

**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:** 2020/62/92284/W

**Site Address:** 33, Wilshaw Road, Meltham, Holmfirth, HD9 4DZ

**Description:** Erection of single storey out building to provide home office/studio (within a Conservation Area)

**Recommending Officer:** Neil Bearcroft

**DECISION – CONDITIONAL FULL PERMISSION**

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

Emma Thompson

***AUTHORISED OFFICER***

**Date: 05-Oct-2020**

**Application:** 2020/92284

**Site:** 33, Wilshaw Road, Meltham, Holmfirth, HD9 4DZ

**Proposal:** Erection of single storey out building to provide home office/studio (within a Conservation Area)

### **Site Description**

The application relates to a two-storey detached stone built dwelling set within a fairly large plot, with amenity space to the front and rear of the dwelling. Surrounding the site to the south is St Mary's Church, to the west is a row of dwellings located off Wilshaw Road and to the north are open fields with two dwellings located at Gill Birks accessed off an existing lane. In the south western corner of the site is a cluster of fairly mature trees.

The site has been subject to a number of previous applications, some of which have been refused; while the most recent to be approved is application 2017/92124. The site is within the Green Belt, and also falls within the Wilshaw Conservation Area.

### **Description of Proposal**

Erection of single storey out building to provide home office/studio (within a Conservation Area). The proposed out building would be located in the north eastern corner of the site in an appear which has previously had approval for a detached garage under application 2017/92124.

The proposed out building would be 6.4 metres long by 3.9 metres wide. It would have a large glazed picture window on the northern gable end elevation with an access door and window on the western side elevation along with a roof light. The outbuilding would be constructed from artificial stone and a slate roof with grey windows and doors.

### **Relevant Planning History**

#### Application Site

#### *Planning Application History*

2014/93865: Erection of single storey and two storey extensions and demolition of existing garage and erection of detached garage (within a Conservation Area) – Conditional Full Permission

2017/92124: Demolition of garage and erection of two storey and single storey rear extension with first floor balcony and detached garage (within a Conservation Area) – Conditional Full Permission

2017/93405: Demolition of garage and erection of two storey and single storey rear extension with first floor balcony and attached lower ground garage with terrace over (within a Conservation Area) – Refused (Appeal Dismissed)

2018/94112: Deemed application via Enforcement Appeal for erection of rear extensions and outbuilding – Deemed Refusal (Via enforcement notice appeal) PINS Ref: APP/Z4718/C/18/3218533 & 3218534

2019/93120: Erection of enclosure walls to rear of detached dwelling (within a Conservation Area) – Conditional Full Permission

2019/93330: Formation of a raised platform to rear (within a Conservation Area) – Conditional Full Permission

2020/91147 – Variation of condition 3 (materials) on previous permission 2019/93330 for formation of a raised platform to rear (within a Conservation Area) - Granted

#### *Planning Enforcement History*

COMP/18/0111 - Alleged unauthorised developments

#### Surrounding Area

##### *Gill Birks Farm*

2019/90738: Erection of extension and alterations to attached garage/workshop to extend living accommodation (Listed Building within a Conservation Area) – Conditional Full Permission

2020/91235: Erection of extension and alterations to attached garage/workshop to extend living accommodation (Listed Building within a Conservation Area) (modified proposal) – Conditional Full Permission

##### *Willow Shae, 33A*

2019/92774: Erection of first floor extension to home office with ancillary rooms (within a Conservation Area) – Refused

9, *Gill Birks*

2016/93900: Demolition of existing dwelling and erection of replacement detached dwelling (within a Conservation Area) – Conditional Full Permission

2017/91022: Erection of detached dwelling (within a Conservation Area) – Conditional Full Permission

### **History of Negotiations**

None

### **Representations**

The application was advertised by site notice, neighbour letter and in the local press due to the site falling within the Wilshaw Conservation Area. Final publicity date expired: 16.9.2020

In total 5 representations have been received in objection to the proposal and 4 in support. A summary of these are set out below.

In objection

- The development should be constructed from matching natural stone, not the stated artificial.
- The proposal fails to preserve or enhance the conservation area and the adjacent Grade II listed church and would be contrary to Policy LP35 of the Local Plan and Policies in the NPPF.
- Is the proposed large opening on the northern elevation appropriate for a site within the conservation area?
- Sitting the building further to the north of the site would damage the amenity of adjacent properties by the increased level of built form to the property. If required the building should be re-sited away from neighbouring properties.
- Unlawful works have previously taken place at the site which has reduce the openness of the Green Belt and the proposal would further add to that.
- The proposal would reduce the openness of the Green Belt and reduce views to the church.
- There are no details of drainage on the plans and areas at the adjacent property have become waterlogged after other works have been completed, there is concern that the development would add to this.
- The argument that the proposed garage could be built should not carry weight as access to the garage has been removed.
- Extensions to the host building and other associated works have not been carried out in accordance with the approved scheme or had consent, these previous works have affected the amenity of adjacent properties and damaged the character and appearance of the village and conservation area. Given this some of the comments within the supporting statement are considered to be inaccurate.

In support:

- The building will be sited where the previously approved garage would be located.
- Various other comments have been provided responding to points set out above and other matters which are not planning related.
- The provision of a home office for working from home is supported and helps to reduce future users carbon footprint.

Meltham Town Council: no response received

## **Consultation Responses**

No consultations necessary

## **Planning Policy**

### Kirklees Local Plan (KLP)

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).

The site is Green Belt on the LP Policies Map.

The site is within the Wilshaw Conservation Area.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP35** – Historic environment
- **LP57** – The extension, alteration or replacement of existing buildings

### National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19<sup>th</sup> February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> 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 12** – Achieving well-designed places

- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

## **Assessment**

The application site is within the Green Belt and has had a approval for extensions to the original building.

The application site is located within the Green Belt and within Wilshaw Conservation Area. The impact of the development on the Green Belt represents a key consideration along with its design and impact on the Conservation Area. Other matters to consider are the impact on residential amenity, highway safety and all other material planning considerations.

### *Background*

It is noted that this application site has been subject a number of planning applications and an enforcement case due to alleged authorised structures being erected on site. These matters have now been regularised and it has been determined through the course of the previous applications and appeal decisions that the original permission for extensions and alterations to the property, 2017/92124 was lawfully implemented. Specific detail of this can be found in paragraphs 10-12 of appeal decision APP/Z4718/C/18/3218533 & 3218534, that relates to planning application 2018/94112.

Application 2017/92124 granted approved for extensions to the original dwelling but also the erection of a detached garage single garage in the location of the proposed outbuilding. The applicant however does not wish to erect the detached garage but instead erect the outbuilding in its place.

## **Green Belt**

The NPPF sets out that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, establishing five purposes of the Green Belt, the most relevant of which to the is proposal to prevent encroachment into the countryside.

The erection of new buildings, within the Green Belt represents inappropriate development and paragraph 143 states that “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

Paragraph 144 advises that ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

Paragraph 145 advises that certain forms of development can represent exceptions to inappropriate development which includes: “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.” This exception is also set out in Policy LP57 of the Local Plan.

The key considerations for this proposal is whether the proposed extension can be considered to meet the guidance set out in paragraph 145 of the NPPF, Policy LP57 of the Local Plan. If not whether the very special circumstances put forward clearly outweigh the harm to the Green Belt and any other harm.

As set out above the proposed outbuilding is in the same location of a detached single garage approved by application 2017/92124 but the garage was never constructed. It has been confirmed that application 2017/92124 was lawfully commenced by previous application and appeal decisions and therefore permission for the detached garage remains extant and could be implemented at any point in the future. This situation therefore represents a legitimate fallback position which could be easily implemented.

Whilst the permission for the garage remains extant and forms a fallback position, consideration needs to be given to whether the proposed building is any larger than the approved garage and whether there would be any other harm caused to the Green Belt by the different use now proposed.

The approved garage was 70 cubic metres in volume and the proposed outbuilding is 75 cubic metres in volume. The proposed building whilst slightly larger than the approved garage is not considered to be significantly so and a small section of the building would be built into the natural topography of the site which was not previously indicated by the proposed garage. In light of this the proposed outbuilding in terms of scale would have the same impact on the openness of the Green Belt as the previously approved detached garage. The outbuilding would also be retained within the curtilage of the existing dwelling therefore not leading to any further encroachment into the countryside. Permitted development rights have already been removed for the site and as such no further conditions in this respect are required.

Turning to potential other harm, a detailed assessment of the design is set out below, however in summary it is not considered that the proposed outbuilding would be materially more harmful to the visual amenity of the Green Belt than the existing building.

### **Design and Heritage**

General design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity.

The site is located within the Wilshaw Conservation Area and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 needs to be considered. This sets out a statutory duty to give special attention to preserving and enhancing conservation areas. Policy LP35 of the local plan is also relevant which sets out criteria to be considered for applications which impact on heritage sites. Chapter 16 of the NPPF considers heritage matters and advises that new development should make a positive contribution to local character and distinctiveness.

As set out previously the proposed outbuilding would be constructed instead of a detached garage at the site. The approved garage has a simple architectural form, being constructed from natural stone and a slate roof on a shallow pitched gable design with an up and over garage door on the southern elevation, window on the northern rear and personal door on the western side elevation. The proposed outbuilding is of a similar overall design with the key architectural differences being a larger picture window on the northern rear elevation and the provision of an overhanging roof on the western side elevation and the blocking up of the garage door opening.

The proposed design of the outbuilding is not considered to significantly differ to that approved. Whilst a large picture window would be installed in the rear elevation this is similar to openings in the main house and the outbuilding would be read in conjunction with this from longer distant views. Furthermore, the submitted plans provide sectional details which demonstrate that the outbuilding would be set down from the main dwelling which would reduce its prominence locally and in particular in relation to the Wilshaw Conservation Area. However, the proposed use of artificial stone is not considered to be appropriate and the agent has confirmed that the applicant is agreeable to the use of natural stone which will be secured by condition.

The proposed outbuilding is therefore considered to be of an acceptable design and would have an acceptable impact on the Wilshaw Conservation Area and the character and appearance of the Green Belt and wider local area.

### **Residential Amenity**

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to “*provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.*”

The closest properties to the proposed outbuilding are Willow Shae to the south east, which is appropriately 10 metres away at its very closest point, 9 Gill Birks approximately 60 metres to the north and Cherry Tree Lodge would be approximately 35 metres to the west.

33A is the closest property but as a garage in this location has been previously approved and the overall scale of the outbuilding is the same it is

considered that the impact on no.33A would not be materially different to that previously approved. To ensure that no windows other than those proposed are inserted into the outbuilding permitted development rights for these will be removed.

The separation distance to 9 Gill Birks is significant and would prevent any detrimental overlooking from the window in the northern elevation. With regard to Cherry Tree Lodge sufficient separation distance is achieved to protect amenity and the relationship between the garage and the property would be obscured by the existing dwelling and existing boundary treatment.

Subject to the referred to conditions the proposal is considered to have an acceptable impact on the amenity of surrounding properties.

### **Highway Safety**

Turning to highway safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options.

Whilst the proposal would lead to the loss of a previously approved vehicle garage the site benefits from ample off street parking to the west of the dwelling which is considered to be sufficient to serve the property. The outbuilding would be used by occupiers of the main dwelling and would therefore not increase parking demand at the site. To ensure that the outbuilding is used subserviently in association with the host property it will be conditioned as such.

Subject to the stated condition the proposal is considered to have an acceptable impact on highway safety.

### **Other Matters**

*Climate Change* –On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates 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.

The proposed outbuilding is small in scale and would be used by the occupiers of the host property as a home office. The impact of the development on climate change is therefore considered to be limited.

## Representations

5 representations in objection and 4 in support have been received. These comments are summarised below with a response to the points raised.

In objection

- The development should be constructed from matching natural stone, not the stated artificial.
- The proposal fails to preserve or enhance the conservation area and the adjacent Grade II listed church and would be contrary to Policy LP35 of the Local Plan and Policies in the NPPF.
- Is the proposed large opening on the northern elevation appropriate for a site within the conservation area?

**Response:** As set out above the design of the proposal is considered to be acceptable subject to a condition securing the use of natural stone. The impact on the conservation area is also considered to be acceptable. The adjacent listed building is approximately 55 metres from the proposed outbuilding and given that the building would be set down from the church it is not considered that the proposal would detrimentally affect the setting of the listed church.

- Sitting the building further to the north of the site would damage the amenity of adjacent properties by the increased level of built form to the property. If required the building should be re-sited away from neighbouring properties.
- Unlawful works have previously taken place at the site which has reduce the openness of the Green Belt and the proposal would further add to that.
- The proposal would reduce the openness of the Green Belt and reduce views to the church.

**Response:** As set out above, the outbuilding would be located in the same place as the existing building and an assessment of the impact of the development on the Green Belt has been undertaken where it has been concluded that the impact is acceptable.

- There are no details of drainage on the plans and areas at the adjacent property have become waterlogged after other works have been completed, there is concern that the development would add to this.

**Response:** Given the nature of the development it is not considered necessary to require such detail. This matter would be sufficiently addressed through building regulations.

- The argument that the proposed garage could be built should not carry weight as access to the garage has been removed.

**Response:** It is noted that the former access has been removed, but this could potentially be reinstated allowing access to the previously approved garage, therefore Officers consider that weight can be given to the fallback position.

- Extensions to the host building and other associated works have not been carried out in accordance with the approved scheme or had consent, these previous works have affected the amenity of adjacent properties and damaged the character and appearance of the village and conservation area. Given this some of the comments within the supporting statement are considered to be inaccurate.

**Response:** Matters regarding the implementation of the previous permission and other works at the site have been investigated by enforcement and via appeals to the Planning Inspectorate. These have concluded that the application 2017/92124 was lawfully implemented and remains extant.

In support:

- The building will be sited where the previously approved garage would be located.
- Various other comments have been provided responding to points set out above and other matters which are not planning related.
- The provision of a home office for working from home is supported and helps to reduce future users carbon footprint.

**Response:** The above points are noted.

## **Conclusion**

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation:** Approve

**Application Number:** 2020/92284

**Decision Authorisation:** Delegated Powers

**Officer Recommendation:** Full Conditional Permission

### **Conditions and Reasons**

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

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004.

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

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, to protect the character and appearance of the Wilshaw Conservation Area and wider Green Belt setting and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

3. Notwithstanding the details set out on the approved plans, the external walls of the hereby approved outbuilding shall be constructed from natural stone which shall in all respects match those used in the construction of the existing building.

**Reason:** In the interests of visual amenity to protect the character and appearance of the Wilshaw Conservation Area and wider Green Belt setting and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

4. The roofing materials of the hereby approved outbuilding shall be natural slate which shall in all respects match those used in the construction of the existing building.

**Reason:** In the interests of visual amenity to protect the character and appearance of the Wilshaw Conservation Area and wider Green Belt setting and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

5. The outbuilding approved as part of this permission shall be used by the occupants of the dwellinghouse known as 33, Wilshaw Road, Meltham, Holmfirth, HD9 4DZ, for uses ancillary to the enjoyment of this dwelling house and shall at no time be sold or rented for any separate use of operation.

**Reason:** In the interests of highway safety and residential amenity in accordance with the aims of LP21 and LP24 of the Kirklees Local Plan and the aims of the of the National Planning Policy Framework.

6. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that

Act or Order with or without modification) no new door or window openings other than those expressly authorised by this permission shall be constructed in the external walls or roof of the hereby approved outbuilding at any time.

**Reason:** In the interests of the protection of residential amenity in accordance with Policy LP24 of the Kirklees Local Plan and the aims of the of the National Planning Policy Framework.

Plans and specifications schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing Site Plan, Elevations and Location Plan	AP001 Rev A		17/7/2020
Proposed Site Plan and Site Elevations	AP002 Rev A		17/7/2020
Proposed Plans and Elevations of Outbuilding	AP003 Rev A		17/7/2020
Heritage, Planning, Design and Access Statement	CT:1019		17/7/2020

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 Planning 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. No further information or amendments were required and the application was determined based on the submitted information.

**Report Dated: 2/10/20**