. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for

approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

11. Prior to the first occupation of the dwelling hereby approved, one integrated bird nesting feature shall be installed within the fabric of the building. The nesting features shall be retained thereafter.

Reason: To enhance opportunities for biodiversity at the site and to accord with Policy LP30 of the Kirklees Local Plan, guidance contained within Chapter 15 of the National Planning Policy Framework, and Principle 9 of the Housebuilders Design Guide SPD.

12. No works shall take place until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Summary of potentially damaging activities
- b) Identification of "biodiversity protection zones"
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (these may be provided as a set of method statements)
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

The CEMP must also include the following specific plans / documents:

- Bats - Reasonable Avoidance Measures Method Statement
- GCN - Reasonable Avoidance Measures Method Statement, including an ECoW plan
- For reptiles, hedgehogs, birds, and badgers - Protected Species Method Statement

Reason: This is a pre-commencement condition to ensure the protection of biodiversity during the development process, in the interests of biodiversity and in accordance with Policy LP30 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

13. Prior to development commencing protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees and trees to be retained on the site.

Reason: This is a pre-commencement condition in order to protect visual amenity and the long term viability of the trees and to accord with policy LP30 of the Kirklees Local Plan.

14. Prior to the installation of any external lighting, a detailed lighting scheme, developed in accordance with established guidance (e.g. Bat Conservation Trust and Institute of Lighting Professionals (2023) Bats and Artificial Lighting at Night), shall be submitted to, and approved in writing by, the Local Planning Authority. The Sensitive Lighting Strategy will demonstrate that the lighting will not impact upon ecological networks and/or sensitive features. External lighting shall be installed in accordance with the specifications and locations set out within the approved lighting scheme and retained thereafter.

Reason: In the interests of biodiversity and in accordance with Policy LP30 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework 2024.

15. The development shall not be brought into use until a scheme detailing hard and soft landscaping, tree/shrub planting, including the indication of all existing trees and hedgerows on and adjoining the site, details of any to be retained has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate the planting of native trees and hedgerows. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. The areas indicated for use as soft landscaping shall be retained as soft landscaped areas for the lifetime of the development and used for no other purpose.

Reason: To ensure that there is a well laid out scheme of healthy trees, hedgerows and shrubs in the interests of amenity, providing biodiversity measures and mitigating impact upon openness of the Green Belt to accord with Policies LP24 and LP30 of the Kirklees Local Plan, principles 7 & 9 of the Housebuilders Design Guide, and policies within chapters 12, 13 and 15 of the National Planning Policy Framework.

16. Within 3 months from the date of this permission, the proposed stone wall along the perimeter of the site will be lowered to 1m in height as shown on drawing ref: (02)106 REV A, received 08/07/2025. The wall shall be retained as such for the lifetime of the development.

Reason: In the interests of visual amenity and to protect the green belt setting to accord with Policy LP 24 of the Kirklees Local Plan, and guidance contained within Chapter 12 and Chapter 16 of the National Planning Policy Framework.

17. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) no development included within class(es) A, AA, B, C, E and F of part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the openness of the Green Belt and Visual Amenity, in accordance with Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 13 of the National Planning Policy Framework.

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

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

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

NOTE: Ground Investigations

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

NOTE: Shallow coal seams

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

NOTE: Requirement for Incidental Coal Agreements

If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required from the Coal Authority. Further information regarding Incidental Coal Agreements can be found here - <https://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements>

NOTE: No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours Saturdays

With no construction related noise audible beyond the site boundary on Sundays or Bank/Public Holidays.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited

NOTE: We note that parking is proposed at this development. We would encourage any electric vehicle charging points installed as part of this development to meet the requirements of the *Air Quality & Emissions Technical Planning Guidance* from the West Yorkshire Low Emissions Strategy Group. The applicant should note the information in the recommended Electric Vehicle Charging Points Footnote.

The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable

electrical requirements in force at the time of installation.

Approval of EVCPs under the Building Regulations may also be required, and the

applicant should contact their Building Control Provider for further information in

relation to Approved Document S.

NOTE: The applicant is reminded that if any evidence of bats, nesting birds, or other protected species is found during the course of works, all activity must cease immediately, and advice should be sought from a suitably qualified ecologist. It is an offence under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 to disturb or harm protected species or their habitats. Failure to comply with the legislation could result in prosecution.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway and the changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: Public footpath KIR/9/30 should remain free and available to be used prior to, during or after development works. The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston or via the email address publicrightsofway@kirklees.gov.uk

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	(02)001		03/04/2025
Proposed Site Plan	(02)106	A	08/07/2025
Existing and Proposed Site Plan	(02) 103A		03/04/2025
Proposed Ground Floor Plan	(02)110		03/04/2025
Proposed First Floor Plan	(02)111		03/04/2025
Proposed South Elevation	(02)130		03/04/2025
Proposed East Elevation	(02)131		03/04/2025
Proposed North Elevation	(02)132		03/04/2025
Proposed West Elevation	(02)133		03/04/2025
Existing and Proposed Site Section 1 of 2	(02)120		03/04/2025
Existing and Proposed Site Section 2 of 2	(02)121		03/04/2025
Planning Statement			14/05/2025
Ecological Report	JE 8329-24		03/04/2025
Bat Survey and Assessment			03/04/2025
GCN Risk Assessment			03/04/2025
Coal Mining Risk Assessment Report	C3678/23/E/5584		03/04/2025
Coal Mining Risk Assessment			03/04/2025

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 2024 and otherwise actively engaged with the applicant in dealing with the application. A revised block plan was submitted which reduced the height of the stone wall along the permitted of the site to protect visual amenity of the green belt setting.

Report Dated: 09/07/2025