

**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:	2025/62/93399/W
Site Address:	land between, 3 & 7, Boulder Gate, Marsden, Huddersfield, HD7 6LJ
Description:	Erection of detached dwelling with associated parking and landscaping
Recommending Officer:	John Holmes

DECISION - REFUSE

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 6th February 2026

Officer Report – 2025/93399

Site Description

The application site is steeply sloping falling from northeast to southeast and is situated at the junction of a Classified B Road B6107 (Meltham Road) and Gate Head. The site is bounded by a traditional stone wall, which forms as part of a strong landscape characteristic along Meltham Road and Gate Head.

Access to the site is from Gate Head to Boulder Gate which is an residential development constructed in the late 80s / early 90s. The construction palette is of natural stone with tiled roofs of varied architectural design. Those properties have been extended with some having minimal property gaps to flank boundaries, varying building lines/set backs from the carriageway and varying proportions of front and rear amenity spaces. The broader area is residential with the junction having a pleasant degree of openness from green landscaping to either side of Boulder Gate and visually linking southeast of Meltham Road, to open and undesignated green land.

A Grade II Listed Building is heavily screened by its own mature trees and separated 23.5m southwest from the application site (Historic England Listing ref: 1221358).

Description of Proposal

The Scheme

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

The proposed dwelling would be split level and part single / part two storey with a part gable roof and hipped roof design. A gable roof designed single storey element would serve a porch to the front.

The layout would see a patio area to the west of the dwelling with a stepped access to the parking area and area for storage of bins to the further west. An air source heat pump is proposed to the north of the dwelling (adjacent to the northern elevation). Solar panels are proposed to the southern roof slope. A hipped element of the roof is proposed to the northern part of the dwellings roofscape.

The proposal is seeking permission on a site which has had a recent application for residential development refused by the LPA with a subsequent appeal dismissed by the Planning Inspectorate.

The previously refused scheme sought permission for a gable roof design dwelling on a differing footprint and orientation within the site with an associated detached garage. The proposal has been amended in terms of the

siting of the dwelling and its orientation within the site, whilst the design has been amended from a gable roof design to a hipped design with a lower ridge height than that of the previous refusal.

Supporting Information

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

- Planning Statement
- Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment

The planning statement sets out the following in what it considers are the main points of contention in the appeal decision, which are identified as follows:

1. The dwelling would appear as cramped and contrived due to its awkward orientation
2. The lack of breathing space around the dwelling would be at odds with the established character of the Boulder Gate Estate.
3. The quantum and useability of the garden would be substandard

The planning statement sets out that in relation to these issues the proposed dwelling has been realigned to follow that of no.3 Boulder Gate, the footprint is 67.1m² compared with 83.5m² (reduction of 16.4m²/20%) and amenity space provision has increased from 136m² to 180m².

The statement sets out that in response to pre application advice sought since the Inspectorate decision, air source heat pumps have been less prominently sited, the detached garage removed from the scheme, amendment of the roof design of the dwelling further from the previous scheme.

A summary of the changes is detailed in the statement, which includes reference to reducing the ridge height by between 0.43 and 0.85m, reduction in the depth of the dwelling by 0.85m and length by 0.7m. Porch width reduced by 0.35m is also cited as well as the increase of the patio / level garden areas and footprint.

The planning statement sets out an analysis of other plots on Boulder Gate and sets out the applicant's contention that in relation to Design and Visual Amenity, Residential Amenity, Sustainable Development, Housing Supply and Delivery, Efficient use of Brownfield land within settlements, highways considerations, Biodiversity Net Gain & Climate Change the scheme is now acceptable.

The conclusion and planning balance of the planning statement sets out that *'it is considered that the proposals have adequately overcome the reasons cited by the Inspector in the previous appeal decision in terms of design & visual amenity and residential amenity. Further amendments have responses to the Council's further suggestions for improvement of the scheme at the pre-*

application stage.’ And goes on to conclude ‘in summary, the applicant respectfully considers that the planning balance is tilted heavily in favour of granting planning permission in this case. The presumption in favour of development (the tilted balance) now applies within Kirklees, and the appellant considers that the adverse impacts of the proposals do not in any reasonably objective measure outweigh the benefits of the scheme in a significant and demonstrable manner, as per NPPF paragraph 11(d).’

History of Negotiations / Amendments Received

Reference is made in the submitted planning statement in relation to pre application discussions undertaken following the refusal and subsequent dismissal of the appeal in relation to application 2024/90652 (detailed in the ‘Planning History’ section below).

Pre application discussions were held with a meeting at the Council’s offices with the applicants’ agent. Within the meeting concerns were raised.

Within an email dated 23rd May 2025, following the meeting, the following advice was provided:

At the meeting the content of the [decision](#) of the Planning Inspectorate was discussed. I outlined that I have concerns that the extent of the decision has potential to be considered to have ‘sterilised’ the site. In particular the statement at para 9 of their decision where they set out ‘I share the Council’s concerns that the Appellant is simply expecting too much from a site with considerable constraints’.

Notwithstanding this, I did raise points for consideration which I advised could be considered to potentially improve the scheme and go some way to seek to address the reasons. These being the following:

- *Removal of Air Source Heat Pump (ASHP) or siting it in a less prominent location*
- *Removal of garage and potentially creating an amenity space in this location on the basis such an amendment has the potential to offer an increased level of privacy*
- *Setting the dwelling down further within the site (having regard to extent of excavations required to do so).*
- *Explore potential of semi detached dwelling which ties into property in the blue line boundary of the site.*

However, in light of the Inspectorate’s decision, I consider there is potential that any resubmission could again meet a recommendation for refusal on the basis it fails to overcome the previous reasons. The reasons are considered to be difficult to overcome in this case given the planning history of the site, including decision of the Inspectorate.

Within an email dated 4th June 2025 the following advice was provided:

It is considered that the reasons are difficult to overcome, as my email of 23rd May sets out. Whilst I provided advice in relation to possible amendments that could be considered to potentially improve the scheme and go some way to seek to address the reasons, in light of the Inspectorates decision, I consider there is potential that any resubmission could again meet a recommendation for refusal on the basis it fails to overcome the previous reasons. The reasons are considered to be difficult to overcome in this case given the planning history of the site, including decision of the Inspectorate.

Whilst the land allocation of the site within the Kirklees Local Plan may not preclude development for residential use, in this case the visual amenity / residential amenity impact of such development has been determined unacceptable previously (and at appeal) and are reasons for refusal I consider to be difficult to overcome in this case.

Notwithstanding the previously provided advice, this was officer opinion provided without prejudice and whilst weight can be afforded this advice it is considered the pertinent issue, in relation to the planning history, is whether the reasons for refusal of application 2024/90652 are satisfactorily addressed by the development proposal the subject of this application.

Relevant Planning History

The most relevant planning history relates to the following planning applications

2024/90652 - Erection of detached dwelling and detached garage with associated landscaping – Refused for the following reasons:

1. The development, by virtue of its siting on a constrained site of steeply sloping land, prominence within the street, layout and design would fail to harmonise with existing development within the locality and would appear as a contrived and incongruous development of the site which would constitute a visual intrusion within this location. The development would lead to detrimental harm to the visual amenities and overall character and appearance of the area contrary to policies LP2 and LP24 of the Kirklees Local Plan, Principle 2 of the Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

2. The application currently comprises an open garden area with low drystone walls, within a prominent location at the junction of Meltham Road and Gate Head. The proposed dwelling, by virtue of its prominent location and layout would fail to provide an adequate standard of private outdoor amenity space for future occupiers. As a result, the development would have a harmful impact upon the residential amenity of occupiers of the development that would be contrary to Policy LP24b) of the Kirklees Local Plan, Principle 17 of the Housebuilders

Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

A subsequent appeal to this refusal was dismissed at appeal (APP/Z4718/W/24/3348803) on 17th December 2024. Of relevance to reason 1, paragraphs 5, 9 and 10 which set out the following:

5. The surrounding area is residential in nature comprising mainly two storey dwellings of mixed age and design. In my view the appeal site contributes positively to the character of the area by providing a sense of openness at the Gate Head/Meltham Road junction. A corollary of this is that from Meltham Road the site affords stunning views across the Colne valley.

9. While I find nothing particularly objectionable to the detailing of the proposed dwelling, I share the Council's concerns that the Appellant is simply expecting too much from a site with considerable constraints. The dwelling would undoubtedly appear as cramped and contrived due to its awkward orientation relative to Nos. 3 and 7 as well as the Meltham Road/Gate Head junction. Moreover, the lack of breathing space around the dwelling would also be at odds with the established character of the Boulder Gate estate. The important views referred to in the SPD would be diluted and the dwelling would be an unwelcome and prominent addition to the Meltham Road streetscene.

10. For the above reasons, I conclude the proposed development would have an unacceptable effect on the character and appearance of the area contrary to LP24 and LP35 of the Kirklees Local Plan 2019 (the LP) and guidance in the Housebuilders Design Guide SPD insofar as they seek good quality and visually attractive design that protects and enhances the character of local areas. Although there has been some debate regarding Policy LP2, I consider there would be conflict with this policy at a high level given it seeks to protect and enhance the character of 'these' places which in the context of this policy means rural Kirklees which expressly refers to "Steep valley sides in the Colne Valley" being a challenge to growth in this area.

In relation to reason 2 the following is set out:

12. The proposed site layout plan shows a narrow and steeply sloping garden wrapping around the proposed dwelling. The quantum and useability of the garden would be substandard given the site's topography and its proximity to the Meltham Road/Gate Head footway which would provide highway users with direct views into the garden at close quarters. The provision of planting or alternative boundary treatments around this frontage of the site is likely to further reduce the amount of useable garden space as well as creating an unacceptable level of overshadowing particularly in the winter months.

2011/91199 - Certificate of lawfulness for proposed erection of one dwelling –
Refused for the following reason:

“Operations or works were undertaken in breach of condition 2 of planning permission 87/62/04588. Consequently such works do not constitute the commencement of the development and therefore the planning permission 87/62/04588 has not been implemented lawfully. At the date this Application the permission has lapsed and no further operations as outlined in the Application would be lawful. Therefore the local planning authority has not been provided with information satisfying them that the operations described in the application would be lawful if instituted or begun at the time of the application.”

As such, there is no extant permission which can be completed upon the site.

87/04588 - Erection of residential development - *Granted Conditionally*

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter.

The application has been publicised on the Council's website and by site notice. The expiry date of the publicity period was the 2nd February 2026.

Three objections to the development have been received, raising the following summarised concerns:

Residential Amenity

- Property will be unsightly overshadowing all the other houses below it in the cul-de-sac due to it's raised position.
- The new application means that the property is much closer to the boundary of number 3 imposing on their light and private garden space due to the closeness and raised nature of the property
- The front face of the house is now directly facing the private garden of number 7 with all windows of the property facing towards the private garden of number 7 even with boundary treatments.
- It will also make the private garden of number 7 feel enclosed and imposed upon by the fencing and higher nature of the property sitting above
- Increased garden space the subject of this application would be largely unusable garden.

Parking concerns

- Given the very tight entrance to the driveway, the angle of the turn, and the steepness of the planned drive, there is no way that 3 cars will be able to park.

- Number 3, who currently have 2 parking spaces, will then only have space for 1 small car reducing the parking allocation for their property which is rented from the applicant.
- Already a lack of parking in the cul-de-sac with current residents using all allocated "visitors spaces"
- Impact upon residents, young children and pedestrians as a result of vehicular parking in the cul de sac
- Kirklees waste collection vehicles refuse to enter the cul de sac due to parking creating access issues.
- Emergency services will not be able to easily access the cul de sac
- Wheelchair and pushchair users impacted upon already be parking issues
- Recent incident with a fire and access issues for emergency services
- Police have been out in relation to parking concerns on Boulder Gate and Gate Head
- Small cul de sac for 8 dwellings and 24 vehicles are parked leaving no room for visitors

Visual Amenity

- Cramped nature of the driveway and plot access as well as the sloping nature of the site, means the property will look oddly squeezed in.
- Appear to be taking least costly approach than address visual concerns
- Even with new orientation and altered roof the property will still obstruct the views from Meltham Road across the village of Marsden and to the moors and further afield which are views appreciated by the local residents and visitors to the area.
- Preliminary works have had a poor visual impact

Construction Phase

- Vehicles for trades and lorries will need to access the site for delivery of materials / removal of waste
- Risks associated with the construction phase including access from Meltham Road
- Impact as a result of noise and disturbance to occupiers of no.3 and no.7 during construction phase of the development.

Drainage

- Issues from run off from Boulder Gate onto Gate Head causing impacts to wheel chair and push chair users
- Additional property will reduce surface water drainage from the site

Pest Control & Rodents

- There are pest control issues with rats in drains which will be exacerbated by the proposed development.

Within the received objections it is raised that improvement to the visual impact of the existing site would be welcomed.

In response to the objections the applicants' agent has advised in an email dated 27th January 2026 that 'The landowner has categorically not carried out any works ahead of the application. I drive past the site weekly to visit my parents and there has been no activity whatsoever'

The objections received, and response of the applicants' agent are noted and addressed / taken into account in the assessment section of this report.

Consultation Responses

Given the proposal, being for one dwelling, has followed the determination of a recently refused application it has not been considered necessary to seek consultation response(s) from consultees in this case.

Where relevant the consultation responses of consultees received as part of application 2024/90652 shall be made reference to.

Allocation and Policy

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

The site is unallocated land for development on the Kirklees Local Plan. The site is within a low risk area for ground movement as identified by the Coal Authority, within an identified risk area for historic gas and landfill and it is within an area with a known presence of Bats / Twite birds.

The site is within Flood Zone 1.

Given the distance of the proposal from, and intervening development between, the listed building to the south west of the site it was not considered necessary for an assessment of the impact of the development upon this heritage asset to be undertaken, or for publicity of the development in terms of affecting its setting.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 7 – Efficient and effective use of land and buildings
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 33 – Trees
- LP 53 – Contaminated and unstable land

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Planning (Listed Building & Conservation Areas) Act (1990)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making

- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

1 – Principle of Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *“good design should be at the core of all proposals in the district”*.

The Principles in the Housebuilders Design Guide SPD have been used as a guide in considering the proposal's visual amenity impact on the streetscene and host.

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

The 2025 update of the five-year housing land supply position for Kirklees shows 4.18 years supply of housing land, and the 2023 Housing Delivery Test (HDT) measurement which was published on 12/12/2024 demonstrated that housing delivery for Kirklees for the past three years (April 2020-March 2023) has fallen below the 75% pass threshold.

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 following sections of this report.

Chapter 5 of the NPPF clearly identifies that Local Planning Authorities should seek to boost significantly the supply of housing. The site is unallocated land for development. Paragraph 70 of the NPPF recognises that *“small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”*.

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

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved

Within the principle section of the submitted planning statement reference is made to the planning history of the site and the requirements of policy LP3, as well as accessibility to the site in terms of bus routes and distance from the nearest centre (Marsden).

The site is 422sqm within an irregular shaped plot and is within an existing settlement close to sustainable public transport bus links. The density of the proposed development is considered to be acceptable in this case given the nature of the site in terms of the topography.

The site was previously part of a new build housing estate designated to deliver a plot upon the site. Since the planning application ref: 87/04588 was given consent, there has been a significant change in the policy context against which such development is assessed. Specifically, the Council has adopted the Kirklees Local Plan (2019) and Housebuilders Design Guide (2021) since the determination of these applications. Furthermore, national planning policy has changed, with the National Planning Policy Framework coming into force in 2012 (with the most recent update being in December 24). As such no weight is afforded to the 1987 application, particularly as there has not been a lawful commencement of the 87 permission, with the Council making a formal decision in this regard within a 2011 application for certificate of lawfulness (detailed in the Planning History section of this report).

Both Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF stress the importance of good design. Of note, Policy LP24a outlines that to promote good design, the form, scale and layout and detail of development should respect and enhance the character of the townscape. Importantly, the Government has recently placed further emphasis on high quality design. Paragraph 131 of the NPPF stresses that “the creation of high quality, beautiful and sustainable buildings and places is fundamental” to what the planning development process should achieve. Paragraph 138 of the NPPF also sets out guidance for Local Planning Authorities in relation to the design of development to make use of the National Design Guide (2019) and Kirklees Council Housebuilders Design Guide (2021). It is worth noting that the previously approved development is not considered to constitute good design. In addition to the above, Chapter 12 of the NPPF and Policy LP24c highlight the importance of protecting residential amenity, including that of future occupiers. As such, Officers have regard for the current policy background and continue to assess every application on its own merits

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations

2 – Impact on Visual Amenity

Concerns have been raised by third parties in relation to visual amenity, which are addressed in this section of the report.

In terms of visual amenity, design considerations are set out in Policy LP02, LP24 and LP35 of the Local Plan, and policies within Chapters 12 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape and protect amenity.

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.

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 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography.”*

Amongst other considerations, Principle 6 sets out that *“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 8 guides Officers to carefully consider the transition from urban to open land and how the development would *“make a positive contribution to the character and function of the landscape through sensitive siting and good design.”*

Relating to Parking, Principle 12 requires Officers to have regard towards good design by providing visually well integrated parking with landscaping to screen its appearance and to have garages set back behind the host property to ensure that garaging does not appear as overly dominant features.

In addition to this, 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.

The content of the planning statement is set out earlier in this report. Similarly, the planning history and in particular the refusal of permission by virtue of application 2024/90652 and the subsequent appeal dismissal is detailed in the Planning History section of this report and it is not considered necessary to repeat again here. The content of pre application advice provided by the LPA is referenced within the planning statement and specifics of that advice set out in the history of negotiations section of this report.

Third party representations raise concerns about the visual impact of the development.

In the determination of this application, the key factor in relation to visual amenity is whether the previous reason for refusal has been overcome. This reason is assessed in light of the Inspector's decision whereby they dismissed an appeal for a dwelling on this site. The amendments since the previous appeal have been set out earlier in this report.

There has been substantial discussions in both the previous refusal, appeal and at pre application stage relating to this site. It is clear when at the site that it is constrained, and highly prominent, the ability to develop the site with built form is difficult to achieve and this has been previously set out.

The proposal would see a large expanse of built form facing Meltham Road, the site is highly prominent and the development would still affect the ability for views to be taken across the site of the wider vistas as identified by the planning inspectorate.

The quantum of development has reduced, although still remains a large dwelling at a size of 109m² (internally). The case officer report for the previously refused dwelling (ref: 2024/90652) sets out the following:

Within the vicinity of the site north of Meltham Road, there are a number of lanes and cul-de-sacs with dwellings facing these cul-de-sacs. The exposed site is within a tight cluster of two-storey dwellinghouses with limited property gaps to boundary and relatively small gardens in a cul-de-sac.

At present, the open nature of the site creates a spacious and attractive character to the locality at the junction of Meltham Road and Gate Head mirrored by the openness of the side gardens of no. 19 Meltham Road and no. 9 Gatehead Bank with its lack of built form and with an attractive open green space to its south.

Whilst Officers are of the considered opinion that the then-new-build housing estate would not be supported on good design today, its cramped layout and ongoing increase in built development through varying forms of extensions has further increased the perception of a cramped residential layout. The proposal would exacerbate this impact through the construction of built form adjacent to the major road and as such, would detrimentally erode and visually encroach on this pleasant green and verdant openness forming a long existing landscape feature contributing significantly to the character of the locality.

The siting of dwellings adjacent to the proposed development is at a lower land level, and it is considered the proposal would be at a more prominent land level as well as more prominent location within the street.

Whilst a section is included in the planning statement, with reference to eaves and roof heights, it remains the conclusion the design, scale and overall re-development of the site as proposed would have the same impact as that which was concluded in the determination of application 2024/90652.

The re-design is noted, and goes some way to reducing the extent of the visual impact of the development, however whilst the use of the land for residential purposes is likely acceptable it is considered that the associated built form which is proposed has a detrimental visual impact. Reference is made to the principle of development not being objected to by the Inspectorate and within the previous decision. However, it is considered that use of the land has the potential to be used in a visually acceptable manner (such as in association with neighbouring dwellings) and whilst development(s) that are associated with such a use may also be suitable (such as creation of additional parking) the extent to which the site is being sought to be redeveloped for residential purposes is not considered to be suitable in this case.

Taking account of the site history, and the scheme the subject of this application it is concluded that the previous reason for refusal has not been overcome in this case and refusal on the same visual grounds is therefore recommended.

3. Impact on Residential Amenity

Concerns have been raised by third parties in relation to residential amenity, which are addressed in this section of the report.

Section B and C of Policy LP24 of the Kirklees Local Plan states that alterations to existing buildings should:

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

Principle 6 of the Housebuilders Design Guide SPD seeks to ensure that housing maintains high standards of residential amenity by setting the relevant recommended separation distances:

- 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;
- 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

Further to this, chapter 12 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.

The submitted planning statement concludes that the development would have an acceptable impact upon the residential amenity of neighbouring and future occupiers, drawing reference to an increased level of amenity space provision.

The properties most likely to be impacted by the proposed development are those sharing a boundary with the site, these being No's. 3 and 7 Boulder Gate. An assessment of the impact on neighbouring properties will be undertaken below. It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

The neighbours have blank side elevations and the property would be set back such that it does not raise concerns regarding the front or side elevation windows in terms of overlooking or loss of privacy. The rear windows would face the highway with limited screening from the drystone walls.

The proposed re siting of the development, compared to that of the previous refusal, is not considered to impact upon the amenity of neighbouring occupiers at no.3 and 7 to such a degree that a reason for refusal could be substantiated by the LPA in this case. Areas of the amenity space would be sufficiently sited / screened such that both no.3 and no.7 would not have a significant increase in overlooking of these areas than exists already.

The proposal is therefore considered acceptable in terms of impact upon the amenity of neighbouring occupiers.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The proposal, being for a 3 bed dwelling over 2 floors would meet the minimum requirement of 84m². Bedrooms would be daylight adequately through provision of windows and the placement of those would adequately allow a reasonable outlook for future amenity. This would be compliant with Principle 16 of the SPD.

In the consideration of the previous refusal the following is set out in relation to amenity space:

A garden area is set out to the rear and sides of the property however the topography would be steeply sloped without significant ground works and would only offer an extremely limited quantum of outside amenity space which could be deemed functional. In addition, it would be exposed to overlooking from Gate Head and the busily trafficked Meltham Road offering an poor sense of privacy. Mitigation screening would likely introduce a further issue in regard to the visual impact of such screening. As such, it is considered the proposal would not be acceptable in terms of amenity space provision for future occupiers.

It is considered this would largely remain an issue, whilst there could be scope for a private amenity space this could only be realistically achieved through use of screening which would further impact in terms of the visual impact of the development.

Rather than being at a lower level the amenity space is at a higher part of the site which is more prominent, notwithstanding the fact it is acknowledged there is difficulty to achieve private amenity space provision given the prominence of the site it is considered this demonstrates the fact the development potential of the site is limited in this case. Its constrained size, and the topography of the site makes much of the amenity space not easily usable and it highly prominent. Pressure to create additional means of enclosure to create private amenity space would further exacerbate the visual impact that at further dwelling upon the site would have.

In conclusion the previous reason for refusal in relation to amenity space provision is not considered to have been overcome by the proposal. Given the reason relates to the prominence the amenity space provision would be, in relation to the wider locality, it is considered that reason 2 should be worded to reference this.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

Concerns have been raised by third parties in relation to highway safety / parking, which are addressed in this section of the report.

Policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking. The Highways Design Guide SPD advises that new development should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited. For a 2-3 bedroom dwelling it should have a minimum of 2 off street parking spaces

The property would add parking demand to a constrained and tight cul-de-sac serving seven large properties and that. Notwithstanding this, it is considered it would be unreasonable of the LPA to refuse permission on the basis of the impact of on street parking demand during the construction phase and that, in light of the fact the development could accommodate off street parking which accords with the Council's parking standards, the development has an acceptable impact in this regard.

Given that the proposal would have make use of an existing access to the highway and this leads to a cul-de-sac with some on street parking and driveways, it is not expected that the parking layout would have a significant impact. Bin storage could be accommodated within the site, off street, and as such this element of the proposal is considered acceptable.

The access arrangements are largely the same as that as proposed as part of application 2024/90652 which were concluded to be acceptable. It is considered that given the quantum of development which is proposed, the same conclusion can be drawn in this case. The scale of the development is considered to be such that it would not be reasonable of the LPA to insist upon a construction management scheme to accompany the application / be submitted in this case.

It is therefore considered the development proposal would comply with the aforementioned policies.

5. Other Matters

Climate change

When determining planning applications the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development. It is noted that solar panels are proposed which would be beneficial to reducing carbon emissions for energy demand however this would not sufficient to outweigh Officers concerns with regard to visual and residential amenity.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

In addition, should the proposal be otherwise acceptable, an informative would be included to advise the developer that provision of Electric Charging Vehicle Points are controlled by Approved Document S to satisfy the aims of supporting low carbon emissions for future occupants.

Drainage

Policy LP28 of the Kirklees Local Plan & Section 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage. Third party representations have raised concern about the drainage impact of the development.

The site is within a low probability Flood Risk Zone and therefore if Officers are so minded to approve the application, a condition would be placed to ensure that the additional parking spaces would be drained sufficiently and/or made permeable in accordance with Policy LP28 of the Kirklees Local Plan and the Highways Design Guide SPD.

Surface water drainage from the dwelling would need to be suitably controlled and this would be ensured as part of the requirement for building regulations approval. As such it is not considered proportionate that a scale of development in this case be subject to condition(s) requiring a full scheme of foul / surface water drainage to be submitted.

Biodiversity

Paragraphs within Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. The Biodiversity Net Gain Technical Advice Note sets out that minor developments are subject to the mitigation hierarchy outlined within Chapter 2.2 and will still be required to demonstrate a net gain for biodiversity. Chapter 2.2 of the advice note details a mitigation hierarchy of avoid, mitigate, compensate, offset and finally enhance. Principle 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. Which seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided.

A preliminary Ecology Appraisal and Biodiversity Net Gain assessment has been submitted as part of the application, this sets out that enhancements would be incorporated. In addition a total of 0.06 habitat units are required to achieve a 10% biodiversity net gain for the site. This is calculated on the basis the proposal will result in a net loss of 0.05 habitat units (-60.75%). Offsite net gain is intended to achieve this, through the purchase of biodiversity credits. This would be secured by the legislative requirement of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 that a Biodiversity Net Gain Plan is submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

On the basis of the extent of BNG which would be achieved off site and the proposed enhancement it is concluded that, subject to condition to ensure provision of on site enhancements the proposal would accord with the aforementioned policies and legislation.

Contaminated and unstable land

With regard to land quality, paragraphs 180, 189 and 190 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are considered to be relevant.

The proposal is within a buffer area for landfill and gas; Kirklees Council Environmental Health was formally consulted. They advised that in the event the proposal be found acceptable, they recommend conditions be included requiring the applicant / developer to supply an adequate site investigation by a competent person to the Local Planning Authority to fully assess the proposal compliant with paragraphs 189 (a) and (c) of the NPPF and LP53 of the Kirklees Local Plan.

Subject to inclusion of the recommended conditions, the proposal is considered to be acceptable in this regard.

7. Representations

The objections / points raised by third parties have been addressed within sections 2, 3, 4 and 5 of this report.

The possibility that actions of future occupiers of the site would lead to an increase in pests for which pest control is needed is considered to be a matter for which limited weight can be afforded in the determination of this case.

8. Conclusion

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

The lack of a 5 year supply is a factor which weighs in favour of the development in this case.

However, it is considered that the development would have a harmful visual impact and would not provide a high standard of design in terms of the level of amenity space provided for future occupiers.

The proposal is therefore considered to be contrary to policy LP2 which seeks to ensure all development proposals build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places.

Recommendation: Refuse

Decision Authorisation: Delegated Powers

Application Number: 2025/93399

Officer Recommendation: Refuse

Reasons:

1. The development, by virtue of its siting on a constrained site of steeply sloping land, prominence within the street, layout and design would fail to harmonise with existing development within the locality and would appear as a contrived and incongruous development of the site which would constitute a visual intrusion within this location. The development would lead to detrimental harm to the visual amenities and overall character and appearance of the area, contrary to policies LP2 and LP24 of the Kirklees Local Plan, Principle 2 of the Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.
2. By virtue of the prominent location and layout, the proposed dwelling would fail to provide an adequate standard of private outdoor amenity space for future occupiers. As a result, the development would have a harmful impact upon the residential amenity of occupiers of the development, contrary to Policy LP24b) of the Kirklees Local Plan, Principle 17 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Date Received
Location Plan	PL01	12 th December 2025
Site Plan	HADL_24_Boulder Gate	12 th December 2025
Elevations and Street Scene Elevation	PL03RevD	12 th December 2025
Proposed Floor Plans, Elevations and Site Layout	PL02aRevC	12 th December 2025
Planning Statement		12 th December 2025
Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment dated 27 th November 2025		12 th December 2025
Climate change Statement		12 th December 2025
Application Form		12 th December 2025

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

applicant in dealing with the application. Pre application advice was provided in relation to redevelopment of the land with one dwelling.