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:	**2022/62/92532/W**
Site Address:	35, Lea Lane, Netherton, Huddersfield, HD4 7DP
Description:	Demolition of existing wall and coal store and formation of vehicular access (Listed Building within a Conservation Area)
Recommending Officer:	Tom Hunt

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: 12-Jul-2023

Officer Report

Site Description

2022/92532 – 35, Lea Lane, Netherton, Huddersfield, HD4 7DP

The application site is a four-storey end-terrace of a group of three dwellings, all of which are Grade II listed. It is situated on a steep hillside in a semi-rural Green Belt location within the Netherton (Corn Bank) Conservation Area, along with two other short terraces, of which 49-63b Lea Lane are also Grade II listed.

The building is constructed from hammer dressed stone with a stone slate roof and ranges of small, mullioned windows on the west facing facade. To the front of the property is a small yard with a detached, stone built, low coal store forward of the front elevation's ground floor window and a low stone front boundary wall with heavy flat copings and metal stubs showing evidence of historic railings. The front path is accessed via a pair of stone gate posts.

The other Listed Buildings have no front amenity boundary walls remaining. In the locality, front amenity spaces have been converted to driveways.

Description of Proposal

Demolition of existing wall and coal store and formation of vehicular access (Listed Building within a Conservation Area)

It is proposed that there be demolition of the single skin garden wall and non-original coal store to create a parking space surfaced with stone flags or block paviours, made accessible from Lea Lane with widened 2.4m driveway entrance. The historic gate posts would be repositioned to have a wider access.

There would be the construction of a new stone wall with copings to match the existing front wall between the front amenity areas of 31-33 and 35 Lea Lane, constructed to match the original boundary wall using stone copings from the front wall.

It proposes an Electric Vehicle Charging Point (EVCP) to be installed to the front of the Listed Building. A linear drain along the road frontage would manage surface water flows.

History of negotiations/amendments received

The case officer considered the application on review and notified the applicant that the proposal could not be supported on its impact to the Listed Building. The applicant wished to proceed to a Determination with a view to Appeal.

Relevant Planning History

92/01555 – Listed Building Consent for Reinstatement of Roof using Natural Sandstone Slates. Granted.

2022/93161 – Listed Building Consent for demolition of existing wall and coal store and formation of vehicular access (within a Conservation Area). Pending.

Representations

We are currently undertaking 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, Site Notice and Press publicity which had a final expiry date of 11/11/2022.

No representations have been received.

Amended plans were received however they were not readvertised as they did not change the description of development and did not materially have a detrimental impact on planning considerations.

Consultation Responses

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

- Conservation & Design – Object.

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 a group of Grade II Listed Buildings in Netherton (Corn Bank) Conservation Area and is in the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 30 – Biodiversity & geodiversity**
- **LP 35 – Historic environment**
- **LP 57 – The extension, alteration or replacement of existing buildings**

Supplementary Planning Guidance

- Highways Design Guide SPD
- House Extensions and Alterations SPD
- Waste Management Design Guide for New Developments (Oct 2020, v.5)

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.

- Chapter 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

1) Principle of development
2) Impact on heritage and visual amenity
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g., trees/ecology
6) Representations
7) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *"good design should be at the core of all proposals in the district".* Key Design Principle 1 and 15 of the House Extensions and Alterations SPD have been used as a guide in considering the proposal's visual amenity impact on the streetscene.

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.

1.2 Green Belt

The site is within the Green Belt. The general principle of extending and making alterations to a property within the Green Belt are assessed against Policy LP57 of the Kirklees Local Plan and national policy within Chapter 13 of the NPPF.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt (paragraph 138), the most relevant in this case being:
"d) to preserve the setting and special character of historic towns" as it is in a Conservation Area.

Policy LP57 of the Kirklees Local Plan mirrors the view of the NPPF by aiming to ensure that a proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access.

The proposal would have a partial demolition of an existing boundary wall less than 1m height to widen access sufficiently for a car to be parked to the front amenity space, install stone flags and to remove a minor coal store within No. 35's domestic curtilage. This would be used as a driveway for domestic use and would have the effect of the private vehicle moved off the road which could be regarded as reduced visual clutter however this would not be significant. Overall, the proposal would not have the effect of encroaching into the Green Belt as it would be existing residential curtilage, and as such this is considered to have a neutral impact on the openness of the Green Belt and would not conflict with the purposes of including land in it. As such it would not be deemed as inappropriate development in the Green Belt and would be compliant with Policy LP57 of the Kirklees Local Plan and Chapter 13 of the NPPF.

1.3 – Heritage

The site is located within Netherton (Corn Bank) Conservation Area and is a Grade II Listed Building identified as '25, 27, 29, 33 and 35, Lea Lane' (Historic England Ref: 1300334). A synopsis of the listing is as follows:

> *"Formerly 3 identical large weaver's houses. Early to mid C19. Hammer dressed stone. Stone slate roof with moulded stone brackets to gutter. 4 storeys. No. 33 was formerly 2 houses. Altered ground floor with recent stone porch."*

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In addition, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of buildings or land within a Conservation Area. This relates to Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

Furthermore, LP35 states *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in…harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring…public benefits that clearly outweigh the harm"*.

This is mirrored in Chapter 16 of the NPPF of which paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The principle of development here is considered acceptable subject to the satisfactory taking into account of material considerations.

2 –Impact on heritage and visual amenity:

The Conservation & Design Officer was formally consulted and objected. Following amendments, the Officer confirmed that their objection still stands.

The detailed assessment are as follows. Terraces of cottages, with small enclosed front gardens bounded by low stone walls, are a characteristic feature of the 18th and 19th century settlements in the Holme Valley and surrounding areas, and they make a strong contribution to the special interest of the area. On this part of Lea Lane most of the front boundary walls have been demolished and this has removed the historic legibility of the buildings. The parking area formed at the front of 33 Lea Lane (prior to 2000)

demonstrates the harm caused by the loss of the boundary wall, with parking directly in front of the house.

Demolishing the front boundary wall at 35 Lea Lane will result in the loss of the only surviving boundary wall and historic gate posts along this terrace, with off-road parking resulting in the loss of the enclosed front garden.

The works would have a section of historic stone wall boundary, historic gate posts and the minor coal store removed, a new shared boundary wall with its Listed Neighbour at No. 31-33 and to use the newly flag-stoned front amenity space for parking with an EVCP. The Conservation & Design Officer had raised no concerns over the coal store being demolished as it makes no contribution to the significance of the Listed Building.

The proposed paving, reduced boundary walls and use of the historic garden space for parking would fundamentally change and erode the group value, character and the historic setting of the Listed Buildings and the character and appearance of the conservation area. In addition, the parked vehicle's bulk and massing and the EVCP within the small front amenity space would add an additional quantum of visual clutter which would appear as highly obtrusive modern elements positioned to the front of the building over the existing arrangement to the Listed Building and so would not benefit the Listed Building or the Conservation Area.

High quality natural stone is proposed to be used for sections of the boundary wall and the parking surface, this would be normally acceptable to Officers for walling material. However the use of the stone for parking would lead to a deterioration in the surface as it would crack under the increasingly higher load burden of modern electric vehicles and would visually detract from the appearance of the Listed Building. Stone would not be considered a suitable high quality material in this regard for the proposed parking use.

The removal of historic stone front boundary wall and the repositioning of the gate posts would further erode the architectural details and historic legibility of the Buildings and the Conservation Area. While it could be conditioned to retain the material for re-use to the re-construction of the shared boundary wall to prevent the loss of material; however, this would still have the visual effect of changing the setting of the Listed Building's original character features and the setting of the conservation area and would not be sufficient in itself to warrant outweighing the less than substantial harm to the heritage assets.

The supplied Heritage Statement has commented that the changed nature of the now open frontages have significantly changed the character of the buildings with the removal of boundary walls to have eroded the character of the Conservation Area. Officers are in agreement with this however cannot take into account the present condition of the heritage asset as a justification for supporting further erosion of the boundary walls to the front yards which is still regarded as adversely affecting the character and appearance of the Conservation Area.

The proposal would therefore not form an enhancement or better reveal the significance of the building and would detract from the building's character and fail to respect the setting of the host and the group of the neighbouring Listed Buildings, and the character of the Conservation Area. The proposed works have thus been identified to have less than substantial harm to the group of Listed Buildings and to the setting of Netherton (Corn Bank) Conservation Area. As such, public benefits are required to clearly outweigh this identified harm.

In this case, the justification, supplied in the Heritage Statement, is to have the parking to the front amenity space of the Listed Building thus removing a vehicle from the highway to improve safety which has been impacted by ongoing housing developments in the area. The Heritage Statement describes the particular location as:

> *"The carriageway narrows to only 5.7 metres outside No. 35 and this combined with a blind corner makes driving hazardous. Drivers are often confronted by another vehicle which suddenly appears from round the corner. There is the potential for vehicles to collide particularly in icy conditions because the road is on an incline and there is no space for avoiding action."*

In consideration of this, a site visit of the road indicates that there is a slight bend in the highway with road surface markings advising drivers to slow their speed. There appears to be an ~4.5m width of carriageway (excluding the pavement), while a car parked there would further restrict this to ~2.1m width, this would be at the private risk of the owner to park in such a way to obstruct the highway at this point. Indeed, should one car be removed from the road at this point, this would not preclude another taking its place thus negating its slight benefit. Lea Lane opens out being wider in width a bit to the south which would appear a safer place to park. As such, the possible benefit is to the private vehicle newly parked off street which principally serves to benefit the individual and as such can only be considered a private benefit and is limited in its impact.

The other benefit identified is the EVCP. This would have the slight effect of improving air quality locally and would support the challenge of achieving net zero greenhouse gas emissions. This is tempered by the fact that it would charge one private vehicle for private benefit and accordingly would have slight positive impact to the reducing carbon emissions.

Those identified benefits would principally be private, with some restricted public benefits, this would not clearly outweigh the identified less than substantial harm to the Listed Building(s) or to Netherton (Corn Bank) Conservation Area.

Turning to design and Key Design Principle 15 of the SPD, within paragraph 4.41 and 4.43 of the SPD, Officers are guided to balance the requirement for off-street parking against the loss of visually attractive landscaping areas and directed to:

> *"retain as much of the garden boundary and soft landscaping as possible. Proposals should not result in street scenes dominated by large areas of hard surfaces and parked cars."*

The proposal would have a front amenity space given over to parking which would be prominently positioned to the front and adding a further erosion of the soft landscaping to the front. While the existing front amenity space could be considered largely hard surfaced with crazy paving, it does have flower beds which still would allow soft landscaping to take its place. The coverage of the proposed hard surface would introduce a more permanent use which would not accommodate soft landscaping and have its hard surface area visually dominating the streetscene.

Key Design Principle 1 relates to alterations that may affect the local character and streetscene, it advises Officers to have regard for those alterations to be in keeping with the appearance, scale , design and local character. The positive use of high quality materials are taken into consideration however this is not sufficient enough to outweigh the detrimental visual impact on the streetscene with the increased dominant nature of the proposed hard surface adding an urbanising impact on the local character of the pleasant and verdant setting.

The proposals are therefore unacceptable and do not accord with policies LP24a or LP35 of the Local Plan, Key Design Principles 1 and 15 of the SPD, Chapter 12 and 16 of the NPPF and would be incompatible with the Council's duties under the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).

<u>3 – Impact on residential amenity</u>:

Policy LP24b) of the Kirklees Local Plan states that alterations to existing buildings should:

> *'…they provide a high standard of amenity for future and neighbouring occupiers."*

Further to this, Paragraph 130 of the National Planning Policy Framework 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Key Design Principles 3-7 of the Kirklees Householder Extensions and Alterations SPD provide matters to be considered in relation to residential amenity. It is noted that due to the nature and use of the proposal, there would be no significant additional impacts to residential amenity.

The proposal would therefore be in general conformance with LP24b and the Key Design Principles relating to residential amenity of the House Extensions and Alterations SPD.

<u>4 – Impact on highway safety</u>:

Kirklees Council policies guide Officers to ensure that proposals have an acceptable impact on highway safety and provide sufficient parking for the application site.

It is not known how many bedrooms the property has. As a general guide, it is probable that the property has at least one bedroom indicating a general requirement by KC Highways Design Guide SPD for two parking spaces to be supplied off-street. It is noted that site constraints are very restricted with no provision for parking. The proposed off street parking space would be of benefit to the occupant in that they would be able to meet partially the requirement of the Highways Design Guide SPD.

The proposed access would be 2.4m wide with the historic gate post repositioned to form the entrance. Proposed plans indicate that the parking space would be 5.25m deep and 4.8m width however due to the entrance's restricted width, this feasibly could supply a space of 2.4m width by 4.8m; which would be an off-street parking space suitable for modern vehicle sizes compliant with the Highways Design Guide SPD. This would have an overly dominant area of hardsurface to the front of the property which would detrimentally affect visual amenity contrary to Key Design Principle 15 of the House Extensions and Alterations SPD.

Realistically, the narrowness of the entrance, the potential damage to historic gate posts and the limited width of the carriageway would confer severe constraints on safe parking of this vehicle under ideal conditions. To ensure adequate highway safety, it is recommended that vehicles enter the highway in forward gear to maximise sufficient intervisibility of other vehicles and pedestrians with visibility splays provided to support Officers assessment. In this instance, the curvature of the road and cars parked on the street would serve to offer poor levels of intervisibility when making manoeuvres in and out of the proposed parking space. This would significantly raise Officer's concerns over highway safety being harmfully impacted to pedestrians, the driver and other vehicles.

No bin storage details have been provided within the plans however there appears to be sufficient space within the remaining front amenity space to provide adequate arrangements waste collection and storage for the site.

The proposed off-street parking space to serve No. 35 Lea Lane would have limited visibility when considering the bend in the highway which would have additional harm to highway safety for vehicles and pedestrians. The proposal would therefore be contrary to Policies LP21 and LP22 (f) of the Kirklees Local Plan and paragraph 111 of the National Planning Policy Framework.

<u>5 – Other matters</u>:

Climate Change
When determining planning applications the Council will use the relevant Local Plan policies, NPPF and guidance documents/SPDs to embed the climate change agenda and to achieve 'net zero' carbon emissions by 2038.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development. In this instance, to construct the retaining wall be re-using the stone work from the demolition of the existing retaining wall, the use natural stone/granite setts for the finishing materials of the parking area and the installation of the EVCP may modestly contribute towards avoidance of carbon emissions. The EVCP could be designed to preserve the significance of designated heritage assets (by imposition of condition), but this would not – in its own rights – overcome the other reasons the application cannot be supported.

Drainage

The site is within a low probability Flood Risk Zone and therefore if Officers are so minded to approve the application, a condition would be placed to ensure that the additional parking spaces would be drained sufficiently and/or made permeable in accordance with Policy LP28 of the Kirklees Local Plan and the Highways Design Guide SPD. AN ACO drain is shown within the submitted scheme.

Biodiversity

Whilst considering Biodiversity, the site is within a Bat alert layer, a swift nesting area and twite buffer area. The proposed works are minor and unlikely to disturb nesting or roosting patterns and therefore would be considered unlikely that the works could have an impact on those protected species. If Officers were minded to recommend approval, an informative would have been attached advising the applicants of their private responsibility to ensure that if evidence of those protected species are discovered on site that they contact a suitably qualified ecologist for advice on how to move forward.

The proposed works would be of very limited scale and as such would not require additional biodiversity gains in order to comply with Key Design Principles 12 –13 of the House Extensions and Alterations SPD, LP 30 of the Kirklees Local Plan and Chapter 15 of the NPPF.

6 – Representations:

No representations had been received.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that 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.

Recommendation **Refuse**

Decision Authorisation - Delegated Powers

Application Number: 2022/92532

Officer Recommendation: Refuse

Reasons

1. The proposed demolition of the front boundary wall and formation of a parking area would erode the only surviving boundary wall to the group of Listed Buildings, alter historic gate posts along this terrace, with off-road parking resulting in the loss of the enclosed front garden and additional visual clutter which would fail to preserve the special interest of the group of Listed Buildings at '25, 27, 29, 33 and 35, Lea Lane' and would neither preserve or enhance the character or appearance of Netherton (Corn Bank) Conservation Area. The public benefits submitted do not outweigh the less than substantial harm to designated heritage assets and therefore the proposal would fail to comply with LP2, LP24 (a) and LP35 of the Kirklees Local Plan, Key Design Principles 1, 2 and 15 of the House Extensions and Alterations SPD, Chapters 12 and 16 of the National Planning Policy Framework and would be incompatible with the Council's duties under the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).

2. The proposed off-street parking space to serve No. 35 Lea Lane, given the limited width and bend in the highway, would provide poor levels of intervisibility when making manoeuvres in and out of the space leading to a detrimental impact on highway safety for vehicles and pedestrians. The proposal would therefore be contrary to Policies LP21 and LP22 (f) of the Kirklees Local Plan and paragraph 111 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	35 Lea Lane	Original	09/09/2022
Existing Block Plan.	-	Amended	20/01/2023
Proposed Block Plan	-	Amended	20/01/2023
Heritage Statement.	Dated 28.03/2023.	Amended.	28/03/2023

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 applicant was approached regarding the application's likely refusal but wished it to be determined on the basis of the submitted scheme. For the reasons set out in the reason for refusal, the development would not constitute sustainable development.

Report Dated:	11/07/2023