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:	**2022/62/91037/E**
Site Address:	152, Penistone Road, Shelley, Huddersfield, HD8 8JQ
Description:	Engineering operations and change of use of land to provide parking for two dwellings
Recommending Officer:	Olivia Roberts

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 03 October 2022

Officer Report

Site Description

The application relates to a piece of land located to the south of a pair of Grade II listed properties, 152 and 154 Penistone Road in Shelley. Due to the topography of the area, the building is of a two-storey scale to the front and four-storey scale to the rear. Wood View beauty salon occupies the lower levels of 152 Penistone Road whilst no. 154 has an under-dwelling, 156 Penistone Road. To the rear of the properties, there is a small area of hardstanding for turning as well as a lawned area and planting. There is an area that has been extended for additional parking which forms part of the application.

The land to the south, into which the proposed parking extends, does not currently have a designation within the Kirklees Local Plan other than the Green Belt designation that covers the full site, and comprises an area of mature trees. The surrounding area is predominantly residential in nature.

Description of Proposal

The application seeks planning permission for engineering operations and the change of use of the small strip of land to the rear of the existing area of hardstanding to provide parking for two dwellings, 152 and 156 Penistone Road.

A 20m section of the existing drystone retaining structure to the rear boundary of the properties would be extended to the south by an addition 3m to provide four off-street parking spaces. The parking would be provided at the same level as the existing hardstanding to the rear of the properties and would result in the change of use of this small strip of land for residential purposes. The new retaining structure would comprise drystone walling to match existing with loose grey to the parking spaces.

During the site visit it was noted that works to the eastern most 12m of the proposed development had commenced and this is indicated in red on the submitted plans. The applicant's agent has confirmed that they wish for the full extent of the proposed works to be considered as part of the application.

History of Negotiations/Amendments Received

The proposal was initially described as 'the formation of parking area for 3 dwellings.' Following discussions with the applicant's agent, to include the full

extent of the works proposed, and to address an error regarding the number of dwellings that the parking area would serve, the description of proposal was amended to include the proposed engineering operations, change of use of the strip of land which falls outside the domestic curtilage of the dwellings and to clarify the intended use of the parking to serve two dwellings, 152 and 156 Penistone Road. The change to the description was made prior to the validation of the application which has since been advertised by site notice, neighbour letters and in the press.

During the site visit for the application, it was noted that works appear to have commenced. This was queried with the applicant's agent who has confirmed that the works have been partially completed up to the double dotted line shown red on the submitted site plan. Works to the east of this area have not yet commenced. The applicant's agent has confirmed that they wish for the full extent of the works to be considered as part of the planning application.

Relevant Planning History

No planning history at the site or immediate surroundings that is relevant to the proposed development.

Representations

The application was advertised by site notice, neighbour letters and in the press. Final publicity expired on 29th September 2022. As a result of the publicity, one representation has been received. The following comments have been made:

- All vehicle traffic uses my driveway. Other than 152 and 156 Penistone Road, who is the third parking space for?

All comments have been carefully considered during the assessment of the application and officer comments regarding material planning considerations will be made in Section 6 of this report.

Kirkburton Parish Council comments: responded with no comment.

Consultation Responses

KC Conservation & Design – no objections to the proposal on heritage grounds.

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 located on land allocated as Green Belt on the Kirklees Local Plan.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design
- LP 30 – Biodiversity and geodiversity
- LP 31 – Strategic green infrastructure network
- LP 33 – Trees
- LP 35 – Historic environment
- LP 51 – Protection and improvement of local air quality

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, and 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 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

Principle of development, visual amenity and heritage:

The application site is located on land allocated as Green Belt on the Kirklees Local Plan (KLP). The proposal is for engineering operations and the change of use of land to provide parking for two dwellings, 152 and 156 Penistone Road.

Chapter 13 of the NPPF sets out how inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 150 sets out how certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes engineering operations.

The proposal comprises engineering operations to provide parking for two dwellings. The operations would extend the existing hardstanding by repositioning an existing retaining structure an additional 3m to the south, resulting in the change of use of a relatively small strip of land which does not have a designation within the KLP, other than being located within the Green Belt. Whilst the proposal would extend the land associated with the two dwellings onto undeveloped Green Belt land, the extent of the additional strip of land would be limited. Land levels drop to the south of the site and there is an existing retaining structure that would be replaced, with part having been replaced already due to the development having commenced. The wall would be built to the same height and would be constructed in matching materials. Whilst the projection of the existing area of hardstanding would be extended, any views of the site from the wider area are limited due to the topography and positioning of the mature trees. There are some views of the site from the PROW, however these are limited. In this particular case, for the reasons discussed above, the proposal is considered to preserve the openness of the Green Belt and would not conflict with the purposes of including land within it due to its scale and location.

The proposed hardstanding to provide the additional parking would extend from an existing area of hardstanding, finished in matching materials (loose grey chippings). The retaining wall to the south of the parking spaces would replace the existing retaining structure and would comprise natural drystone walling. The scale of the development would be relatively limited, and the visual impact is considered to be acceptable.
152, 154 and 156 Penistone Road are located within a pair of Grade II listed dwellings. As such, Policy LP35 of the KLP as well as Chapter 16 of the NPPF are relevant. The Conservation and Design officer has been consulted

as part of the application. They have noted that the harm to the setting of the listed buildings would be negligible. The public benefit of providing safe off-road parking away from a busy main road is considered to outweigh the slight harm. KC Conservation and Design have therefore raised no objections to the proposal which accords with Policy LP35 of the KLP.
In summary, the proposal is considered to comply with Chapter 13 off the NPPF, specifically Paragraph 150 (b) and would therefore constitute appropriate development within the Green Belt that would not impact on its openness. The proposal is considered to have an acceptable impact on the visual amenity of the site and wider area, as well as on the setting of the adjacent Listed Buildings, compliant with Policies LP24 and LP35 of the KLP.
Impact on residential amenity:

The application is for the change of use of land and engineering operations to provide additional parking spaces for two existing dwellings. The parking spaces would extend the existing area of hardstanding to the south at the same level and is therefore not considered to have an impact on residential amenity over and above the existing relationship. The proposal therefore complies with Policy LP24 of the KLP (b).

Impact on highway safety:

There is a limited area of hardstanding to the rear of the properties which provides turning and a small area of parking. The proposal would extend the parking area, to prevent residents and visitors having to park on the highway. Works to provide a section of the proposed parking has begun, and this area would be extended further to provide four parking spaces for 152 and 156 Penistone Road. The proposed development is considered to improve the existing parking arrangements at the site, allowing sufficient space for vehicles to turn within the site and exit via the existing private drive in a forward gear. The development is considered to limit parking on Penistone Road, a busy A road, for the two dwellings. Whilst the surfacing of the parking area would be loose chippings, this would be in keeping with the existing surfacing and is considered to have a lesser impact on the Green Belt than more permanent materials. The parking area is set back from the highway and as such there is no concern regarding the dragging of loose chippings onto the highway. As such, the proposal is considered to result in no harm to highways safety, complying with Policies LP21 and LP22 of the KLP.

Other matters:

Public Right of Way

Public Right of Way (PROW) footpath KIR/241/10 runs to the east of the application site and crosses over the shared driveway from Penistone Road.

Whilst the driveway is included within the redline boundary, the proposed development is located approximately 8m to the west of the PROW. Whilst the development, which has commenced, is visible from the PROW, it is considered not to impact on the amenity of the footpath or its users, in accordance with Policy LP23 of the KLP.

Biodiversity

The site is identified as being located within the bat alert layer on the Council's GIS mapping system and therefore consideration has to be given to the impact of the proposed development on bats and bat roosts. It is has noted that work on a section of the development has commenced, however a further section of the existing retaining wall would be demolished to accommodate the proposed works. It is considered unlikely that the development, given its nature, would pose harm to either bats or bat roosts. However, as a precautionary measure, a footnote has been added to the decision notice to provide the applicant with advice should bats or evidence of bats be found during construction. This would accord with the aims of chapter 15 of the NPPF and policy LP30 of the KLP.

Trees

There is an area of tree planting to the south of the site. The trees are however not protected and there is no specific ecological designation. The trees are set back in relation to the location of the proposed retaining wall, which has in part been built, and it is therefore considered that the proposal would not result in significant harm to their amenity, nor would it require their loss. The proposal is therefore considered to comply with Policy LP33 of the KLP.

Carbon Budget

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.

The proposal comprises development to provide an area of parking for two existing dwellings. The development is considered not to have an impact on climate change that would require mitigation and as such no special measures were required in terms of the planning application with regards to carbon emissions.

Representations:

As a result of the above publicity period, one representation has been received. A response to the comments made follows:

- All vehicle traffic uses my driveway. Other than 152 and 156 Penistone Road, who is the third parking space for?

Response – These comments were submitted prior the changes being made to the description of proposal which are set out within the history of negotiations section of this report. Following the changes to the description of the proposal, the application has been advertised by site notice, neighbour letters and in the press, and no further comments have been received. In response to the comment regarding the driveway, Certificate B has been signed on the application form which states that notice has been served on all owners of the land included within the redline boundary. Whilst beyond this, the ownership of the land falls outside of the remit of the planning application, it is noted that the granting of planning permission does not override private legal rights of ownership or access. An advisory note will be added to the decision notice.

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**

Decision Authorisation - Delegated Powers

Application Number: 2022/91037

Officer Recommendation: Approve

Conditions and Reasons

1. 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, and to accord with Policies LP1, LP2, LP22 and LP24, of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays 08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	2250-0101-P03	-	05/05/2022
Proposed Site Plan	2250-0701-P02	-	05/05/2022
Heritage Statement	-	-	05/05/2022

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. As the amended plans were considered acceptable, no amendments were sought.

Report Dated: 30/09/2022