

---

**Report of the Head of Planning and Development**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 17-Mar-2022**

**Subject: Planning Application 2021/90299 Demolition of existing dwelling and erection of detached dwelling with integral garages 154, Gomersal Lane, Gomersal, Cleckheaton, BD19 4JQ**

**APPLICANT**

Mr Brocklehurst

**DATE VALID**

16-Feb-2021

**TARGET DATE**

13-Apr-2021

**EXTENSION EXPIRY DATE**

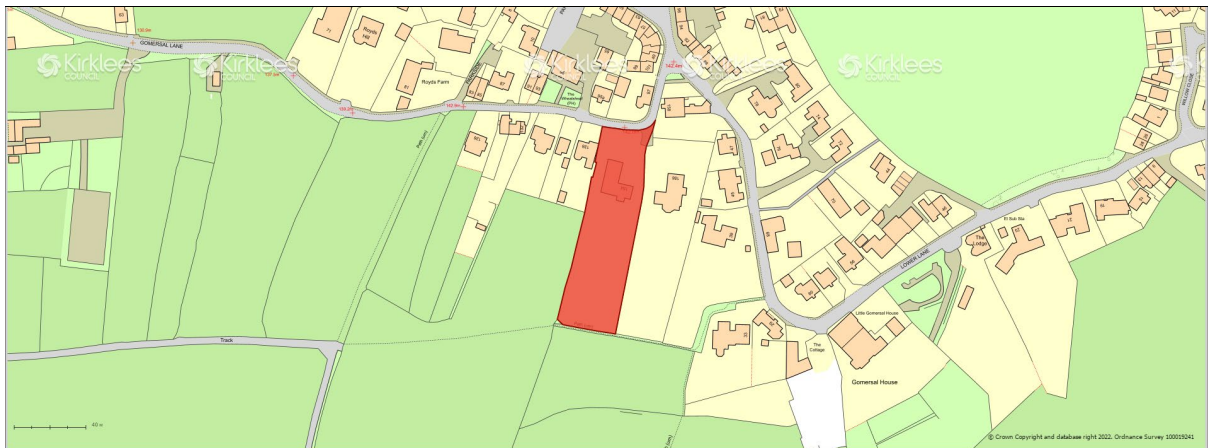
22-Mar-2022

---

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

---

**Electoral wards affected: Liversedge and Gomersal**

**Ward Councillors consulted: No**

**Public or private: Public**

---

**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and issue the decision.**

**1.0 INTRODUCTION:**

1.1 The application is referred to the Heavy Woollen Sub-Committee due to the number of representations received. 29 representations have been received from 27 individuals. This is in accordance with the Delegation Agreement set out in the Constitution.

**2.0 SITE AND SURROUNDINGS:**

2.1 154 Gomersal Lane is a detached bungalow in Gomersal, Cleckheaton. The property has an 'L' shaped footprint and is constructed from stone for the external walls, with small areas of cream coloured render to the front, rear and western side elevation. It is designed with gable roof forms which are finished in concrete tiles. The dwelling is sited towards the north of the plot with a driveway to the front and eastern side elevation. There is a large garden area to the rear which extends round the western side elevation to the front of the dwelling. Within the site, land levels slope gradually from north to south. There is a detached outbuilding which is located to the western corner of the dwelling.

2.2 The surrounding area is residential in nature and comprises properties which vary in terms of their age, design, architectural styles and materials, though the predominant character is of two-storey terraced and detached dwellings constructed from stone. The Little Gomersal Conservation Area extends from the northern boundary of the site. The boundary of the Green Belt cuts across the rear garden area at the property, however the property itself is located on land which is unallocated on the Kirklees Local Plan (KLP).

**3.0 PROPOSAL:**

3.1 Planning permission is sought for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages. Amendments have been made to the scheme which are being assessed.

- 3.2 The existing dwelling would be demolished as part of the proposal. The new dwelling would replace the existing dwelling on the same footprint, with the addition of a 3m, two-storey and single-storey projecting element to the rear and a single storey integral garage of 3.9m projection to the front elevation. The resultant dwelling would have a width of 17m and a depth of 25m and would be two-stories in height. The design would include projecting gable and lean-to elements and balconies to the rear, and a two-storey projecting entrance hall to the front. The dwelling would be constructed from stone and render for the external walls and blue slate for the roof.
- 3.3 The existing driveway would be retained as part of the development and extended slightly to the north to accommodate the additional footprint of the dwelling. The existing access would be used with vehicle access taken from Gomersal Lane to the north of the dwelling. Lawned areas would remain to the front and western side elevation of the dwelling as well as to the rear.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2021/91941 – Prior approval for enlargement of dwellinghouse by erection of additional storey. Details Approved.
- 4.2 There have been a number of applications for extensions and alterations to the neighbouring properties however, none of these are considered to be directly relevant to the proposed development.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 During the early stages of the application, and in response to concerns raised within neighbour representations, amended plans were received from the applicant's agent. The revised details altered the first floor level openings to the western side elevation of the dwelling so that these would be high level, non-habitable, secondary or obscurely glazed. Due to the nature of the revisions made, which were considered to reduce the potential impact on the neighbouring occupants by way of loss of privacy, the amended plans were not advertised to the public in this case.
- 5.2 Following concerns that were raised within the consultation response from the Council's Conservation and Design team, a site meeting was held between the applicant, their agent and the Conservation and Design officer. Further amended plans have been submitted in response to the concerns raised which include minor alterations to the design of the dwelling. Due to the nature of the revisions, which pose minor alterations to the overall design of the dwelling as well as the use of materials, the amended plans have not been advertised.

5.3 A further meeting was held between the applicant, the agent and the case officer due to concerns regarding the scale of the replacement dwelling. Further comparison drawings have been submitted showing the development proposed alongside the dwelling that could be built under the approved, prior approval application (2021/91941). The prior approval application is considered to represent a lawfully established and realistic fall-back position should the current proposal not be supported and is a material planning consideration in the assessment of this proposal.

## **6.0 PLANNING POLICY:**

6.1 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 27<sup>th</sup> February 2019).

6.2 The application dwelling itself is located on land which is unallocated on the Kirklees Local Plan. The majority of the rear garden is, however, located on land which is allocated as Green Belt.

### Kirklees Local Plan (2019):

- 6.3
- LP 1** – Achieving sustainable development
  - LP 2** – Place shaping
  - LP 3** – Location of new development
  - LP 21** – Highway safety and access
  - LP 22** – Parking
  - LP 23** – Core walking and cycling network
  - LP 24** – Design
  - LP 35** – Historic environment
  - LP 51** – Protection and improvement of local air quality
  - LP 53** – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

6.4 On the 29<sup>th</sup> of June 2021, Kirklees Council adopted its supplementary planning document for guidance on house building and open space, to be used against existing supplementary planning documents (SPDs) which have previously been adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the street scene and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

6.5 In this case the following SPDs are applicable:

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

National Planning Guidance:

- 6.6 **Chapter 2** – Achieving sustainable development  
**Chapter 5** – Delivering a sufficient supply of homes  
**Chapter 11** – Making effective use of land  
**Chapter 12** – Achieving well-designed places  
**Chapter 13** – Protecting Green Belt land  
**Chapter 14** – Meeting the challenge of climate, flooding and coastal change  
**Chapter 15** – Conserving and enhancing the natural environment  
**Chapter 16** – Conserving and enhancing the historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice, neighbour letters and in the press. Final publicity expired on 29<sup>th</sup> March 2021. As a result of the above publicity, 29 representations have been received. The representations have been summarised as follows:

7.2 Visual Amenity and Heritage

- Scale and design of the dwelling is inappropriate within its setting
- Not in keeping with the character of the street scene or wider area
- Property forms one of a pair of symmetrical bungalows
- Will impact negatively on the Little Gomersal conservation area
- Impact on the Green Belt which covers the rear garden of the site
- Loss of gaps and open space within the street scene
- Design is sensitive to the local area and would be similar to existing footprint
- Dwelling will add to the character of Gomersal
- Would be prominent on the approach to Gomersal Lane
- Proposed dwelling would not impact on views from the village
- Overdevelopment of the site

7.3 Residential Amenity

- Overshadowing and loss of light and to neighbouring properties and gardens
- Loss of privacy and concern of overlooking from openings and balconies
- Loss of outlook
- Overbearing impact on neighbouring properties
- Noise from proposed air conditioning units

#### 7.4 Highways Safety

- Vehicle accidents have occurred on the corner of Gomersal Lane
- Potential increase in vehicle movements and parking

#### 7.5 Publicity of the Application

- Notice on the lamp post was late being posted

#### 7.6 Other Matters

- Smaller developments not allowed at neighbouring properties
- Large amount of development allowed by permitted development
- Impact on views for walkers and from public footpath
- Concerns over the use of the dwelling in the future
- Plans are not sufficient for the consideration of the application
- Disruption during the construction process
- Drainage concerns

#### 7.7 Non-material Considerations

- Residents not consulted during the design stage
- Could set a precedent for development in the area
- Believe there is a covenant on the property
- Impact on house prices in the area

7.8 Officer comments in response to the comments received will be made in section 10 of this report.

### **8.0 CONSULTATION RESPONSES:**

#### Statutory

8.1 The Coal Authority – No objections to the proposed development and the basis of the submitted Coal Mining Risk Assessment.

8.2 Health & Safety Executive – No objections.

8.3 KC Highways Development Management – No objections subject to a condition requiring the confirmation of methods for storage and collection of waste.

## Non-Statutory

- 8.4 KC Conservation & Design – Following the submission of amended plans, no objections have been raised. A condition has however been suggested requiring the submission of a sample of the proposed render prior to construction.
- 8.5 KC Environmental Health – No objections subject to conditions relating to the provision of an electric vehicle charging point or the reporting of unexpected contaminated.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity
- Heritage issues
- Residential amenity
- Highway issues
- Other matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Planning permission is sought for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages.
- 10.2 When considering development proposals, there is a presumption in favour of sustainable development contained in the NPPF. Policy LP1 of the Kirklees Local Plan (KLP) is applicable and suggests that proposals that accord with the policies in the KLP (and where relevant, with policies in neighbourhood plans) will be supported subject to other material considerations.
- 10.3 Policy LP24 of the KLP suggests that proposal should promote good design by ensuring (amongst other considerations) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Chapter 12 of the NPPF reiterates that local planning authorities should ensure the issue of ‘design’ and the way a development will function are fully considered during the assessment of the application.
- 10.4 The proposal is required to accord with policy LP3 of the KLP that requires new development to be situated in a sustainable location that provides access to a range of transport choices and access to local services.

- 10.5 The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system.
- 10.6 A large section of the rear garden area of the existing dwelling is located within the Green Belt, and as such, Chapter 13 of the NPPF is considered to be relevant. The proposed dwelling, nor any additional areas of associated hardstanding would be located on the Green Belt land with the rear garden area remaining unaffected by the proposed development. As such, no specific KLP policy is considered relevant for the proposed development in this case.
- 10.7 The application site is located immediately to the south of the boundary of the Little Gomersal Conservation Area and as such, Policy LP35 of the KLP, together with Chapter 16 of the NPPF is relevant in this case.
- 10.8 It is noted that application reference 2021/91941 is considered a material consideration and appropriate weight should be afforded to this fall-back position as further assessed below. It is considered to establish the principle of enlarging the dwellinghouse by the erection of an additional storey.
- 10.9 The land on which the dwelling would be located is unallocated on the Kirklees Local Plan. The site currently hosts a detached dwelling and is located within an existing residential area close to local amenities. As such, the site is considered suitable for the proposed residential development, providing there is no undue detrimental impact on visual, heritage and residential amenity and highway safety. Other matters may be relevant and will be addressed below.

#### Visual Amenity

- 10.11 The proposal is for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages. The proposed dwelling would occupy the same footprint as the existing property, albeit it at a two-storey height and with additional projecting elements to the front and rear elevation.
- 10.12 Principle 5 of the Housebuilders Design Guide SPD states that buildings should be aligned to form a coherent building line. Whilst the existing dwelling which would be replaced as part of the proposal is located within a residential area, the position of the dwellings within their respective plot varies along Gomersal Lane. Whilst there is no one building line, the properties generally front onto Gomersal Lane and are set back from the access road with areas of amenity space or driveways to their principal elevation. The new dwelling would replace the existing dwelling in the same location which is considered acceptable in this case. Whilst there would be an additional projecting element to the front elevation of the property, this would not project beyond the front elevation of the three properties which are located to the west and are roughly aligned. By



replicating the 'L' shaped footprint of the existing dwelling, the proposal would retain space to either side of the property, providing a sense of place and maintaining visual connections to the area which currently exist and are promoted by the principle. The positioning of the dwelling within the plot is therefore considered to be acceptable.

- 10.13 The proposed dwelling would be of a significantly larger scale than the dwelling it would replace, due to its extended footprint and two-storey height. It is acknowledged that the principle of erecting an additional storey to the existing dwelling has been established by the prior approval application process (2021/91941) and this is considered to represent a realistic fall-back position. As such, it forms a material planning consideration in the assessment of the current proposal.
- 10.14 Notwithstanding the realistic fall-back position which has been established, the footprint of the proposed dwelling would be larger than existing and as approved by the prior approval application. The additional footprint would comprise a 3m projecting element to the rear and an integral garage to the principal elevation. The dwelling would be situated within a large plot, with a driveway and large garden areas retained around each elevation. It is considered that the dwelling would sit comfortably within the plot and would not amount to an overdevelopment of the site in this case.
- 10.15 In terms of the appearance, the dwelling would be of a modern design, incorporating contemporary features with large areas of glazing. Whilst there are a number of more traditional properties within the street scene, the design and style of the properties along Gomersal Lane varies. The dwelling would be constructed from stone and render for the external walls and blue slate for the roof. The use of stone and render is considered to be in keeping with the materials used in the construction of the dwellings within the street scene. A number of these properties have slate, or blue slate roofs. Given the scale of the dwelling and to ensure that it would harmonise with the properties in the street scene in terms of its materials, it is considered appropriate to impose a condition requiring the submission of samples of all external materials prior to construction.
- 10.16 Turning to the scale of the dwelling, the existing property has a relatively large footprint given its single-storey nature. The scale of the new dwelling, which would have a larger footprint and would be of a two-storey height, would be larger than the immediately neighbouring properties. It is noted that the additional bulk and massing of a first floor to the existing dwelling has been established by the prior approval application. Whilst the current proposal would introduce additional footprint to the dwelling, projecting and more contemporary elements have been added under the current proposal to break up the additional bulk and massing. The height of the new dwelling is also less than what has been approved under the prior approval application and the current proposal is considered to be of a better, and more sympathetic design to what has previously been approved.

- 10.17 It is noted that there is a variation in the scale of the dwellings along Gomersal Lane, which is predominantly characterised by two-storey properties. The plot occupies a prominent location and is visible from the entrance to Gomersal Lane. It is also acknowledged that Public Right of Way footpath SPE/99/30 runs to the rear of the site, which offers views towards the rear of the property. From the footpath, the dwelling can be seen in the context of the properties to either side, and the dwellings to its front elevation are also visible. Whilst the dwelling would be prominent within the street scene and wider area, the prior approval application is considered to represent a realist fall-back position which could be implemented should the current proposal not be supported. The dwelling would be of a reduced height under the current proposal when compared to the prior approval application, and the proposal would introduce design features which are considered to break up this additional bulk and massing, appearing as an improvement. Whilst the dwelling would be of a larger scale, when considering the realistic fall-back position and the positive design changes which have been implemented under the current proposal, the scale of the dwelling when considered on balance is deemed to be acceptable by officers.
- 10.18 The submitted section drawing demonstrates that the height of the new dwelling would sit at a lower level than that of the property immediately to the west. Whilst it is acknowledged that the property to the east is single storey, the two-storey nature of the new dwelling would be in keeping with the prevailing two-storey nature of the dwellings within the street scene. The positioning of the ridge height, which would sit below that of the adjacent property, is considered to be consistent with Principle 15 of the Housebuilder Design Guide SPD which sets out how the roofline of new dwellings should relate well to the site context.
- 10.19 Part of the rear garden of the application site is located within the Green Belt. Whilst the new dwelling would not encroach onto this Green Belt land, it would be located within close proximity of its boundary. As such, consideration must be given to the impact on its character and openness. The dwelling would be located in the same location as the existing dwelling, which would retain the existing sense of space which exists between each of the dwellings to either side elevation. The siting of the dwelling within the site is therefore considered to be sensitive to the nature of the surrounding area, consistent with the aims of Principle 8 of the Housebuilders Design Guide SPD. The land to the rear of the site is open, and it is noted that there would be views of the southern elevation of the dwelling from the adjacent Public Right of Way footpath, SPE/99/30. Whilst the dwelling would be two stories in height, this would be in keeping with the prevailing character of the street scene and wider area. The proposal would utilize the existing boundary treatment which is considered to reflect the rural character of the land to the rear. For the above reasons, the impact on the adjacent Green Belt land is considered to be acceptable.

10.20 In summary, when considered on balance and for the reasons set out within this section of the report, the proposal is considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the KLP (a), Principles 2, 5, 8, 12, 13, 14, 15, 16 and 17 of the Housebuilders Design Guide SPD as well as the aims of the NPPF.

### Heritage

10.19 The application site is located immediately to the south of the Little Gomersal Conservation Area, and as such, consideration must be given to the impact of the proposal on setting of the designated heritage asset.

10.20 LP35 requires development proposals which affect a designated heritage asset to preserve or enhance the significance of the asset. They should ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

10.21 The Council's Conservation and Design team have been consulted during the course of the application. It is noted within their response that the Little Gomersal Conservation Area is a historic village, with an organic rural layout and views towards the surrounding countryside. The buildings within the Conservation Area vary in terms of their age, status and architectural styles and materials, though the prominent character is of two-storey terraced or detached dwellings constructed in stone with pitched stone slate or blue slate roofs. This part of the Gomersal Lane is a narrow road lined with low stone boundary walls which are a characteristic of the local area.

10.22 The existing dwelling is a large, detached bungalow constructed in the late 20<sup>th</sup> century. Whilst the building is constructed predominantly from stone, and forms part of a pair of bungalows to the corner of Gomersal Lane, the Conservation and Design officer considers that the building does not contribute to the setting of the Conservation Area. As such, no concern has been raised to its demolition and the principle of replacing the bungalow is considered acceptable.

10.23 Within the initial consultation response, concern was raised to the design and scale of the proposed building within the setting of the tight knit and semi-rural conservation area. The north and east elevations of the dwelling would face onto the Conservation Area and Gomersal Lane, where the dwelling, when viewed from the north at the entrance to Gomersal Lane, would appear prominent in the context of the Conservation Area and would directly affect its setting.

- 10.24 The Conservation and Design team support the use of natural stone and blue slate pitched roofs which reflect the local vernacular and consider that the single storey garage would reduce the impact of the northern elevation to some extent. However, in its original form, the northern aspect of the building was considered to harm to setting of the Conservation Area by virtue of its complex design, including a projecting entrance atrium and openings with vertical emphasis which were considered to be out of keeping with the Conservation Area.
- 10.25 Following negotiations between the Conservation and Design officer and the applicant's agent, amended plans were submitted, simplifying the design of the northern aspect of the building by altering the fenestration and constructing the projecting atrium out of stone to reduce its prominence within the street scene and within the setting of the Little Gomersal Conservation Area. Following a review of the amended plans, the impact of the proposed development on the setting of the Conservation Area is considered to be acceptable and no objections are raised from a heritage perspective. A condition has however been requested requiring a sample of the proposed render to be submitted prior to construction to ensure that it would have an acceptable impact on the surrounding area. As set out above, a condition requiring the submission of samples of all external walling and roofing materials is considered acceptable given the scale of the dwelling to ensure that it would be in keeping with the character of the surrounding area.
- 10.26 On the basis of the amended plans, and subject to a condition requiring a sample of the proposed materials to be submitted prior to construction, the impact of the proposed development on the setting of the Little Gomersal conservation area is considered to be acceptable. In accordance with Policy LP35 of the KLP as well as the aims of Chapter 16 of the NPPF.

#### Residential Amenity

- 10.27 The site is located within a residential area. This section will assess the relationship between the proposed development with the neighbouring properties.
- 10.28 Whilst the proposed dwelling would be of a substantially larger scale than the existing dwelling than it would replace, the scale, bulk and massing of an additional storey to existing dwelling has been established by the prior approval application and this is considered to represent a realistic fall-back position which must be afforded weight in the consideration of the application. The proposed dwelling would, however, include a two storey projecting element to the rear, a single storey projecting element to the front as well as balconies and new openings which have not been permitted as part of the prior approval application. An assessment shall now be carried out with regards to the impact on each of the immediate neighbours which regards to the aspects which have not already been established at the site.

### Impact on 138 Gomersal Lane

- 10.29 The proposed two storey projecting elements to the rear of the dwelling would project beyond the rear elevation of the neighbouring property. Due to the two-storey height and location due east, there is the potential for this element to have an overbearing and overshadowing impact. The proposed dwelling would be set in from the side elevation of the neighbouring property by approximately 7.5m. Whilst the rear most element of the dwelling would be located significantly beyond the rear elevation of the neighbouring property, which benefits from habitable openings with close proximity of the shared boundary, it is considered that the distance retained would be sufficient to reduce the potential for overbearing to an acceptable level. It is considered that the development would have a degree of overshadowing to the neighbouring property due to its two-storey height, however, the new dwelling would be located to the east, and as such, any overshadowing would be limited to the early morning hours. When considering the distance retained between the two dwellings, it is considered that any additional overshadowing impact would not be sufficient to warrant a reason for the refusal of the application.
- 10.30 The proposed single storey integral garage would project along the side elevation of the neighbouring property which benefits from two high level openings in its side elevation at ground floor level. The garage would be set in from the shared boundary, which together with its single storey height, is considered to prevent harmful overbearing or overshadowing to the property.
- 10.31 To the western elevation, a number of ground floor level openings are proposed which would serve secondary openings to an open plan kitchen and sitting area, two WCs, a utility and a cloak room. Due to the non-habitable or secondary habitable nature of these openings, which would be located in the place of existing habitable openings to the existing dwelling, it is considered that there would not be the potential or harmful overlooking towards the property, which benefits from two high level openings in its side elevation at ground floor level, over and above the existing relationship.
- 10.32 At first floor level, a secondary opening is proposed to a bedroom. This opening would be high level which is considered to prevent harmful overlooking towards the existing habitable openings on the side elevation of the dwelling. Further openings would serve a dressing area, ensuites and a gym which is shown to be obscure glazed. In the interest of residential amenity, it is considered appropriate to condition that the obscure glazing is implemented and retained should the application be approved.

### Impact on 156 Gomersal Lane

- 10.33 The rear of the new dwelling would include a two storey, 3m projecting element which would project approximately 3m beyond the rear elevation of the neighbouring property. The dwelling benefits from a single storey extension to the rear with openings in its side elevation. Whilst the dwelling would be located to the west and would therefore have the potential to have an overbearing and overshadowing impact, particularly due to its two-storey height, the rear element of the dwelling would retain approximately 18m between the existing extension at the property. The distance retained is considered sufficient to reduce the potential for overbearing and overshadowing from this element to an acceptable level.
- 10.34 The integral garage, located to the north of the new dwelling, would sit forward of the front elevation of the neighbouring property and would be set in from the shared boundary by approximately 13m. The distance retained, as well as its single storey nature, is considered sufficient to prevent harmful overbearing and overshadowing from this element of the proposal.
- 10.35 A number of openings are proposed to the eastern side elevation of the dwelling which have the potential to overlook the neighbouring property. In the southern most aspect of the dwelling, openings at ground floor level would serve a secondary opening to a snug, a garage and a WC. The garage and WC openings, due to their use, are considered not to allow for harmful overlooking towards the property. This would be furthered by the fact that they would face onto the blank gable wall of the property. The snug window, whilst serving a habitable room, would be secondary opening. Together with the distance retained between the side openings in the rear extension of the property, it is considered that the potential for harmful overlooking would be reduced. At first floor, openings would serve an ensuite and a secondary opening to a bedroom. Whilst the openings would hold an elevated position, it is considered that views would be over the neighbouring property due to its single storey height. Any views of the private amenity space to the rear of the property would be at an oblique angle.
- 10.36 To the northern most aspect of the dwelling, openings would serve a stairway, hallway and shower room. Due to the nature of these rooms, it is considered that they would not allow for harmful overlooking towards the openings in the side elevation of the property. Whilst a primary study opening is proposed at ground floor level, approximately 25m would be retained between the new openings and those in the side elevation of the neighbouring property. Together with the fact that there is an existing relationship established between habitable room openings to this elevation, the impact on the property is considered acceptable. At first floor level, an opening would serve a bedroom. Due to the elevated position of the opening in relation to the property, it is considered that the line of sight from this opening would be over the roof plane of the property.

Whilst there would be some overlooking of the amenity space to the front of the dwelling, it is noted that the main area of private amenity space is to the rear, and as such, it is considered that this impact would not be detrimental to the amenity of the occupiers.

#### Impact from the Proposed Balconies

- 10.37 Balconies are proposed to the rear of the dwelling. The balconies, located at first floor level, would be set forward of the rear elevations of the two adjacent properties, no. 138 and no. 156 Gomersal Lane and as such, it is considered that there would be no harmful overlooking towards the rear elevations of the properties. The balconies, due to their elevated position, whilst set in from the shared boundary, would offer the potential for some overlooking towards the rear amenity space of each of the properties. In the interest of residential amenity, it is considered appropriate to condition that a 1.6m privacy screen shall be installed to the northern and southern side elevations of the balconies.

#### Impact on 97 Gomersal Lane

- 10.38 The proposed dwelling would be located to the south of the neighbouring property. Whilst it would replace an existing dwelling, it would be two-storey in height, and therefore have the potential to have an overbearing and overshadowing impact over and above the existing relationship.
- 10.39 The proposed dwelling would be set back from the access road, with approximately 27m retained between the southern most aspect of the neighbouring property. Due to the distance retained, it is considered that the dwelling would not have an oppressive or overbearing impact to the property. Given the distance retained, it is considered that the potential for overbearing to either habitable openings in the southern elevation of the dwelling, or to its amenity space, would be reduced to an acceptable level.
- 10.40 There are no properties to the rear of the site which would be impacted by the proposed development.
- 10.41 Having considered the above factors, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants and would offer an acceptable standard of amenity for future occupants. This is in accordance with Policies LP24 (b) and LP52 of the KLP, Principles 6, 16 and 17 of the Housebuilders Design Guide SPD and the aims of the NPPF.

#### Highway issues

- 10.42 The application is for the demolition of the existing dwelling and the erection of a five bedroom dwelling with integral garages. The new dwelling would be located in the same location as the existing dwelling, on a slightly larger

footprint, and would utilise the existing access from Gomersal Lane. Whilst the proposed dwelling would be larger than the one it would replace, given the fact that the site currently operates as a residential property, it is considered that proposal would not result in additional trips to and from the site to a level which would be likely to have a significant impact on the operation and efficiency of the highway network.

- 10.43 In terms of parking, the Council's Highways Development officer has been consulted during consideration of the application and considers that a vehicle could be accommodated in each of the two integral garage. There would be ample space for a further 2 to 3 spaces to be accommodated on the driveway whilst allowing for internal turning, meaning vehicles can exist the site in a forward gear. Whilst the existing driveway would be retained it would be extended slightly to accommodate the additional footprint. Whilst the submitted site plan demonstrates that this would be finished in block paving to match existing, it is considered appropriate to condition that the surface is of a permeable finish, and laid, available for parking, before the dwelling is first brought into use.
- 10.44 Principle 19 of the Housebuilders Design Guide SPD sets out how the provision for waste storage and collection must be incorporated into the design of new development. Whilst no details have been provided regarding waste storage and collection at the site, it is noted that the site currently operates as a residential property, and it is anticipated that waste collection would continue as existing. In any case, details regarding waste storage and collection must be provided and as such, the Highways Development Management officer has requested a condition requiring these details to be provided.
- 10.45 Subject to the inclusion of the above conditions, the proposed development is considered acceptable from a highway safety perspective, complying with Policies LP21 and LP22 of the KLP as well as Principles 12 and 19 of the Housebuilders Design Guide.

#### Other Matters

##### *Previous Application*

- 10.46 Application reference 2021/91941 has been previously approved at the site. The application is for the prior approval for the enlargement of the dwellinghouse by the erection of an additional storey. The prior approval application is considered to establish the principle of having a first-floor level to the existing dwelling. The prior approval application is considered to represent a realistic fall-back position should the application for the proposed development be refused. This fall-back position has been afforded weight within the assessment of the application. Whilst the proposed dwelling would be of a larger footprint, when considering the amendments which have been made to the height and design of the dwelling from the prior approval application, when considered on balance, the scale of the proposed dwelling is considered acceptable.



### *Ecology*

- 10.47 The proposal involves the demolition of the existing dwelling and the erection of a new dwelling in the same location within the site. The application site is not located within the Bat Alert layer. Following a site visit, the building appeared to be well-sealed and there was no evidence of bat roosts or bat roost potential. As such, there is no concern regarding the demolition of the building from an ecology perspective. LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and the Biodiversity Guidance note states that biodiversity net gain is required for all development. To create this net gain, a condition to secure a bird into the external walls of the new dwelling shall be added to the decision notice. This mitigation will ensure that the proposal minimises the impact on biodiversity and provides a net biodiversity gain through good design by incorporating biodiversity enhancements.

### *Public Right of Way*

- 10.48 Public Right of Way footpath SPE/99/30 is located to the south of the application site. Due to the topography of the surrounding area, the footpath is located at a lower level to the location of the proposed dwelling, and it is noted, due to the size of the plot, that approximately 70m would be retained between the rear wall of the dwelling and the boundary shared with the PROW. When taking into account the distance retained, it is considered that the proposed dwelling would not have a harmful impact on users of the footpath. As such, the proposal is considered to comply with Policy LP23 of the KLP in this case.

### *Contaminated Land*

- 10.49 The application site has been identified as being located on land which is potentially contaminated due to its proximity to a former colliery. A condition has been recommended by the Council's Environmental Health team regarding the reporting of unexpected land contamination should any be encountered during the construction process. The conditions shall be attached to the decision notice in accordance with Policy LP53 of the KLP.

### *Coal Mining Legacy*

- 10.50 The Coal Authority have been consulted during consideration of the application as the application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards, which need to be considered in relation to the determination of this planning application.

10.51 The planning application is supported by a Coal Mining Risk Assessment prepared by Earth Environmental & Geotechnical Limited. The report has been informed by an appropriate range of sources and information. Having reviewed the available coal mining and geological information, the Coal Mining Risk Assessment concludes that the risk to the proposed development from probable unrecorded shallow working is low as the proposed dwelling would be built on the existing foundations. On the basis that minimal additional groundworks are proposed, The Coal Authority have advised that the proposal would fall under their exemption criteria. As such, no further comments have been provided and The Coal Authority do not object to the planning application.

### *Carbon Budget*

10.52 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.

10.53 The proposal comprises minor development which involves the demolition of an existing dwelling and the erection of a detached dwelling with integral garages. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric car charging point is recommended. This is in accordance with Policies LP24 and LP51 of the KLP and Chapter 9 of the NPPF.

### Representations

10.54 The representations received have been summarised as follows:

#### Visual Amenity and Heritage

- Scale and design of the dwelling is inappropriate within its setting
- Not in keeping with the character of the street scene or wider area
- Property forms one of a pair of symmetrical bungalows
- Will impact negatively on the Little Gomersal conservation area
- Impact on the Green Belt which covers the rear garden of the site
- Loss of gaps and open space within the street scene

- Design is sensitive to the local area and would be similar to existing footprint
- Dwelling will add to the character of Gomersal
- Would be prominent on the approach to Gomersal Lane
- Proposed dwelling would not impact on views from the village
- Overdevelopment of the site

*Officer Response:* The comments regarding visual amenity and heritage have been addressed within the visual amenity and heritage sections of this report.

#### Residential Amenity

- Overshadowing and loss of light and to neighbouring properties and gardens
- Loss of privacy and concern of overlooking from openings and balconies
- Loss of outlook
- Overbearing impact on neighbouring properties
- Noise from proposed air conditioning units

*Officer Response* – The comments regarding the impact on residential amenity have been addressed within the residential amenity section of this report. With regards to noise, no details of proposed air conditioning units have been submitted as part of the application. In any case, the application is for the replacement of a single residential property. It is considered that any additional noise generated would not be significantly detrimental to the amenity of the neighbouring properties over and above the existing relationship.

#### Highways Safety

- Vehicle accidents have occurred on the corner of Gomersal Lane
- Potential increase in vehicle movements and parking

*Officer Response* – The comments regarding the impact on highway safety have been addressed within the highway safety section of this report.

#### Publicity of the Application

- Notice on the lamp post was late being posted

*Officer Response* – The application has been advertised in accordance with the Kirklees Development Management Charter.

### Other Matters

- Smaller developments not allowed at neighbouring properties
- Large amount of development allowed by permitted development

*Officer Response* – The planning history in the surrounding area has been noted as part of the assessment of the application. All applications must be assessed on their own merits, in accordance with relevant local and national policies at the time of their consideration. The permitted development fall-back position has been noted and addressed within the body of this report.

- Concerns over the use of the dwelling in the future

*Officer Response* – The application has been assessed based on the submitted plan which are for the erection of a single dwelling. Should the use of the dwelling change in the future, it is likely that a new planning application would be required.

- Plans are not sufficient for the consideration of the application

*Officer Response* – Officers have reviewed the submitted plans which, along with a visit to the site and surrounding area, are considered sufficient to determine the application in this particular case.

- Disruption during the construction process

*Officer Response* – Whilst concerns relating to disruption that may result during construction is a material consideration relating to residential amenity, there is an expectation that there will be such effect as part of the activities associated with construction and such effects would be transient. It is, therefore, considered that this would not be a sufficient reason to warrant refusal of the application. A note will be added to the decision notice reminding the applicant of the appropriate hours of work in line with Environmental Legislation.

- Drainage concerns

*Officer Response* – The application is for the erection of one dwelling which would replace an existing dwelling on the site. The impact of one replacement dwelling on the site is considered acceptable.

### Non-material Considerations

- Residents not consulted during the design stage
- Could set a precedent for development in the area
- Believe there is a covenant on the property
- Impact on house prices in the area

*Officer Response* – These are not material planning considerations and can therefore not be considered as part of the application. It is noted however that the granting of planning permission does not override legal restrictions of covenants at the property.

## **11.0 CONCLUSION**

- 11.1 To conclude, it is considered, on balance, that the proposal would have an acceptable impact with regards to visual amenity, heritage, residential amenity and highway safety as discussed.
- 11.2 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.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time scale for implementing permission
2. Development to be carried out in accordance with the approved details
3. Samples of external walling and roofing materials to be submitted
4. Areas indicated for parking to be surfaced and drained
5. Reporting of unexpected land contamination
6. Submission of a scheme detailing the provision for electric vehicle charging
7. Details to be submitted regarding storage and collection of waste
8. Provision of bird nesting feature
9. First floor level windows to the western elevation shown on floor plans as opaque windows to be obscure glazed
10. 1.6m high privacy screen to be erected to the eastern elevation of the balcony shown on the submitted floor plans (2082-04A) that serves bedroom one and the western elevation of the balcony shown to serve bedroom two

### **Background Papers:**

Application weblink:

[Link to planning application details](#)

Certificate of Ownership – Certificate A signed.

### **Weblink to application referred to in Section 4.0 of this report:**

2021/91941 – Prior approval for enlargement of dwellinghouse by erection of additional storey. Details Approved.

[Link to planning application details](#)