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:	**2025/62/91232/E**
Site Address:	Land adjacent, 28, Stringer House Lane, Emley Moor, Huddersfield, HD8 9SU
Description:	Erection of detached dwelling and associated works
Recommending Officer:	Kerri Simpson

DECISION – FULL CONDITIONAL 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.

Emma Thompson

AUTHORISED OFFICER

Date: 9-Jul-25

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Officer Report – 2025/91232

Land adjacent, 28, Stringer House Lane, Emley Moor, Huddersfield, HD8 9SU

Site Description

The application site comprises a vacant rectangular parcel of land measuring circa 0.3hectares, situated between 28 Stringer House Lane and Broomfield Cottage; located on the eastern side of the unclassified Stringer House Lane. The site is accessed from Stringer House Lane via Jagger Lane. The site currently hosts a modest single-storey concrete block-built structure with an attached timber lean-to element. The site is enclosed to the front (west) by a stone walled boundary which incorporates an access gate, to the north by vegetation and a traditional post and wire fence, to the rear (west) by a stone wall and to the south by a timber and post rail fence. The topography slopes gently from the west to the east.

The site is bounded by residential properties at No.28 Stringer House Lane to the south, Broomfield Cottage to the north, open fields to the west and the highway of Stringer House Lane with open fields beyond to the east.

Description of Proposal

The Scheme

The application seeks full planning permission for the construction of a part two storey, part single storey detached dwelling with associated parking and internal driveway. The dwelling would be L-shaped in form and incorporate a forward projecting single storey element accommodating a double-garage, a two-storey flat roofed front bay window, a two- storey pitched rear gable, and a single storey flat roofed rear projection at ground floor level. The proposed dwelling would be partially lowered into the site, with sections of the front elevation and single-storey front projection set approximately 0.2 – 0.4m below the existing ground level on the western side and would utilise the existing access point.

The proposed external materials include ashlar and coursed stone to the walls, a blue slate roof to the main pitched roof slope, a flat green roof to the front single storey projection, and a zinc flat roof to the rear single-storey element. Openings would comprise black aluminum-framed windows and

doors throughout. The dwelling would also feature a chimney on the northern elevation, with solar panels proposed to the main roof slope to the rear (east).

Supporting Information

In addition to the submitted plans the following documents have been submitted to support the application to support the application:

- RBG456 - Coal Mining Risk Assessment (prepared by RB Geotechnical)
- Paragraph 154 (G) of the Revised NPPF (December 2024) Statement (Prepared by JR Planning Consultants)
- Ecological Statement of Biodiversity Net Gain – Baseline SQ-3032 (Prepared by Estrada Ecology Ltd)
- The Statutory Biodiversity Metric (Prepared by Estrada Ecology Ltd)
- Planning Statement (Prepared by JR Planning Consultants)
- 2025/113 DA - Design and Access Statement (Prepared by Hill Rise Architecture)
- Climate Change Statement (Prepared by JR Planning Consultants)

History of Negotiations and Amendments Received

In response to the Ecology Officers comments, the applicant submitted a Proposed Block Plan (Drwg no 2025113/104 Rev P0) that clearly defines an area where Biodiversity Net Gain could be achieved.

Relevant Planning History

The most relevant planning history relates to the following planning applications:

2012/92010 - Erection of detached dwelling (Refused, 29.11.2012)

Reason for Refusal:

1. The proposed new residential dwelling adjacent to 28 Stringer House Lane constitutes inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt. The dwelling would not form infill development within an existing settlement or village and the proposal would therefore fail to accord with Policy D13 of the Kirklees Unitary Development Plan or Paragraph 89 of the National Planning Policy Framework. No very special circumstances have been put forward which would outweigh the harm to the Green

Belt by reason of inappropriateness or the detrimental impact on its openness and visual amenity.

Representations

Consultation for the application has been carried out in accordance with the Council's Development Management Charter 2024 and Article 15 of Town and Country Planning (Development Management Procedure) (England) Order 2015.

The application was publicised by way of site notice and via the Council's website. The statutory publicity period expired on 1st July 2025. There have been no letters of representation from members of the public received.

Consultation Responses

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Ecology Team – No objection, subject to conditions pertaining to pollution prevention measures for watercourses, hedgerow protection measures, a lighting strategy, ecological enhancements, construction management and a Biodiversity Net Gain Plan.

KC Highways Development Management Team (HDM) – The highways team were consulted on 5th June 2025; however, no response was received. The Case Officer has assessed the proposal taking into account HDM's response to application reference 2012/92010, national and local planning policies and the Highways Design Guide SPD.

The Coal Authority – No objection, however, given that the site lies within an area of potential risk from unrecorded shallow coal mining, they recommend conditions requiring intrusive site investigations and any necessary remediation to ensure the site is made safe and stable for the approved development. The conditions also require a signed declaration from a suitably competent person confirming site safety prior to occupation.

Denby Dale Parish Council - No objections subject to Greenbelt Regulations.

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

Allocation and Policy

The site is unallocated within the Kirklees local Plan (Adopted 2019)

The site is subject to the following planning policy designations and constraints:

- Green Belt
- Development High Risk Area (Coal)
- Radon Class 1
- Public Right of Way (DEN/dmmo app342/10)

The following legislation, policy and guidance is considered relevant to the determination of this application: -

Kirklees Local Plan

LP1 Achieving Sustainable Development
LP2 Place Shaping
LP3 Location of new development
LP7 Efficient and effective use of land and buildings
LP20 Sustainable travel
LP21 Highway and Access
LP22 Parking
LP24 Design
LP26 Renewable and Low Carbon Energy
LP28 Drainage
LP30 Biodiversity and Geodiversity
LP52 Protection and Improvement of Environmental Quality
LP53 Contaminated and Unstable land
LP59 Brownfield Sites in the Green Belt

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. In this case the Technical housing standards – nationally described space standard guidance document (dated March 2015) is considered to be of relevance

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

Chapter 2 Achieving sustainable development
Chapter 4 Decision-making
Chapter 5 Delivering a sufficient supply of homes
Chapter 9 Promoting sustainable transport
Chapter 11 Making effective use of land
Chapter 12 Achieving well-designed places
Chapter 13 Protecting Green Belt land
Chapter 14 Meeting the challenge of climate change, flooding and coastal change
Chapter 15 Conserving and enhancing the natural environment

Supplementary Planning Documents / guidance

Kirklees Highway Design Guide (adopted November 2019)
Housebuilders Design Guide SPD (adopted June 2021)
The Biodiversity Net Gain Technical Advice Note (June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.
The Conservation of Habitats and Species Regulations 2017
Biodiversity Net Gain Technical Advice Note 2021

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Visual Amenity
2. Residential Amenity
3. Highways Impacts
4. Contaminated Land
5. Flood and Drainage
6. Ecology and Biodiversity
7. Climate Change

8. Other matters
9. Representations
10. Conclusion

1.Principle of Development

1.1 Sustainable Development

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

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favor of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

1.4 Principle of Development in the Green Belt

Chapter 13 (Protecting Green Belt Land) of the National Planning Policy Framework (December 2024) sets out at Paragraph 142 that the Government attaches great importance to Green Belts. 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. The NPPF goes on to establish in Paragraph 143, that the purposes of the Green Belt are:

a) to check the unrestricted sprawl of large built-up areas;
a) to prevent neighbouring towns merging into one another;
b) to assist in safeguarding the countryside from encroachment;
c) to preserve the setting and special character of historic towns; and
d) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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 (footnote 55). Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances will not exist unless the potential harm to the Green Belt by*

reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations".

Paragraph 154 of the NPPF (Previously Developed Land)

Paragraph 154 establishes that development in the Green Belt is inappropriate unless one of the following exceptions set out in the text applies. Of relevance to this proposal is criteria 154 (g), which states:

(g) 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), where redundant or in continuing use (excluding temporary buildings), which would:

- not cause substantial harm to the openness of the Green Belt.

Policy LP59 of the Kirklees Local Plan also provides guidance on the redevelopment of previously developed sites in the Green Belt. However, it is acknowledged that LP59 reflects the former wording of the NPPF, *"not have a greater impact on the openness of the Green Belt than the existing development*" and is therefore now partially outdated. Nevertheless, the policy remains a material consideration and is relevant to this assessment in striking an appropriate balance between local context and national policy.

It is also relevant to note that the policies used to assess the previously refused application (ref 2012/92010) have since been superseded by both updated local and national planning policies. As such, the requirement for development to form an infill development within an existing settlement or village no longer exists.

The accompanying application documents assert that the land has been used as amenity land in association with the dwelling at No.28 Stringer House Lane. While historic aerial images dating back to 2009 substantiate that assertion, officers who assessed the 2012 application visited the site and noted the presences of horses on the land, which leads to uncertainty about the lawful use of the land.

Application reference 93/00125 sought permission for the erection of an animal feed shelter, which was refused. There is no subsequent planning history to demonstrate that the lawful use of the application site is as amenity land for No.28 Stringer House Lane. On this basis, officers consider there is insufficient evidence to determine that the site meets the definition of Previously Developed Land set out in Annex 2: Glossary of the National Planning Policy Framework. It is therefore considered that the proposal would

not fall within the exception set out in Paragraph 154(g) nor any other exception within the paragraph. Further consideration must be given to the "Grey Belt" exception set out in Paragraph 155 of the NPPF.

Paragraph 155 of the NPPF (Grey Belt)

Paragraph 155 of the NPPF states that development in the Green Belt should not be regarded as inappropriate where:

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 (footnote 56);

b) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework (footnote 57); and

c) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157

Annex 2 of the NPPF defines Grey Belt as:

"For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development".

To determine whether the land could be considered as Grey Belt, consideration should first be given to where or not the land strongly contributes to purposes (a), (b) or (d) set out in Paragraph 143 of the NPPF (December 2024). If the land does not strongly contribute to these purposes and is considered Grey Belt, then an assessment should follow as to whether development would fundamentally undermine the strategic function of the remaining Green Belt across the Local Plan Area as whole, as required by Paragraph 155 of the NPPF.

Meeting Green Belt Purposes – Land (Paragraph 155a)

Planning Practice Guidance published 27 February 2025 pertaining to Green Belt, sets out the considerations which inform the judgements on what level of contribution the site/land makes to the Green Belt purposes.

The areas with the closest proximity to the site are Emley (village), circa 1.2km to the east, Clayton West (village) circa 5km to the southeast, and Skelmanthorpe circa 3.8km to the south. The site is located within a row of residential properties, which could be defined as rural ribbon of development. The land is not adjacent or near a large built-up area as Emley, Clayton West and Skelmanthorpe are considered villages. As such, the land makes a weak contribution to purpose (a) – to check the unrestricted sprawl of large built-up areas. The land does not form a gap between towns, as such has a weak contribution to purpose (b) – to prevent neighbouring towns from merging into one another. Similarly, the land does not form part of the setting of a historic town therefore makes no contribution to purpose (d) – to preserve the setting and special character of historic towns.

It is therefore considered that the land does not strongly contribute to any of the purposes in Paragraph 143 (a), (b) or (d) of the NPPF, nor do any exclusions under footnote 7 apply.

Meeting Green Belt Purposes – Development (Paragraph 155a)

The site is located within an existing ribbon of development and is visually and physically contained by existing dwellings to the north and south. The proposed development would largely follow prevailing urban grain and building lines of Stringer House Lane. While the development would introduce development on to unbuilt land, the proposed dwelling would of a modest scale and would be positioned acceptably within the wider context of the Green Belt. The application site would form a small part of the wider gap between towns within Kirklees and neighbouring boroughs, as such the development would not result in or contribute to the merging of towns (purpose b). While the development would introduce a building along with associated hardstanding onto an undeveloped parcel of land, the extent of the built form would be positioned no further to the east than that of neighbouring buildings, the site forms a gap in the street scene which serves no wider strategic purpose and appears as an anomaly. As such, the development would be read in the context of the existing built form and would not undermine the green belts role of safeguarding the countryside from encroachments (purpose c).

The site is not located within or near the setting of a historic town and would have no impact on heritage context or character (purpose d). While the

proposal does not directly contribute to urban regeneration, it would not prejudice the use of such land for development. Therefore, it is not considered that the development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area.

Demonstrable Unmet Need (Paragraph 155b)

With regards to Paragraph 155 (b), Kirklees currently has a 3.96-year housing land supply, which falls below the required five-year supply. The 2022 Housing Delivery Test results also indicate under-delivery with only 67% of required housing being delivered. This shortfall is a material consideration and supports the principle of development on Grey Belt land.

The proposed development would contribute to addressing housing need within Kirklees through the delivery of a new family sized dwelling. The supporting information indicates an intention to deliver a single market dwelling, that would contribute toward the local housing supply and offer a dwelling aligned with the identified need for family homes.

While the Council's most recent Strategic Housing Market Assessment (SHMA, 2016) identifies a need for dwellings of this type, it is acknowledged that the Local Plan is currently under review and that work has commenced to update the SHMA. In the absence of more recent published evidence, the 2016 SHMA remains a relevant consideration, although its conclusions should be viewed as indicative rather than definitive.

In this context, the proposal offers a modest but valuable contribution to housing need in a district with a shortfall in general supply. As such, it is considered that there is a demonstrable unmet need for the type of development proposed.

Sustainable Location (Paragraph 155c)

The application site is located within 1.2km (0.8miles, 3 minutes' drive or 16 minutes' walk), within 5km of Clayton West (10 minutes' drive), within 3.8km of Skelmanthorpe (7 minute drive) and within 2km of Flockton (6-minute drive). These areas collectively provide good access to local facilities and services including primary and secondary schools. The site is also within a short walk from bus stops on Jagger Lane/Chapel Lane which provide hourly bidirectional services between Huddersfield and Wakefield, the stop also provides a school bus service to/from Shelley College. It is recognised that future occupants of the dwelling would be reliant on the use of private vehicles for most day-to-day journeys, the proposal relates to a single dwelling and associated trip generation would be minimal.

Taking into account the sites rural setting, the site proximity to local facilities and services, and the limited scale of development, it is considered that the

development would be in a reasonably accessible and sustainable location for the purposes Paragraph 155c of the NPPF.

Very Special Circumstances

As it is considered that both the land and the proposed development fall within the exceptions set out in paragraph 155 of the NPPF, it is not necessary to demonstrate very special circumstances (VSCs). The proposal as submitted does not constitute inappropriate development in the Green Belt when assessed against this policy context, and therefore the requirement to justify harm by reason of inappropriateness does not apply.

1.3 Principle of Housing Development

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.

Policy LP3 of the Kirklees Local Plan is also of relevance insofar as it requires development to deliver homes in a sustainable way.

The principle of development within the Green Belt has been accepted in this case. The proposal would introduce a single dwelling within an established ribbon of residential development, contributing modestly to local housing supply. Given the acknowledged housing land shortfall, the scheme is considered to support the strategic aims of Policies LP1, LP2 and LP3 of the

Kirklees Local Plan, subject to detailed assessment against remaining material planning considerations and policies.

2. Visual Amenity

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development; it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Of key importance, Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.*

The proposed dwelling would be situated within a defined plot, set within a loose ribbon of existing residential development. While the dwelling would be of a substantial scale, its massing has been broken up through a combination of single and two-storey elements, and the building would be partially sunken into the site to reduce its overall perceived height from the highway. From open land to the rear, its scale would be such that it would be read acceptably in the context of existing residential properties. The use of high-quality materials comprising stone walls, slate-effect and green roofs would reflect the surrounding built context. While the proposal would incorporate more contemporary features, such as the forward projecting corniced two storey element, a central window feature and the use of dark aluminium framing to openings, these features would be modest in scale, visually contained within the plot and would be read as part of bespoke, individually designed dwelling rather than a pattern-book suburban/rural form while respecting the existing context.

The site is not located within a Conservation Area or a sensitive heritage setting, and the dwelling would not appear unduly prominent or out of keeping within its context. Overall, the proposal is considered to achieve a good standard of design in accordance with Policies LP1, LP2 and LP24 of the Kirklees Local Plan.

3. Impact on Residential Amenity

Sections 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 House Builders Design Guide sets out 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 text supporting this principle states that:
"For two storey houses typical minimum separation distances are advised:

- *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."*

Principle 17 of the Council's adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015).

3.1 Neighbouring Amenity

Broomfield Farm

This neighbouring property is located to the north of the application site and is served by a single-storey front projection used as a garage. The proposed dwelling would include small, square side facing windows adjacent this neighbour, providing limited views towards the vegetated shared boundary at ground level and across the neighbouring garages roofscape at first floor level. The rear first floor windows would be set at an adequate distance and angle to not give rise to a loss of privacy to the adjoining amenity space. Given the scale and positioning of the windows, it is not considered that the proposal would result in any undue overlooking or loss of privacy.

In terms of daylight and sunlight, the proposed dwelling would be set approximately 7.25m from the boundary shared with Broomfield Farm and would be partially sunken into the ground. When combined with its lower ridge

height, it is not considered that the development would result in a material loss of daylight or sunlight to habitable room windows nor would it lead to significant overshadowing of the neighbouring forecourt.

No.28 Stringer House Lane

This neighbouring property is located to the south of the site. The proposed single-storey front projection would sit adjacent to the side elevation of No.28, while the main two-storey element would largely align with the existing area of hard standing.

The development would maintain an appropriate degree of separation and would be located to the north of the neighbour, remaining outside its primary sun path, as such it is not envisaged that the development would lead to a loss of daylight/sunlight. Although both No.28 and the proposed dwelling include side facing windows, these would be vertically offset due to differences in ground levels. As such, it is not considered that the proposal would result in undue harm through overlooking of loss of privacy. The rear first floor windows would be set at an adequate distance and angle to not give rise to a loss of privacy to the adjoining amenity space.

Surrounding Land

There are no residential properties to the immediate east or west of the application site.

3.2 Amenity of future occupiers

The proposed dwelling would have a gross internal floor area of approximately 317.5sqm across two storeys and would contain five bedrooms. Bedrooms 1, 2 and 4 are appropriately sized for double occupancy. Bedrooms 3 and 5 are also illustrated with double beds and fall only marginally below the NDSS threshold of 11.5sqm for double or twin occupancy by circa 0.5sqm and 0.1sqm respectively. The proposal could support up to 10 occupants, the overall internal floor area would far exceed the minimum requirement of 138sqm for a six-bedroom eight-person dwelling set over two storeys.

The proposed layout would provide a high level of accommodation, with good levels of natural light and outlook to all habitable rooms. Adequate internal storage is also included. Externally, there would be a sufficient quantity and quality of private amenity space, commensurate to the scale of the dwelling.

Conclusion on residential amenity impacts

The proposed development would not result in any undue harm to the amenities of neighbouring occupiers by reason of overlooking, loss of daylight or sunlight nor overshadowing, due its positioning, separation distances, and relationship with neighbouring properties. Furthermore, the dwelling would offer a high standard of accommodation for future occupants, within an acceptable Gross Internal Area and appropriate private outdoor amenity space. As such, the proposal is considered to comply with Policies LP24(b) and LP24(c) of the Kirklees Local Plan, the Principles 6,16 and 17 of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

4. Highway Impacts

Policy LP21 of the Kirklees Local Plan requires development to provide safe, convenient, and efficient access for all users, including pedestrians, cyclists, public transport users and vehicles. Proposals must not result in an unacceptable impact on the highway network.

Policy LP22 sets out parking requirements stating that developments should provide appropriate provision for vehicles in accordance with the Council's adopted parking standards. This includes on-site parking for residents and visitors, as well as provision of servicing and deliveries where relevant.

These policies are underpinned by Chapter 9 of the NPPF which requires that development proposals ensure safe and suitable access for all users, mitigate any significant impacts on the transport network, and provide adequate opportunities for sustainable travel.

The Kirklees Highways Design Guide SPD provides further guidance on the detailed design of access points, private drives, internal layout dimensions, visibility splays, turning space, and the number of parking spaces required based on dwelling size.

The proposal seeks to utilise the existing access along with off-street parking for a total of three vehicles through the provision of a double garage as well as an arear of hardstanding and turning area to allow vehicles to enter and exit in a forward gear. The overall layout is considered sufficient to meet the needs of the proposed dwelling in accordance with Policy LP21 of the Kirklees Local Plan and the Highways Design Guide SPD.

Although visibility splays are not annotated on the submitted plans, it is noted that splays of 2.4m x 43m were previously considered acceptable by the Councils Highways Development Management Team in relation to the historic application at the site. Given the site frontage, the continual use of the existing

access and local road conditions, it is considered likely that such splays can be achieved. A compliance condition is recommended to secure this requirement, in the interests of highway safety.

No bin storage area is shown on the submitted plans; however, the proposed site layout includes ample space within the curtilage to accommodate refuse and recycling bins without impacting parking or manoeuvring. Bins would be presented for collection at the edge of Stringer House Lane, which falls outside the red line boundary. This arrangement is consistent with nearby properties and is not considered to raise concerns in term of collection logistics.

The proposed access, parking and turning arrangements are considered acceptable for a development of this scale, and adequate space is available within the site for bin storage. Subject to conditions securing visibility splays, the proposal is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan along with the Highways Design Guide SPD.

5. Contaminated Land

Chapter 15 of the NPPF promotes safe and healthy living environments and requires that land contamination and other environmental constraints are considered and mitigated as part of the planning process.

Policies LP51 and LP53 of the Kirklees Local Plan seek to ensure that development does not cause, or results in exposure to, pollution or environmental risks that would be harmful to human health or the environment. These policies require developments to be appropriately assessed and, where necessary, remediate to ensure that sites are suitable for their intended use.

The site is not identified on the Council's contaminated land layer. While the precise historic land use is unclear, the site appears to have been in use as informal amenity space associated with a residential dwelling and historically agricultural over a prolonged period. Given the nature of the development and its location, it is considered proportionate to apply a precautionary condition requiring notification in the event that any unexpected contamination is encountered during any remaining groundworks.

The site lies within a Development High Risk Area as defined by The Mining Remediation Authority (MRA) (formerly known as the Coal Authority). The application is supported by a Coal Mining Risk Assessment (CMRA), which identifies the potential for unrecorded shallow coal workings beneath the site. The MRA has reviewed the submitted CMRA and raises no objection to the

development, subject to the imposition of conditions securing intrusive investigations, any necessary remediation and the submission of a verification report. As such, in line with the CMRA's consultation response, the recommended conditions will be imposed to ensure that the site is, or can be, made safe and stable for its intended use.

It is therefore considered that subject to a condition requiring the reporting of any unexpected contamination encountered during development, the cessation of works in any identified affected area and the submission of a remediation strategy if necessary; along with the recommended conditions from the Mining Remediation Authority for intrusive investigations, the proposal would be carried out in accordance with Policy LP53 and LP51 of the Kirklees Local Plan and Paragraphs 189 and 190 of the NPPF.

6. Flood and Drainage

Chapter 14 of the NPFF seeks to direct development away from areas at risk of flooding and ensure that new development does not increase flood risk elsewhere. It also requires that surface water is managed using SuDs where possible and that developments are supported by appropriate drainage infrastructure, taking into account ground conditions and pollution risk.

Policy LP28 of the Kirklees Local Plan reflects these national objectives, requiring all new development to incorporate appropriate foul and surface water drainage arrangements, including SuDs where feasible, and to ensure that any such infrastructure does not increase flood risk or lead to pollution on or off site.

The site is not located within a designated flood zone and is identified via the Environment Agency's flood risk mapping as being at very low risk of surface water flooding. As such, there is no requirement for a Flood Risk Assessment in this instance.

However, in accordance with Policy LP28 of the Kirklees Local Plan and the objectives of Chapter 14 of the NPPF, new development is still expected to incorporate sustainable drainage measures to ensure that surface water is appropriately managed and does not increase flood risk either on or off site. As such, a condition will be attached to the permission to ensure parking areas are constructed in a permeable material and appropriately drained.

Subject to conditions as detailed above, it is considered that the proposal would comply with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

7. Biodiversity and Ecology

The Biodiversity Net Gain (BNG) Technical Advice Note provides local context on implementing BNG and reflects the statutory requirement introduced by the Environment Act 2021, which mandates a minimum 10% biodiversity net gain for most developments.

Chapter 15, Paragraphs 190, 191,192, 194 and 195 of the NPPF (December 2024) collectively seek to protect and enhance the natural environment by securing measurable biodiversity net gains, safeguarding irreplaceable habitats, and ensuring that harm to biodiversity is avoided, mitigated or, only where absolutely necessary, compensated.

Policy LP30 of the Kirklees Local Plan seeks to ensure that development proposals protect and enhance the natural environment. This includes safeguarding species and habitats of principal importance, avoiding significant harm to biodiversity, and securing measurable biodiversity net gains wherever possible.

The application is supported by a Preliminary Ecological Appraisal (PEA), which confirms that the site comprises semi-improved grassland with limited ecological value and identifies no evidence of protected species or habitats on site. The site is not subject to any statutory or non-statutory designations. Nonetheless, given the site rural context of the site, the ecology officer has recommended conditions to secure pollution prevention measures for watercourses, hedgerow protection measures, a lighting strategy and ecological enhancements. An informative has also been recommended advising the agent to ensure any works take place outside of the bird nesting season.

To demonstrate compliance with national and local policy requirements for Biodiversity Net Gain, the applicant has submitted a completed Biodiversity Metric, which has been reviewed by the Council's Ecology Officer. The metric identifies a baseline value of habitats across the site, including the paddock to the east, and confirms that a net gain in biodiversity can be achieved through on-site enhancements within the red line boundary. Subject to a planning condition requiring the submission of a Biodiversity Gain Plan prior to commencement, the application is acceptable from a biodiversity perspective. The Gain Plan will be expected to align with the submitted metric and demonstrate the delivery, management, and monitoring of habitats for a minimum 30-year period, in accordance with the Environment Act 2021.

As such, subject to conditions, the proposal is considered to comply with Policy LP30 of the Kirklees Local Plan. An informative will be added to the condition to

advise the applicant of their responsibilities in relation to protected species in accordance with the Wildlife Act and Chapter 15 of the NPPF.

8. 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.

Policy LP24(d) of the Kirklees Local Plan requires developments to promote sustainable design and construction by minimizing resource use and carbon emissions, and by incorporating measures that reduce the environmental impact of buildings, including energy and water efficiency.

Policy LP26 further supports this by encouraging development that contributes to climate change and adaptation through layout, design, orientation, and use of low-carbon technologies.

The application is supported by a climate change statement which outlines a series of design and construction measures intended to mitigate the environmental impacts of the development. These include enhanced thermal insulation, high-performance windows, whole-house ventilation, and solar PV panels. Materials will be locally sourced where possible, with an emphasis on recyclability. The layout is proposed to support solar gain control and purge ventilation. Water-efficient fittings are proposed, and manual cutting or materials will be encouraged to limit construction dust.

Taken together, these measures demonstrate a proactive approach to addressing climate change and align with the aims of Chapter 14 of the NPPF, Policies LP24(d) and LP26 of the Kirklees Local Plan and the wider aims of the Council.

9. Other Matters

Pre-commencement conditions

In accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the applicant was notified of the intention to impose these conditions and provided with an opportunity to comment and confirmed their agreement in writing on 7th July 2025. The conditions are therefore considered reasonable, necessary, and compliant with the relevant legislation.

10. Representations

No public letters of representation were received.

11. 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 the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation **APPROVE**

Decision Authorisation: Delegated Powers

Application Number: 2025/91232

Officer Recommendation: CONDTIONAL FULL PERMISSION

Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission. **Reason:** To ensure compliance with Section 91 of the Town and Country Planning Act 1990.

1. 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 LP1, LP2, LP3, LP7, LP20, LP21, LP22, LP24, LP28, LP30, LP52 and LP53 of the Kirklees Local Plan,

Chapters 2, 4, 5, 9,11, 12, 13,14 and 15 of the National Planning Policy Framework, and Principles 2, 5, 6, 9, 12, 13, 14, 15, 16, 17, 18 and 19 of the Housebuilders Design Guide SPD.

2. The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved unless the prior written consent of the Local Planning Authority has been obtained for any proposed change or variation. **Reason:** In the interest of visual amenity in accordance with Policy LP24 of the Kirklees Local Plan, the Kirklees Housebuilders Design Guide Supplementary Planning Document and the aims of chapter 12 of the National Planning Policy Framework 2024.

3. The dwelling hereby approved shall not be brought into use until all areas to be hard surfaced for access and parking have been and 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 (ISBN 9781409804864) as amended or any successor guidance. These areas shall be so retained, free of obstructions and available for access and parking. **Reason:** In the interests of visual amenity, highway safety and to mitigate flood risk. To accord with Policies LP21, LP22, LP24 and LP28 of the Kirklees Local Plan.

4. The development hereby approved shall not be brough into use until visibility splays of 2.4 meters by 43 meters in both directions from the access onto Stringer House Lane have been provided. The splays shall thereafter be retained free from obstruction exceeding 1 metre in height above carriageway level for the lifetime of the development. **Reason:** In the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan and Chapter 10 of the National Planning Policy Framework 2024.

5. No development shall commence until:

   a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past 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: In the interests of public safety and to ensure the stability of the land for development, in accordance with Policy LP53 of the Kirklees Local Plan and Paragraphs 196 and 197 of the National Planning Policy Framework 2024.

6. 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: In the interests of public safety and to ensure the stability of the land for development, in accordance with Policy LP53 of the Kirklees Local Plan and Paragraphs 196 and 197 of the National Planning Policy Framework 2024.

7. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning authority shall be notified in writing within 2 working days. Works on site shall not recommence until either:

    a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or,
    a) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

    Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in

respect of those works has been approved in writing by the Local Planning Authority.
Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

8. 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
    a) Identification of "biodiversity protection zones”
    b) Pollution Prevention Plan for the watercourse (using good practice guidance such as CIRIA C532)
    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.

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

9. 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), has been drafted and agreed with the council. The Sensitive Lighting Strategy will demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. Thereafter the agreed lighting scheme shall be implemented, subject to any variations approved in writing by the

planning authority. All external lighting shall be installed strictly in accordance with the specifications and locations set out within the Lighting Strategy. **Reason:** In the interests of biodiversity and in accordance with Policy LP30 and Chapter 15 of the National Planning Policy Framework 2024.

10. A Hedgerow and Tree Protection Plan detailing measures for the protection of trees and hedgerows during the works shall be submitted to and approved by the LPA prior to the commencement of works on site, including site clearance and delivery of materials.

    Hedgerow and tree protection measures will include temporary fencing for the protection of hedgerows in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations. Any alternative fencing type or position not in accordance with BS 5837:2012 will be agreed in writing by the LPA prior to the start of development.

    The root protection fencing will define the works exclusion zone around hedgerows and trees. Activities liable to be harmful to hedgerows and trees are prohibited within this exclusion zone, unless agreed in writing with the LPA. The approved hedgerow and tree protection measures will remain in place until the completion of development or unless otherwise agreed in writing with the LPA.
    Reason: In the interests of biodiversity and in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework 2024.

11. Prior to the first occupation of the dwelling hereby approved, one integrated bird nesting features and one bat box 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 national guidance set out in Chapter 15 of the National Planning Policy Framework, LP30 of the Kirklees Local Plan and Principle 9 of the Housebuilders Design Guide SPD.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act

1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021.

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: 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 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: The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is

encountered during development, this should be reported immediately to the Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242. Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

NOTE: 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, 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: 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 at: www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-forapplicants-for-incidental-coal-agreements.

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

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.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location Plan	2025113/LOC	P0	06/05/2025
Existing Plans and Elevations	2025113/101	P0	06/05/2025

Plan Type	Reference	Version	Date Received
Proposed Block Plan	2025113/104	P0	02/07/2025
Proposed Plans and Elevations	2025113/102	P0	06/05/2025
Proposed Street-scene Elevation	2025113/103	P0	06/05/2025
Coal Mining Risk Assessment	RBG456	001	14/05/2025
Paragraph 154 (G) of the Revised NPPF (December 2024)	-	-	06/05/2025
Ecological Statement of Biodiversity Net Gain – Baseline SQ-3032	-	-	06/05/2025
The Statutory Biodiversity Metric	-	-	06/05/2025
Planning Statement	-	-	06/05/2025
Design & Access Statement - Land Adjacent 28 Stringer House Lane, Emley	2025/113 DA	-	14/05/2025
Climate Change Statement	-	-	06/05/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2024 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. An additional site block plan was requested to demonstrate that the development is capable of delivering Biodiversity Net Gain within the red line boundary.

INFORMATIVE

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

a) a Biodiversity Gain Plan has been submitted to the planning authority, and
b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Kirklees Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).]

<u>Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.</u>

1.The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i)the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii)the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;
i) planning permission is granted which has effect before 2 April 2024; or
ii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
i) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which

applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

i) is carried out on a site which has an area no larger than 0.5 hectares; and

ii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.
The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.
The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:

i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

i) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1.The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i)the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii)the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

iii) the application for planning permission was made before 2 April 2024;
iv) planning permission is granted which has effect before 2 April 2024; or
v) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

ii) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
iii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

iii) consists of no more than 9 dwellings;

iv) is carried out on a site which has an area no larger than 0.5 hectares; and

v) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.
The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.
The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

ii) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

iii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Report Dated: 7th July 2025