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:	2020/62/93873/W
Site Address:	10, Hall Close, Meltham, Holmfirth, HD9 4EL
Description:	Change of use of dwelling for mixed use dwelling/under 5's outdoor educational sessions
Recommending Officer:	Emma Thompson

DECISION - REFUSED

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

Teresa Harlow

AUTHORISED OFFICER

Date: 30-Apr-2021

OFFICER REPORT:

Site description:

10 Hall Close, Meltham

The site is situated on a relatively recent housing estate of modest detached properties, each with garden to the rear and driveway access. Number 10 follows this character being a two storey detached property constructed of artificial stone and concerete tile roof. The site provides drive access to the font, garage and parking for two vehicles. It is situated in the corner of a small turning head.

The site is located in a residential area of closely spaced properties with gardens adjoining.

Proposal:

Change of use of dwelling to mixed use residential dwelling/under 5s outdoor educational sessions

There is limited information accompanying the application with the form stating the following:

The business would be under 5's outdoor sessions where children would be supervised by their parents or carers at all times. These sessions would be run by a qualified and experienced primary school teacher. Children would be involved in activities based on a book. These activities would be linked to the Early Learning Goals and other statutory frameworks for under 5's. Children would also be given the opportunity to develop their balance, creativity, knowledge of the world around them and play with others. Parents and carers would also have the opportunity to chat to one another to help build a support network.

Sessions would be run with approximately 10 parents or carers with their accompanying children.

There would be no outbuildings built but a bell tent would be used to offer some protection from the weather when necessary. There would not be excessive waste generated as a results of operating this business. No additional waste removal would be required. All attendees would be required to take any waste away with them.

We propose that any parents traveling by motor vehicle should use one of two free local parking facilities. These are located in the Robert Ashton Memorial Park or behind Meltham Town Hall. Both of these are a 5 minute walk from the site. There is also a number of visitor parking available on the street but we

would advise parents and carers to use these if they require close access to the business i.e disabled access.

The application states there are 2 existing car parking space that will be retained.

Hours of use: 9:30 to 14:30 Monday to Friday and occasional use on a weekend.

History of negotiations/amendments received:

None.

Relevant Planning History:

None relevant.

Representations:

We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters.

Final publicity date expired 8th January 2021 – six letters of representation received with the following being a summary of comments:

5 objections

- Residential area
- Increase traffic
- Lack of parking/local car parks would not be used due to proximity
- Potential congestion
- Pedestrian safety
- Noise & disturbance
- No details of outdoor play spaces
- Loss of privacy
- Additional employees
- Hours including weekend use unacceptable
- Would be a good community facility elsewhere
- Approval would allow other uses that maybe permitted under use class E.
- Restrictive covenants.
-

1 support:

- This would be an asset to Meltham

Meltham Town Council objects due to highway issues, noise & disturbance and incompatible use in a residential area.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Highways DM: No objections
- KC Environmental Health: Object
- KC Early Years: No response

Policy

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

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP47** – Healthy, active & safe lifestyles
- **LP48** – Community facilities and services
- **LP49** – Educational and health care needs
- **LP52** – Protection and improvement of environment

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

Chapter 2 – Achieving sustainable development
Chapter 8 – Promoting healthy and safe communities
Chapter 12 – Achieving well designed places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

Assessment

Principle:

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development, Paragraph 11 of the NPPF sets out what this means for decision taking as follows:

c) approving development proposals that accord with an up-to-date development plan without delay.

There is an up to date Development Plan in the form of the Kirklees Local Plan adopted 2019. An assessment of the scheme against the adopted policies in this plan is considered in the assessment below.

Furthermore Chapter 11 of the NPPF promotes the effective use of land in meeting the need for homes whilst safeguarding and improving the environment. Paragraph 122, and Policy LP7, states that planning decisions should support development that makes efficient use of land. It is stipulated that the development should continue to contribute to the area's prevailing character and setting (including residential gardens). Development should be well designed, attractive and secure healthy places (para 122 (e) of the NPPF)).

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Chapter 8 of the NPPF and Policy LP48 are relevant. Community facilities should be provided in accessible locations where they can minimise the need to travel or be made accessible by walking, cycling or and public transport. This will normally be in town, district or local centres. Policy LP49 relates to new or enhanced education facilities. These will be permitted where they meet specific criteria including meeting an identified deficiency in provision, improvement to facilities and where they relate well to the catchment they intend to serve.

In addition to providing community facilities where travel can be minimised, Policy LP48 states that such establishments should be located in local/town centres. The mixed use educational facility would be located within an existing residential area and *could* be considered to support the local community should a lack of provision be demonstrated. However, the application lacks information in terms of demand and locational requirement and as such it is difficult for officers to conclude that this specific site and location is or is not required for such a provision.

Whilst the principle may be acceptable there is not sufficient information to justify the use in this instance. Further considerations in relation to impact on amenity and highways are detailed below.

Visual Amenity:

There are no alterations proposed as part of the application. Whilst there is mention of a tent in the back garden it is assumed to be a temporary structure that will be erected as required and removed accordingly. As such an assessment, in this respect, is not required.

Residential Amenity:

The application site is located in a residential location in close proximity to neighbouring dwellings. The use of the site for up to 10 under 5 year olds and their parents has the potential to result in regular noise associated with any activities. The proposed hours are 9:30 to 14:30 Monday to Friday and should be considered in respect of Policy LP52 which relates to protecting environmental quality. The development could result in an increase in pollution from noise and as such would reduce residential amenity of nearby occupants. As such the application has been referred to Environmental Health for comment.

Consideration has been given to noise that may be generated from the proposed use and number of children that could be accommodated. The noise would result in a loss of amenity to nearby occupants impacting throughout the summer months particularly when most residents use their garden. Furthermore, there are also concerns in respect of vehicle noise due to an increase in traffic movements and parking in the vicinity of the site. Whilst it is noted that alternative parking may be used elsewhere this cannot be relied upon.

As such there are significant concerns regarding the proposals outlined that cannot be supported due to the impact on local residents. The development would be contrary to Policy LP52 and Chapter 15 of the NPPF.

The use of the garden area for educational purposes may increase the number of adults visiting the site. As the land currently has an established relationship to adjoining land it is not considered to result in any detriment in terms of privacy or overlooking in accordance with Policy LP24.

Highways:

Policy LP21 states that “proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Proposals shall demonstrate adequate information and mitigation measures to avoid a

detrimental impact on highway safety and the local highway network. Proposals shall also consider any impacts on the Strategic Road Network".

KC Highway DM have provided comments on the proposed development raising no objections due to the proposed hours of use being outside peak times in addition to the limited numbers. It is noted that this could require cars to be parked on the highway as there would not be adequate space to park all vehicles associated with the use in the curtilage of the host property.

As such, the proposal is acceptable from a highways perspective and in accordance with Policies LP21 and LP22.

Other:

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 site occupies a site located within an established residential area and as such could provide a local community provision reducing the need to travel for those in the vicinity. In order to further mitigate sustainable transport method including an electric vehicle charge point could be conditioned to contribute to the aims.

Representations:

- Residential area
  Response: This is noted and considered above.

- Increase traffic
  Response: KC Highways DM raise no objections to the proposals, however it is noted that traffic movements could result in noise and therefore a loss of amenity as outlined in the report.

- Lack of parking/local car parks would not be used due to proximity
  Response: KC Highways DM raise no objections to the proposals due to the use being outside peak hours and there being sufficient parking in the vicinity for the numbers outlined.

- Potential congestion

Response: KC Highways DM raise no objections to the proposals due to limited numbers and hours of use.

- Pedestrian safety
  Response: KC Highways DM raise no objections to the proposals due to limited numbers and hours of use.

- Noise & disturbance
  Response: For the reasons outlined in the report it is considered that the use has the potential to result in nuisance and is recommended for refusal.

- No details of outdoor play spaces
  Response: There are no plans showing detailed outdoor spaces. For reasons outlined in the report the use is not considered acceptable.

- Loss of privacy
  Response: The land currently has an established relationship to neighbouring land/gardens it is not considered there would be a loss of privacy should the use be allowed.

- Additional employees
  Response: The application has been assessed on the basis of the information submitted.

- Hours including weekend use unacceptable
  Response: The proposed development raises concerns as outlined in terms of impact on residential amenity.

- Would be a good community facility elsewhere
  Response: Noted. The application has been assessed as submitted.

- Approval would allow other uses that maybe permitted under use class E.
  Response: Noted. Should the application be supported the use could be restricted through condition.

- Restrictive covenants.
  Response: Noted. Acknowledged not a material planning matter.

1 support:

- This would be an asset to Meltham
  Response: Noted, however there is no evidence accompanying the application to support the out of local centre/town location.

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 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 taken as a whole.

Decision Authorisation - Delegated Powers

Application Number: 2020/93873

Officer Recommendation: Approve

Refuse:

1. The proposed mixed use of the dwelling to include outdoor education provision for under 5 year olds would result in significant noise disturbance as a result of outdoor activities in close proximity to existing residential amenity space to the detriment of nearby occupants contrary to Policy LP52 of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	TQRQM20317121741559		13th November 2020
Block Plan	TQRQM20317125048974		13th November 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 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. The applicants wished for the application to be determined on the basis of the submitted scheme.

Report Dated: 29th April 2021