

**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:	2022/62/91618/E
Site Address:	213-215, Oxford Road, Gomersal, Cleckheaton, BD19 4PY
Description:	Erection of single storey rear extension, installation of roller shutters and replacement shop front and alterations
Recommending Officer:	Jennifer Booth

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: 12 September 2022

OFFICER REPORT

Site Description

213 – 215 Oxford Road is a brick built, two storey building last operated as a day nursery. The site has enclosed land to the front and rear with a parking area to the side.

The building is located on the corner of Oxford Road and Kirkstone Drive. There are residential properties to the side and rear of varying ages and styles and business premises on the opposite side of Oxford Road.

Description of Proposal

The applicant is seeking permission for a replacement shop front, roller shutters and a single storey rear extension.

The matching shop fronts on the front would each have a width of 4.2m and a height of 2m. These would consist of 4 long glazed panels with 4 smaller ones above. The plans indicate signage across the front and side of the building. There would be roller shutters over the shop fronts set within the signage boxes.

The rear extension is proposed to project 3.1m with a width of 5.6m with a flat roof form. The walls would be blockwork with a render finish.

Relevant Planning History

2022/90077 - certificate of lawfulness for proposed change of use to dental surgery - granted

2011/92393 – change of use and alterations to convert dwellings to day nursery – approved, although it should be noted that the property is improperly named on the decision notice as 231-215 Oxford Road. The site is clearly identified in the application form and on the approved plans.

2010/90682 – use of vacant premises to day nursery - withdrawn

2005/92737 – change of use from shop to fish & chip shop and café - refused

Representations

The application was advertised by site notice, press notice and neighbour letters, which expired on 05/07/2022

As a result of the above publicity, no representations have been received.

Consultation Responses

The Coal Authority – Support subject to conditions

K.C. Environmental Health – Support subject to conditions

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 Proposals Map

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design
- **LP 30** – Biodiversity
- **LP 35** - Historic Environment
- **LP53** – contaminated land

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 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

- Chapter 16 – Conserving and enhancing the historic environment

Assessment

Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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 NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. Furthermore, as the frontage is a “shop” style, albeit to serve a dental practice, Policy LP25 is also of relevance. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Impact on the adjacent listed building:

The adjacent dwelling to the north, 217 Oxford Road is a listed building and as such policy LP35 of the KLP and chapter 16 of the NPPF are of relevance. In this instance, the works proposed are sited away from the adjacent listed building. The new façade for the entrance would have little visual relationship with the listed building and the extension to the rear would be set back behind an existing two storey element which is between the host building and the adjacent listed building.

As such, the works proposed would have little impact on the setting of the listed building and the proposals can be considered to be acceptable in terms of the heritage asset, complying with policy LP35 of the KLP and advice within chapter 16 of the NPPF.

Impact on visual amenity:

The building is located on Oxford Road with a mix of properties in the surrounding area with respect to design, size and style. Dependent upon design, scale and detailing, it may be acceptable to extend and alter the host building.

The proposal under consideration consists of three distinct elements which shall be addressed below.

Shop front

The proposed shop fronts on the front and side would relate well to the overall proportions of the building and given the position opposite the shops on the other side of Oxford Road would not be out of character with the area. The shop fronts are therefore considered to be acceptable in terms of visual amenity.

Roller Shutters

The proposed roller shutters would be situated above the new shop fronts behind a fascia. These would be similar in appearance to the roller shutters on the opposite side of the road at 254 and 258 Oxford Road and as such would not be out of character with the wider area. The roller shutters are therefore considered to be acceptable in terms of visual amenity.

Single storey rear extension

The single storey rear extension is of an acceptable size relative to the main building and the land associated with the site. The use of flat roof form, whilst not ideal in design terms, is to the rear and minimises the overall scale of the works proposed forming a subservient addition with the original building would remain the dominant element on the side. The walling is proposed to be constructed using brick which will form an appropriate relationship with the main building. The rear extension is therefore considered to be acceptable in terms of visual amenity.

Summary

Having taken the above into account, the proposed extension would not cause any significant harm to the visual amenity of either the host building or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building and the aims of chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The alterations to the frontage to provide a shop front style entrance with roller shutters would not have any impact on the amenities of the shops on the opposite side of Oxford Road.

Impact on 211 Oxford Road

The proposed shop front style alteration on the side elevation with the roller shutters together with the proposed single storey rear extension would not reduce the space between the host building and the neighbouring dwelling on the opposite side of Kirkstone Drive. The road itself provides a separation along with plating along the boundary of 211 Oxford Road. The works proposed would have no significant impact on the amenities of the occupiers of the neighbouring 211 Oxford Road.

Impact on 2 Kirkstone Drive

The extension is proposed to the rear of the building and would be close to the side boundary of the neighbouring 2 Kirkstone Drive. However, this neighbour has an outbuilding along the boundary and a fence with a driveway. Given the relationship, the single storey extension proposed would have no significant impact on the amenities of the occupiers of the adjacent 2 Kirkstone Drive.

Impact on 217 Oxford Road

The extension proposed would be located on the opposite side of an existing two storey element to the rear of the building which is sited towards the boundary with 217 Oxford Road. Given this relationship, the proposed extension would have no impact on the amenities of the occupiers of the neighbouring 217 Oxford Road.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety:

The proposals will not result in any substantial intensification of the existing use. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan.

Other matters:

Biodiversity

The development is for a single storey extension to the building. Whilst the property is sited in area, which is known to include bat habitats, in this instance, as the works proposed are single storey and include no work to the main roof, then it is considered unlikely to have an impact on the bat population.

Coal Legacy

The site is in a high-risk area in terms coal mining legacy. The scheme has been reviewed by both The Coal Authority and Kirklees Environmental Health. Subject to the use of appropriate conditions, the scheme can be supported in terms of Policy LP53 of the KLP.

Carbon Budget

The proposal is a small-scale non-residential development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

Representations:

None

Negotiations:

None

Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

Matching materials to ensure that the extensions harmonise with the host property as using alternative materials would look out of place within the street scene.

The suggested conditions in terms of the coal mining legacy are considered to be both reasonable and necessary.

Conclusion:

This application for a shop frontage at the front and side of the building along with a single storey extension to the rear of 213-215 Oxford Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

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.

As set out above, 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: 2022/91618

Officer Recommendation: Approve

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.

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, and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

4. Where further intrusive investigation is recommended in Coal Mining Risk Assessment report by Geo Investigate (ref:G22223 – May 2022), Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that any potential contamination issues are dealt with at an appropriate time, and to comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4 further groundworks shall not commence until a

Remediation Strategy has been submitted to and approved in writing by the Local Planning

Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: This is a pre-commencement condition to ensure that any potential contamination issues are dealt with at an appropriate time, and to comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework

6. Remediation of the site shall be carried out and completed in accordance with the

Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: So as to protect the development from any potential contaminated land and to comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

7. Following completion of any measures identified in the approved Remediation Strategy, or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: So as to protect the development from any potential contaminated land and to comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

8. No development shall commence on the rear extension hereby approved until; a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: So as to adequately mitigate against the impact of past coal mining legacy, in accordance with Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

9. Prior to the occupation of the rear extension, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works

and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: So as to adequately mitigate against the impact of past coal mining legacy, in accordance with Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

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.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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	Web ID	Date Received
Location plan	-	932299	27/05/2022
Shutters	-	932296	27/05/2022
Proposed plans	-	-	05/09/2022
CMRA	-	934563	27/05/2022

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 submitted plans were considered to be acceptable, no changes were sought.

Report Dated

08/09/2022
