
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Aug-2023

**Subject: Planning Application 2023/90349 Erection of detached dwelling adj,
11, Park View, Cleckheaton, BD19 3AN**

APPLICANT

L Broadbent

DATE VALID

22-Feb-2023

TARGET DATE

19-Apr-2023

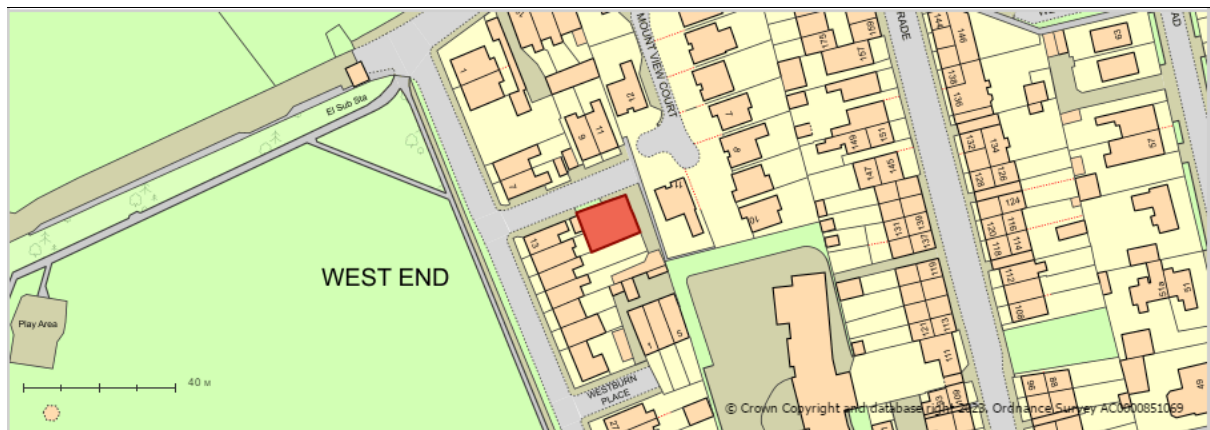
EXTENSION EXPIRY DATE

17-Aug-2023

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[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The constraints arising from the size and shape of the plot are insufficient to suitably accommodate a new dwelling. A dwelling on this site would result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality, which would be detrimental to the visual amenity of the wider street scene. The proposal therefore fails to comply with Policy LP24 (a) of the Kirklees Local Plan, Principles 2, and 4 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

2. The use of obscure glazing on the principal elevation would fail to address the street positively, appearing incongruous in design and detrimental to visual amenity of the wider street scene. The proposal therefore fails to comply with Policy LP24 (a) of the Kirklees Local Plan, Principle 14 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

3. The siting and scale of the proposed development would have an overbearing and overshadowing impact on the occupants of nos.13 and 15 Park View and the limited amenity space which they have to the rear of their properties, to the detriment of residential amenity. The proposal therefore fails to comply with Policy LP24 (b) of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (22 representations received. 14 are in support, 8 in objection). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises a vacant plot of land to the south of 11 Park View. The site is finished in hardstanding and is surrounded by a timber boarded fence and a gate for access. It appears from historical aerial imagery and planning history that the site was previously overgrown with a detached garage erected which has now been demolished. The site previously served as rear gardens for 13 and 15 Park View. It is located on a residential cul-de-sac which is characterised by terraced and semi-detached stone fronted dwellings with detached dwellings forming a modern estate to the east.

2.2 The site is unallocated within the Kirklees Local Plan and is not in a conservation area and there are no listed buildings within close proximity to the site.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of a detached dwelling.

3.2 The proposed dwelling would appear two-storey in height, with a steeply pitched roof and low eaves height to the front, with a gable roof feature. The dwelling would be sited within the eastern side of the plot and would front the highway. It would have a rectangular form with a single storey element projecting to the rear. The dwelling would have a ridge height of ~6.6 metres, eaves height of ~4.6 metres, width of ~9 metres and a total depth of ~8.5 metres. The dwelling is proposed to be finished in coursed stone under a grey slate roof. The access off Park View is to remain as existing.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2014/93210 Erection of one detached dwelling. Refused.

2015/90471 Erection of one detached dwelling. Refused.

2016/90818 Erection of one detached dwelling. Refused. Appeal Dismissed.

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

5.1 The submitted plans raised significant concerns in terms of visual amenity and impact on the historic character. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration.

5.2 Officers raised concerns with the applicant's agent regarding the proposal, in relation to the harm of the proposal upon character and appearance of the locality, and the harm to residential amenity of future and neighbouring occupiers. Amended plans and a justification were provided however these did not overcome officers' concerns.

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 27th February 2019).

Kirklees Local Plan (2019):

6.2 LP 1 – Achieving Sustainable Development
LP 2 – Place Shaping
LP 3 – Location of New Development
LP 7 – Efficient and Effective Use of Land and Buildings

LP 20 – Sustainable Travel
LP 21 – Highway Safety
LP 22 – Parking Provision
LP 24 – Design
LP 30 – Biodiversity and Geodiversity
LP 51 – Protection and Improvement of Local Air Quality
LP 52 – Protection and Improvement of Environmental Quality
LP 53 – Contaminated and Unstable Land

Supplementary Planning Guidance / Documents:

6.3 Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and alterations and open space, to be used alongside existing SPDs previously adopted. They are now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs are applicable:

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide SPD (2021).
- National Described Space Standards (2015).

National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

6.5 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 efficient use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Publicity ended on 10th April 2023.

7.2 22 representations were received as a result of the above publicity, 14 in support and 8 in objection to the scheme. The full comments are available to view on the Council's Planning Webpage, but a summary of the comments raised is provided below:

7.3 Supporting comments:

- Improvement on existing
- Land is currently an eyesore
- Dwelling would improve street scene
- Meet shortage for housing
- Good for community
- Good for area
- Local youths are causing bother
- No reason for the project not to go ahead
- No detriment to surrounding properties

7.4 Objections:

- 4th time application has been submitted and no change in circumstance
- Application is contrary to inspectorate's previous appeal decision
- Insufficient garden or amenity space
- Incompatible with design and character of area
- Inadequate parking, existing parking is a problem
- Dangerous for pedestrians and children
- Overlooking and overshadowing existing properties and gardens
- Too small plot for dwelling

8.0 CONSULTATION RESPONSES:

8.1 Statutory Consultees:

KC Highways Development Management – No objection subject to condition.

The Coal Authority: No objections subject to a condition.

8.3 Non-Statutory Consultees:

KC Environmental Health – No objections subject to condition

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.
- 10.2 The dimensions of sustainable development will be considered throughout the proposal. 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.
- 10.3 The site is unallocated on the KLP Policies Map. Policy LP2 states that: "All development proposals should seek to 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, as set out in the four sub-area statement boxes below..."
- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.
- 10.5 The Housing Delivery Test results are directly linked to part of the five year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, is not of sufficient size to accommodate a single dwelling. One dwelling is proposed in this instance. It is noted that the proposed site is significantly smaller than the scale recommended for one dwelling when applying the density calculations. Given the size of the plot, in relation to the proposed dwelling, there is not sufficient space to be able to support a new dwelling on this site. A new dwelling would result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality.

- 10.7 It is noted that there is history of refusals for new dwellings on this site for a similar reason to those discussed above. The most recent application (2016/90818) was refused and dismissed at appeal with the inspector outlining that the constraints arising from the size and shape of the plot are insufficient to suitably accommodate the dwelling, which had a smaller footprint to that proposed under this application.
- 10.8 In respect of the above, whilst it is acknowledged that there has been a change to both local and national planning policy since the above application was decided, the overall constraints at the site are changed. Officers therefore have concerns regarding the principle of a new dwelling on this site. A more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

Impact on visual amenity

- 10.9 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states: "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
- 10.10 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.
- 10.11 LP24 states that proposals should promote good design by ensuring: "a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape..."
- 10.12 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.
- 10.13 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."

- 10.14 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.
- 10.15 The proposed detached dwelling would have a pitched roof design with a gable feature in the roof. It would be finished in new coursed stone. Park View is predominantly finished in stone and red brick. Given the age of the adjacent properties, it would be difficult to match the materials directly. It is noted that there is an estate comprising modern detached dwellings located to the east of the site, which are similar in both design and materials to the proposed. Although fenced off from Park View, when officers visited the site, 12 Mount View Court was visible from the street scene. However, it is noted that this boundary appears to be lined in foliage and therefore no.12 may be less visible in summer months. Notwithstanding the principle of development, it is considered, on balance, that the design of the dwelling itself, if being considered in isolation, would generally be in keeping with the character of house type in the surrounding area in terms of visual amenity.
- 10.16 Notwithstanding this, the front elevation of the property would serve three openings which would all be obscurely glazed. The use of obscure glazing on the principal elevation would fail to address the street positively, appearing incongruous in design and detrimental to the wider street scene. It is noted that in the inspectorate's report for the appeal of 2016/90818, they highlighted the use of obscure glazing in all of the windows on the principal street elevation of the dwelling would be inappropriate, for the reasons outlined above. This design feature is not considered to constitute 'good design'.
- 10.17 As outlined in the principle of development section of this report, officers have significant concerns regarding the scale of the development within the plot and the resulting overdevelopment of the application site. A dwelling on this site would likely result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality, which would be detrimental to the visual amenity of the wider street scene.
- 10.18 Officers therefore consider that the proposal would cause detrimental harm to the visual amenities of the locality and can therefore not be supported. The proposal would fail to comply with Policy LP24 of the Kirklees Local Plan, Principles 2, 4, and 14 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.19 Section B and C of LP24 states that alterations to existing buildings should: "...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers."
- 10.20 Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.21 Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: “Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.” The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

10.22 The properties mostly likely to be affected by the proposed development are considered to be nos. 9, 11, 13 and 15 Park View, no.11 Mount View Court and nos. 1, 3 and 5 Westburn Place. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect.

Impact on 9 and 11 Park View

10.23 No’s 9 and 11 Park View are a pair a semi-detached, two-storey dwellings, located due north of the site. They are oriented towards the site with primary openings in the southern elevation, including two dormer windows in the roof space.

10.24 The proposed dwelling would be oriented north, towards the front elevations of no’s 9 and 11. The proposal would be two storey, with a steep roof pitch and low eaves height on the front elevation. There would be a separation distance of ~12.3m between the properties. It is noted that there are no primary inhabited rooms in the front elevation of the proposed dwelling and all openings are shown as being obscurely glazed on the submitted plans. Therefore, it is considered that no significant overlooking harm would occur as a result of the proposal. As the proposal is set directly in front of the front elevation of nos.9 and 11, officers do have some concerns regarding the overbearing and overshadowing impact to both the neighbouring and future occupants. However, given that the proposal meets the required separation distance of 12 metres as outlined in the Housebuilders Design Guide, refusal on this element of the scheme could not be reasonably sustained in this instance.

Impact on 13 and 15 Park View

10.25 No’s 13 and 15 Park View are terraced, two-storey dwellings, located west of the site. They both have two storey gable end projections out the rear of the properties. No. 13 has an opening(s) in the rear elevation but the gable end facing towards the property is blank and there is a detached garage between the property and the application site. No.15 has openings in both the ground floor and first floor of the gable end. The properties primary amenity space is to the rear, adjacent to the site.

- 10.26 The openings in the rear of no.13 are ~11.1 metres from the side elevation of the proposed dwelling. The openings in the rear of no.15 are ~7.8 metres from the proposed dwelling. There are two openings proposed in the western elevation of the proposal which serve the kitchen area. The site plan proposes that the existing, 2 metre timber fence would be retained. This would prevent any harmful overlooking harm to the occupants of no.13 or 15. It would appear that the first-floor window of no.15 is stained glass and therefore there would be no overlooking. However, there may still be potential for overlooking from the other openings in the rear elevations of nos. 13 and 15.
- 10.27 Notwithstanding the above, the erection of a dwelling in this location would have an oppressive and overshadowing impact on the neighbouring properties, and the limited amenity space which they have to the rear of their properties. It would not meet the separation distances outline within the Housebuilders Design Guide SPD. Therefore, officers have significant concerns regarding the harm to residential amenity of the neighbouring occupiers.

Impact on 11 Mount View Court.

- 10.28 11 Mount View Court is a two-storey, detached dwelling located to the east of the site. It is separated from park view by fencing and shrubbery. There are two ground floor openings in the side elevation which do not appear to serve primary inhabited space.
- 10.29 There are no openings proposed in the side elevation of the proposed dwelling. There would remain a separation distance of ~7.8 metres which is considered a sufficient distance given the lack of habitable rooms windows.

Impact on 1,3 and 5 Westburn Place

- 10.30 1, 3 and 5 Westburn Place are a terrace of two-storey properties located south east of the application site. The properties all have primary openings in the rear elevation which faces the rear of the proposed property.
- 10.31 The proposed dwelling would have openings in the rear elevation at both ground and first floor level serving primary inhabited spaces. These openings would all be set ~22 metres from the rear elevations of the properties on Westburn Place and therefore exceed the separation distance outlined in the Housebuilders Design Guide SPD. This is considered a sufficient distance to prevent any significant harm to the occupants of nos. 1, 3 and 5 Westburn Place.

Amenity of the future occupiers

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

- 10.33 The proposed dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling. The proposed development has a small patio area to the rear which would be small for a property of this scale. However, given the character of the terraced houses surrounding the property predominantly also have limited amenity space, a refusal of this element of the scheme could not be reasonably sustained in this instance.
- 10.34 It is considered the proposed development would have an oppressive and overshadowing impact on the nos.13 and 15 Park View and their limited amenity space, at the detriment of residential amenity. The proposal therefore fails to comply with LP24(b) of the Kirklees Local Plan, principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.35 Paragraph 111 of the NPPF states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."
- 10.36 Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.37 A two-bedroom dwelling is proposed at the site, and the Kirklees Highways Design Guide SPD states that at least two on-site spaces are required for dwellings of this capacity.
- 10.38 The application site is located adjacent to an adopted highway. A driveway is proposed to the side of the dwelling with tandem, off-street parking for two vehicles. KC Highways Development Management (HDM) are satisfied sufficient on-site parking has been proposed for such a development. Details of the surfacing of this can be controlled by condition, should the application be approved.
- 10.39 The applicant would also be required to demonstrate adequate bin storage and collection points however this can be secured by condition should the application be approved.
- 10.40 It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

REPRESENTATIONS

- 10.41 22 representations were received as a result of the above publicity, 14 in support and 8 in objection to the scheme. The full comments are available to view on the Council's Planning Webpage, but a summary of the comments and officers responses are provided below:

10.42 Supporting comments:

- Improvement on existing
- Land is currently an eyesore
- Dwelling would improve street scene

Officers Response: Officers have undertaken a full assessment of the visual amenity of the proposed dwelling in the visual amenity section of this report.

- Meet shortage for housing

Officers Response: Officers have undertaken a full assessment of housing demand in the principle of development section of this report. Whilst the erection of one dwelling would make a very small contribution, this is not considered to outweigh the significant concerns set out in the main assessment.

- Good for community
- Good for area
- Local youths are causing bother
- No reason for the project not to go ahead

Officers Response: These comments have been noted. However, when taking into account the relevant material planning consideration set out in the main assessment, the proposal, in the opinion of officers, is not considered to comply with planning policy.

- No detriment to surrounding properties

Officers Response: Officers have undertaken a full assessment of the impact on neighbouring occupants in the residential amenity section of this report.

10.43 Objections:

- 4th time application has been submitted and no change in circumstance
- Application is contrary to inspectorates' previous appeal decision

Officers Response: Officers have taken the planning history into consideration during assessment of this application.

- Insufficient garden or amenity space

Officers Response: Officers have undertaken a full assessment of the impact on future occupiers in the residential amenity section of this report.

- Incompatible with design and character of area

Officers Response: Officers have undertaken a full assessment of the design in the visual amenity section of this report.

- Inadequate parking, existing parking is a problem
- Dangerous for pedestrians and children

Officers Response: Officers have undertaken a full assessment of the impact on highway safety in the highway safety section of this report.

- Overlooking and overshadowing existing properties and gardens

Officers Response: Officers have undertaken a full assessment of the impact on neighbouring occupants in the residential amenity section of this report.

- Too small plot for dwelling

Officers Response: Officers have undertaken a full assessment of size of the plot in the principle of development and visual amenity section of this report.

OTHER MATTERS

Carbon Budget

- 10.44 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.
- 10.45 Due to the nature of the scheme, this being a proposal providing one new residential unit within the site, it is considered that one electric vehicle charging point for this dwelling should be provided to aid in the contribution to climate change. This matter could be conditioned should planning permission be granted.

Ecology

- 10.46 The existing site consists of an area of hardstanding which is considered to have low potential for protected species or biodiversity given the current use of the land and as the proposal would not include any demolition. It is therefore considered that the proposal is unlikely to cause harm to protected species.
- 10.47 However, Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of bird boxes on the proposed dwelling are to be recommended as a condition should permission be granted.

Land Contamination

- 10.48 KC Environmental Health were consulted on the proposal and given the size of the development, full contaminated land conditions were originally considered unreasonable in this case. However, considering the findings of the coal mining risk assessment, KC Environmental Health consider an unexpected contamination land condition necessary, which should be applied should planning permission be granted.
- 10.49 The application site falls within the defined Development High Risk Area for Coal Mining. As such the applicant was required to submit a Coal Mining Risk Assessment which was referred to The Coal Authority for consultation.
- 10.50 The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, conditions would be added ensuring the applicant provided a scheme of intrusive investigations and clarifies the safety of the site.

10.51 The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

Construction

10.52 The Council's Environmental Health Officer has requested that construction site working times be conditioned if the application were approved. Construction practices are covered by other regulations, and it is not considered necessary or reasonable to attach a condition regarding site working times, but an informative regarding construction practices can be attached should planning permission be granted.

11.0 CONCLUSION

11.1 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.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F90349)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F90349>

2016/90818:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90818)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90818>

Certificate of Ownership – Certificate A signed and dated.