

**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:	2021/62/94052/W
Site Address:	former police station, Bradford Road, Fartown, Huddersfield, HD2 2QF
Description:	Erection of extension and alterations to convert former police station to offices
Recommending Officer:	John Holmes

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: 7th July 2022

Officer Report – 2021/94052

Site Description

The site hosts a single storey building, brick faced with a flat roof. It was formally occupied as a local police station but is now vacant. To its south is an associated car park.

The building fronts onto Bradford Road, a dual carriageway. The car park is accessed via the south-bound carriageway only. To the rear of the site, on a lower ground level, is a sports pitch / public amenity grassland. To the south, also on a lower ground level, is a car sales building and forecourt. Across Bradford Road, to the east, is a residential area. To the north side of the building is a utility substation.

Description of Proposal

The Scheme

The applicant is seeking permission for the erection of an extension and associated external alterations to change the use of the former police station to offices.

The proposal would see the following:-

- Extension of the building at the ground floor level incorporating new windows to the existing building and associated external alterations to create office space at this level of the building 61m² in size.
- Extension to the existing building to create a first floor level which would accommodate offices also 61m² in size.

The submitted plans set out that an existing car park with 4.no parking spaces would be retained to serve the proposed offices and that a bin storage area adjacent to the eastmost parking space would be provided. Rebuilding of a retaining wall to the northern boundary of the car park also forms part of the proposed development.

It is noted that there is a reference to separate entrance and stairs to student flats at first floor upon drawing 2102-AL-04revA, a request this be removed / amended has not seen an updated version of this plan forthcoming. Notwithstanding this it is considered the LPA can still determine this proposal whilst noting this error.

Supporting Information

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

- Planning, Design and Access Statement received 27th October 2021
- Sequential Test statement received 27th October 2021
- Coal Mining Search Report dated 11th October 2017

History of Negotiations / Amendments Received

No amendments have been requested by Officers. The scheme as submitted, whilst going some way to address previous reasons for refusal for a previous application at the site (detailed in the 'Planning History' section of this report) was not concluded to have overcome all the reasons. Amendments were not considered possible to address all the identified reasons. This is discussed in greater depth within the 'Assessment' section of this report.

Relevant Planning History

An approved application dated 10th January 1995, for an extension to the existing building, is noted as forming part of the planning history for the site. Given the age of this consent it is considered it is of limited weight as a consideration which is material to the determination of this application.

The most relevant planning history for this site relates to the following application: -

2020/90072 – Erection of extension and alterations to convert former police station to offices and student accommodation – **Refused** 23rd October 2020 for the following reasons: -

1. In accordance with LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework, Local Planning Authorities must apply a sequential approach to Main Town Centre uses that are not in an existing centre. No supporting information has been provided to evidence a sequential test has been undertaken as part of the application. In the absence of any such information, it is concluded that the application has failed to demonstrate that the proposal would not harm the viability and vitality of nearby Town Centres. To grant the proposal would be in breach of Policy LP13(a, b) of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.

2. The proposed development would introduce a large building into a relatively small site, with no separation to the public highway. By virtue of the scale, siting, form, and architectural features, the proposed development would be visually unattractive and constitute an overdevelopment of the site. Furthermore, due to the given features, again the setting of the open environment the proposed structure would also appear incongruous within the streetscene, harming the visual character of the area. To approve the development would cause harm to visual amenity, in breach of the aims and objectives of Policy LP24(a) of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and guidance in the National Design Guide.

3. The application site would introduce residential accommodation immediately adjacent to Bradford Road, a source of noise pollution, with several habitable room windows fronting the road. The application is not supported by a Noise Impact Assessment. In the absence of any such information, the application has failed to demonstrate that noise pollution can be adequately mitigated so as to secure an acceptable standard of amenity for future occupiers. To grant the proposal would be in breach of Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. The application has failed to demonstrate that safe vehicular access and manoeuvring can be achieved around the site. Vehicle parking bays are below the required size and on-site vehicle turning has not been demonstrated. The access is a dual carriageway, where a shortfall in parking could not be displaced to, and necessitates entering/exiting the site in a forward gear. Furthermore, no evidence has been submitted to demonstrate waste storage and collection can be undertaken in an effective manner. The proposed development would therefore harm the safe and efficient operation of the highway. To grant the permission would be contrary to the aims and objectives of Policy LP21 of the Kirklees Local Plan.

5. The site is within Flood Zone 2, but the application is not supported by either a (flood risk) Sequential Test or appropriate site-specific Flood Risk Assessment. The application has failed to demonstrate that appropriate consideration has been given to siting the development safely and sustainably outside of the identified flood zone. Furthermore, the application has failed to demonstrate that the flood risk of the site has been adequately considered, discounted, and/or mitigated against now and over the development's lifetime. Accordingly, the proposal is found to be in breach of Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

6. The proposed development is immediately adjacent to Bradford Road, a main road with a high traffic flow, close to a junction where traffic idles. Therefore, there is reasonable likelihood that air quality in the area is poor and would exceed air quality objectives. The proposal would have domestic habitable room windows fronting the road and introduce a sensitive receptor to an area of low air quality. The application is not supported by an Air Quality Impact Assessment and fails to discount the concerns or demonstrate adequate mitigation can be reasonably implemented. To grant the permission would be contrary to the aims of Policy LP51 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

7. The site is within the identified Development High Risk Areas for Coal Mining, where Coal Authority records indicate that the application site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. The application is not

supported by an adequate Coal Mining Risk Assessment and therefore fails to demonstrate that the proposal would incorporate suitable and sustainable mitigation measures to protect the well-being of residents and the environment from issues of contamination/instability arising from coal mining legacy. Accordingly, the proposal is found to be in breach of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

This application is assessed in light of the October 2020 refusal and the seven reasons for refusal which are listed above, their relevance and whether this application has satisfactorily addressed the reasons for refusal is discussed in greater detail within the 'Assessment' section of this report.

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application has been publicised on the Council's website, by neighbour notification letter & site notice. The expiry date of the publicity period was the 1st December 2021.

Letters of Objection

Two objections have been received to this proposal which are summarised as follows: -

- There is a high volume of traffic on the road from which access would be taken
- Increased likelihood of accidents due to vehicles accessing the site
- Existing parking problems on neighbouring street would be exacerbated
- Impact to view / outlook from neighbouring occupiers
- The proposal would be overbearing
- Visual impact of the building would be detrimental to the locality
- Noise pollution would increase as a result of the development
- The locality is predominantly residential
- The development does not benefit the area / local community.

The objections are addressed within the 'Assessment' section of this report.

Letters of Support

None

Letters of Comment

None

Consultation Responses

The following consultations have been undertaken for this application with the summarised responses listed below.

Coal Authority – Has stated they have substantive concerns

Environment Agency – No response received

Environmental Health Team (KC) – No objection subject to conditions

Highways Team (KC) – No objection subject to condition

Spatial Policy Team (KC) – Provides advice in relation to the submitted sequential assessment

The responses of the above consultees are discussed in greater depth within the 'Assessment' section of this report.

Allocation and Policy

The site is not allocated within Kirklees Local Plan (adopted 2019). The site is adjacent to an identified Urban Greenspace (Fartown Recreation Ground), the site also falls within Flood Zone 2 as identified by the Environment Agency and the Council's Strategic Flood Risk Assessment (July 2016). The access is taken from a main route which is identified within the Kirklees Local Plan as being a transport scheme route (ref: - TS2).

The site is also located within an area identified by the Coal Authority as being at risk of land movement as a result of former mining activity.

The following legislation, policy and guidance is considered relevant to the determination of this application: -

Kirklees Local Plan (KLP)

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP3 Location of Development
- LP7 Efficient and effective use of land and buildings
- LP13 Town centre uses
- LP21 Highway Safety
- LP22 Parking Provision
- LP24 Design
- LP27 Flood risk
- LP30 Biodiversity and Geodiversity
- LP32 Landscape
- LP33 Trees
- LP35 Historic Environment
- LP51 Protection and Improvement of Local Air Quality
- LP52 Protection and Improvement of Environmental Quality

LP53 Contaminated and unstable land
LP56 Facilities for Outdoor Sport, Outdoor Recreation and Cemeteries
LP61 Urban Green Space

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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.

Chapter2	Achieving sustainable development
Chapter6	Building a strong, competitive economy
Chapter7	Ensuring the vitality of town centres
Chapter 8	Promoting Healthy and Safe Communities
Chapter9	Promoting sustainable transport
Chapter12	Achieving well-designed places
Chapter14	Meeting the challenge of climate change, flooding and coastal change
Chapter15	Conserving and enhancing the natural environment

Supplementary Planning Documents

Kirklees Highway Design Guide (adopted November 2019)

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.
Section 17 of the Crime and Disorder Act 1998 (as amended)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Other

National Design Guide

Assessment

The following matters are considered in the assessment below –

1. Principle of development
2. Impact upon the character and appearance of the area (including impact upon historic environment)

3. Impact upon residential amenity
4. Impact upon highway safety
5. Climate Change
6. Impact upon Safety / Security
7. Impact upon Air Quality
8. Impact upon Land Quality
9. Impact upon Land Stability
10. Representations
11. Conclusion

1 – Principle of Development

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.

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.

The site is without notation on the KLP Policies Map. Policy LP2 of the KLP 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... The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.’

As a main town centre use, outside of an appropriately categorised local centre, LP13 of the KLP requires that the development be supported by a town centre sequential test. Of relevance to the consideration of the principle of development is reason no.1 of the previously refused application (ref: - 2020/90072) which, refused permission on the basis that no sequential test formed part of the submission.

As part of this application a sequential assessment has been submitted. This sets out research has been undertaken to ascertain the availability of office premises as marketed by local and national agents such as Rightmove, Colliers, Eddisons and Walter Singleton. In relation to available properties in Huddersfield the assessment concludes there are numerous properties available within large units such as the Media Centre at Northumberland Street, New North Parade (HD1 5JU), Crown House , Southgate (HD1 6QR) and 78 John William Street.

With regard to Fartown Local Centre no properties were identified within the submitted assessment as being available for office use. The assessment considers there to be a local perceived demand to provide professional offices to serve local businesses and residents and convenience and the requirement for local residents who may be users of the offices is cited as a perceived benefit than people having to travel longer distances.

The Council's Spatial Policy Team have been consulted and note the submitted sequential assessment, they provide comment in relation to paragraph 3.1 of the sequential statement which states '*the proposal is to meet a local perceived demand to provide professional offices to serve local businesses and residents*'. It goes on to say that it is '*far more convenient that the local demand is met locally rather than clients having to travel to Huddersfield town centre.*' The Spatial Policy Team advise that as the proposal is only approx. 1.5km to the north of Huddersfield Town Centre the applicant needs to provide further information on the business model, its expansion and catchment area before the sequential test is passed.

In addition The Spatial Policy Team highlight in paragraph 4.8 of the planning statement that the applicant provides an accountancy service in existing premises within the local centre and that '*they have purchased the former police station to enable a modest expansion of their business to better serve existing and new local clients.*' They advise that no further information is provided on the existing business within the Local Centre and whether this is to remain with a second office in the former police station or why the existing premises have become unsuitable. Furthermore, what constitutes the existing and proposed catchment of the business and what is defined as 'local' in relation to their accountancy business has not been detailed. They conclude that with an office within the existing local centre, the business currently supports the vitality and viability of that centre, and the movement of the business would leave a vacant unit.

In the assessment of the previous proposal it was noted that the site was at the edge of Fartown Bar which is categorised as a 'local centre'. Such a categorisation sets out that that uses which have a function of Providing for top-up shopping and local services, particularly food and drink, would be supported. Office uses should be directed to centres which fall into the 'town centre' and 'principal town centre' categories. The site is circa 1.4km away from Huddersfield Town Centre, a 'principal town centre' where office uses should be sited as per policy LP13 of the KLP. Huddersfield Town Centre is known to have available office space of various sizes.

The sequential test which is submitted sets out there is a known availability within Huddersfield for Offices. The submitted planning statement details that the applicants do provide an accountancy service in another premises within the Fartown local centre. It goes on to state that the former police station has been purchased to enable a modest expansion of their business to better serve existing and new local clients. The planning statement sets out that the use of the existing police station is considered to fall within use class E of the use class order which was amended in 2020.

The proposal would lead to a large office use in an out of town location when there is a known availability of office space in the locations where offices are directed to be sited within the Local Plan. There does not appear to be an overriding reason the use of the existing building and additional floor space is required / justified in this out of town location. It is therefore concluded that the proposal would introduce a main town centre use in an out of town centre location which would erode the viability / vitality of Huddersfield Town Centre.

2 – Impact on visual amenity, character and appearance of the area

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *‘the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape’*.

Paragraph 126 of the NPPF is considered relevant, insofar as it states the following: -

‘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.’

Paragraph 130 of the NPPF is of relevance, in particular the following parts: -

- *‘b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping*
- *c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change’*

The scheme has been amended from that which was previously refused. The main alteration being that the previously refused scheme extended over an area which is a car park to serve the existing building. The proposal for which

consent is now being sought is for an extension directly above the existing building. Including increasing the size of the existing building.

The building would increase from a footprint of 11.3m x 5.1m to 14.3m x 5.1m. and from a flat roof building 2.6m in height to a two storey building with a gable roof which is 5.9m in height to the eaves and 8.5m in height to the ridge.

Reference is made within the submitted planning statement to pre application discussions undertaken in 2018. However the 2018 pre application related to a building which was of a largely different design to that proposed as part of this application and as such it is considered little weight can be afforded that advice provided by the LPA in respect of visual impact. In addition concerns about the visual impact of the scheme proposed within the 2018 pre application enquiry were raised in the response which was provided.

Whilst the planning statement sets out that an email dated 7th September 2018 was sent in response to a further design being proposed there is no record of this held by the LPA and no details have been submitted as part of the submitted planning statement. Furthermore, since that date the Council has adopted the Kirklees Local Plan, with advice provided at the pre application stage relating to a now superseded local plan (UDP).

The proposal would see a large building which is in a prominent location on Bradford Road which is a key route into Huddersfield. It is considered that it would dominate the street given its proximity to the road, with the building being immediately adjacent to the back of the footpath and also the scale / massing of the building which is proposed.

The building would have a wide frontage which is dominated by brickwork. The gable roof design and small window sizes add to this bulk / massing which would be in this prominent location. It is considered that the previous reason for refusal has not been overcome in terms of scale, siting, form, and architectural features.

It is considered that the proposal would have an incongruous appearance within the street and would be out of character with the locality given its scale and design with small windows and large amounts of brickwork in close proximity to the highway and within a visible part of the street.

Whilst it is likely that some form of modest addition / extension to the building may be possible in a manner which does not have a detrimental visual impact, amendments have not been requested in this case. It is considered that, given there are other matters which cannot be overcome in relation to this proposal it would be unreasonable to request amendments to address one of the reasons when others would still remain.

It is therefore recommended that the proposal is refused on the basis of its visual impact. This has also taken into account general design references in the National Design Guide.

3. Impact on Residential Amenity

Sections 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.”

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.

Reason for refusal no.3 from application 2020/90072 relates to the introduction residential accommodation immediately adjacent to a source of noise pollution and the fact no noise assessment was submitted. The planning statement sets out this reason is not considered applicable given the proposal seeks permission only for office accommodation and reason no.3 related to future residential occupiers.

The Council’s Environmental Health Team have been consulted regarding the proposal, stating they have no objection to the proposal subject to condition restricting hours at which construction can be undertaken.

Taking account of the amended scheme and the use for which consent is now being sought, and the response of the Environmental Health Team, the proposal is not considered to have a significant impact with regard to noise.

The proposal is a distance of 38m from dwellings opposite. Given the distance of the proposal from these neighbouring occupiers it is considered the proposal would not lead to an unacceptable level of overshadowing, or be unduly oppressive / overbearing to these occupiers.

Furthermore the distance of the proposal from these dwellings is considered to be such that no unacceptable level of overlooking to these occupiers would occur as a result of the development.

It is therefore concluded that the proposal would be acceptable in this regard, in accordance with the aforementioned policy LP 24 and LP52 regarding pollution.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council’s adopted Highway Design Guide which seek to ensure acceptable levels of off street parking are retained is also considered to be of relevance.

The previously refused application included a reason (no.4) relating to safe vehicular access and manoeuvring. Specifically, that it could not be achieved. Reason no.4 also related to effective waste storage / collection and fact that no evidence this could be undertaken in an effective manner had been submitted.

The scheme has been amended since the previous refusal, which removes a first floor element which was previously proposed above the car park adjacent to the building.

The Council's Highways Team have been consulted regarding the proposal who note the existing access on to A641 Bradford Road would be utilised. The Highways Team advise that Bradford Road is a busy 30mph 5 lane dual carriageway primary distributor road with a parallel service road opposite the development site, footways and street lighting are both present. Immediately to the north of the proposal site the speed limit changes to 40mph while to the south is a signalised junction with A641/Spaines Road.

The Highways Team note that due to the traffic signals, there is congestion and queuing past the application site during peak hours. There are 'No Waiting at Any Time' with 'No Loading' traffic regulation order markings to the south of the site.

The road hosts a high frequency bus route with stops on both sides and is a main route into the town centre from the northern suburbs of Huddersfield and Brighouse. There are bus stops within 140m of the site on a frequent route (at least 4 buses per hour during weekdays) linking the site to Huddersfield town centre and the train station.

There has been one recorded injury accident in the vicinity of the site within the last 5 years and the proposals are not considered likely, by the highways team to lead to an increase in this type of collision.

Whilst no trip generation details have been provided with the application the Highways Team advise that whilst a slight intensification of trips would likely occur, they do not consider this would cause a severe impact on the operation or efficiency of the local highway network. The Highways Team note that the access is existing and is on to a dual carriageway and so only left in/left out movements could be allowed. They recommend signage indicating this be provided is a condition of any approval.

The Highways Team advise that leaving the site in forward gear is a requirement and that submitted drawing 2102-AL 04 Rev A shows 4 parking spaces with a small amount of manoeuvring space. They advise the space appears to be just large enough to allow cars in each of the spaces to turn so they can enter/exit the site in forward gear. They confirm that the level of parking which is proposed would be acceptable.

The Highways Team confirm the waste storage arrangements detailed upon submitted drawing 2102-AL 04 Rev A is suitable providing the turning space for the car park is maintained. They also advise that as the bins would be 15m

from the edge of the adopted highway and the bins could be placed closer than this within the car park, this would be a suitable collection presentation point.

A condition relating to deliveries during the construction phase of development is recommended by the Highways Team to ensure they take place outside of peak hours.

The level of parking provided as well as the submitted details in relation to waste storage is considered to be acceptable in this case. Particularly in light of the response of the Highways Team.

It is considered that the previous reason for refusal has been overcome and that the development would not have an impact upon access and highway safety which is to such a degree as to warrant refusal.

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

5. 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 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.

Considering the scale and nature of the proposed development, and insulation requirements in order to gain building regulations approval, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

6. Drainage & Flood Risk

Policy LP28 of the Kirklees Local Plan, Section 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage.

Policy LP27 of the Kirklees Local Plan relates to flood risk and sets out, amongst other things, a site specific flood risk assessment and inclusion of flood mitigation measures be undertaken for developments.

Reason no.5 of the previous refusal related to the fact the site is in flood zone 2 and that neither a sequential test or flood risk assessment was submitted.

The site falls within Flood Zone 2. The submitted planning statement sets out the contention that the proposal would fall under the minor development classification for flood risk purposes. The development could only fall into this category on the basis that it has a footprint of 250m² or less. The footprint of the building would be 73m².

With regard to change of use, the NPPG sets out that a change of use may involve an increase in flood risk if the vulnerability classification of the development is changed / increases. The previously refused application proposed to introduce a more vulnerable use (residential) than the less vulnerable use (offices) which was also proposed and is only proposed in this case.

Given the proposal would see extension to an existing building it is considered that a suitably worded condition could be included to ensure the finished floor levels of the building remain the same / higher than that of the existing building/other standing advice of the Environment Agency adhered to.

It is therefore concluded that the removal of the residential element of the scheme from that of the previously refused application, and the footprint of the building, has meant it is now not considered necessary for any application to be accompanied with a flood risk sequential test.

It is therefore considered that, subject to condition, the proposal would be acceptable in terms of impact upon drainage / flood risk.

7. Air quality

Policy LP51 seeks to ensure that new development does not increase emissions which detrimentally impact upon air quality and that where the development introduces new receptors into Air Quality Management Areas or Areas of Concern or near other areas of relatively poor air quality, for example near roads or junctions, the development must incorporate sustainable mitigation measures that protect the new receptors from unacceptable levels of air pollution.

Paragraphs 105, 174 and 186 of the National Planning Policy Framework, together with the Air Quality & Emissions Technical Planning Guidance are relevant within the consideration of this proposal.

The previously refused scheme included a reason for refusal (reason no.6) which relates to the impact of the development upon the domestic habitable

rooms and the introduction of the occupiers of those residential units in close proximity to queuing traffic within an area known to have poor air quality.

Given the proposal has removed the residential element of the scheme from the development it is considered that the previous reason relating to air quality has been overcome. It is considered that on the basis of the inclusion of a condition requiring the provision of electric vehicular charging infrastructure, upon any grant of permission, the proposal would have an acceptable impact with regard to air quality.

Subject to condition the proposal is therefore considered to have overcome this previous reason for refusal (reason no.6) and accords with the aforementioned policy.

8. Impact upon Land Quality

With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

A Coal Mining Search Report dated 2017 has been submitted as part of the application. This provides a small amount of information in relation to former mining activity and also that no tips or lagoons are in the vicinity of the property.

The Council's Environmental Health Team have confirmed that the site is identified as potentially contaminated land due to its close proximity to a former clay pit (site ref 86/9) and close to historic mine workings. They recommend that any grant of permission is subject to conditions requiring the submission of a preliminary risk assessment, intrusive site investigation report, remediation strategy and validation report to be approved in writing by the LPA.

Taking account of the submitted information and the intended use of the site, as well as the response of the Environmental Health Team, it is considered that on the basis of the inclusion of the recommended conditions the proposal would be acceptable in terms of land quality.

Subject to conditions the proposal is considered to be acceptable in this regard.

9. Impact upon Land Stability

LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The previously refused application included a reason for refusal (no.7) which related to the fact the application was not supported by an adequate Coal Mining Risk Assessment.

As set out in section 8 of this report, a small amount of information in relation to land stability in relation to former mining activity has been submitted.

The Coal Authority have been consulted regarding the proposal, and have stated that they have substantive concerns about the proposed development. They confirm that as the site is within a High Risk Area as identified by the Coal Authority a Coal Mining Risk Assessment or equivalent report is required.

The Coal Authority further advise that they have reviewed the submitted plans and information and states that this is only factual information and does not provide any assessment of the potential risks posed to the development as a result of former mining activity. They advise that the required report has not been provided and they consider there to be insufficient information to allow the LPA to determine the application in relation to land stability matters.

It is therefore recommended this application is refused for the same reason (no.7) of the previously refused application.

10. Representations

Insofar as they are not covered elsewhere in this report, third party representations raising objection to the proposal are addressed (in italics) as follows:-

- The locality is predominantly residential
- The development does not benefit the area / local community.

This application is assessed on its own merits on the basis of the plans / information as submitted.

11. 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 is contrary to the provisions of the Kirklees Local Plan and is recommended for refusal.

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

Recommendation

REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2021/94052

Officer Recommendation: Refuse

Reasons

1. In accordance with LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework, Local Planning Authorities must apply a sequential approach to Main Town Centre uses that are not in an existing centre. It is concluded that the application has failed to demonstrate that the proposal would not harm the viability and vitality of nearby Town Centres. To grant the proposal would be in breach of Policies LP2 and LP13 (a, b) of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.
2. The proposed development would introduce a large building into a relatively small site, with no separation to the public highway. By virtue of the scale, siting, form, and architectural features, the proposed development would be visually unattractive. Furthermore, due to the given features, against the setting of the open environment the proposed structure would also appear incongruous within the streetscene, harming the visual character and appearance of the wider area. To approve the development would cause harm to visual amenity, in breach of the aims and objectives of Policies LP2 and LP24(a) of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and guidance in the National Design Guide.
3. The site is within the identified Development High Risk Areas for Coal Mining, where Coal Authority records indicate that the application site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. The application is not supported by an adequate Coal Mining Risk Assessment and therefore fails to demonstrate that the proposal would incorporate suitable and sustainable mitigation measures to protect the well-being of residents and the environment from issues of contamination/instability arising from coal mining legacy. Accordingly, the proposal is found to be in breach of Policies LP2 and LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application Form	-	-	27 th October 2021
Planning Statement Inc Design and Access	-	-	27 th October 2021

Plan Type	Reference	Version	Date Received
Sequential Test Statement	-	-	27 th October 2021
Location Plan	2102-AL-01RevA	-	27 th October 2021
Existing Site Plan	2102-AL-02RevA	-	27 th October 2021
Coal Mining Search Report	-	-	27 th October 2021
Proposed Elevations	2102-AL-07RevA	-	27 th October 2021
Proposed Elevations	2102-AL-06RevA	-	27 th October 2021
Proposed First Floor and Roof Plan	2102-AL-05RevA	-	27 th October 2021
Proposed Ground Floor Plan	2102-AL-04RevA	-	27 th October 2021
Existing Elevations	2102-AL-03RevA	-	27 th October 2021

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. No amendments were sought as it was considered that matters which needed to be resolved were of a significant nature.

Report Dated: 6th July 2022

