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:	**2023/62/90089/E**
Site Address:	Primrose Barn, 274, Crossley Lane, Mirfield, WF14 0NR
Description:	Change of use from domestic pool to include commercial use
Recommending Officer:	Alice Downham

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: 11 July 2023

Officer Report

Site Description

Primrose Barn, 274 Crossley Lane is a two-storey detached dwelling located in Mirfield. It is faced in stone, with a dual-pitched roof finished in slates. The property benefits from an L-shaped detached outbuilding to the southeast (recently granted permission for conversion to dwelling, with works underway at the time of the case officer's site visit), and a single-storey front extension which accommodates a swimming pool (the subject of this application). There is amenity space to the front and southern side. There is off-street parking to the front leading to an attached garage. There is further parking to the front of the swimming pool, accessed via the neighbouring property (270 Crossley Lane).

The site is within the Green Belt. The surrounding area is semi-rural. Public Right of Way (PROW) footpath MIR/14/10 runs along the north-western site boundary. The site is not within a conservation area, nor are there any listed buildings within close proximity to the site.

Description of Proposal

The applicant is seeking permission for the change of use from domestic pool to include commercial use.

There would be no physical changes as a result of the proposal.

The operating hours would be 7am – 8pm, 7 days per week.

As per the submitted planning statement, there would be no more than 4 participants per session due to the size of the pool. All lessons would be pre-booked and run by a professional swimming school. There would only ever be a single instructor present. Classes would be pre-booked with arrival and departure times staggered.

Parking for four vehicles is available to the front of the property, with one space in the garage for the instructor. The existing parking area to the front of the swimming pool accommodates two vehicles, which would be utilised for the occupiers of the dwelling.

History of negotiations/amendments received

The red line boundary was extended for access. Following the KC HDM response, additional information was requested and received. The parking provision for the detached outbuilding (which was recently granted permission for conversion to dwelling) was clarified. The amended plans / additional details were not subjected to any formal new publicity since they were not considered to raise substantial new planning issues.

Relevant Planning History

At the application site:

96/92671 – Erection of detached garage, workshop and stables. Conditional full permission.

2007/90935 – Conversion of existing stables, garage and workshop to 1 dwelling. Conditional full permission.

2010/90437 – Extension to time limit for implementing existing permission number 2007/90935 for conversion of existing stables, garage and workshop to 1 dwelling. Conditional full permission.

2010/91368 – Conversion of swimming pool and leisure room into bungalow. Conditional full permission.

2013/90108 – Change of use to convert existing garage/stables/workshop to dwelling with associated works. Conditional full permission.

2013/91262 – Extension to time limit to previous permission 2010/91368 for conversion of swimming pool and leisure room into bungalow. Conditional full permission.

2016/90068 – Alterations to convert garage/stables/workshop into one dwelling. Conditional full permission.

2016/91429 – Alterations to convert swimming pool/leisure room into one bungalow. Conditional full permission.

2019/90896 – Alterations to convert garage/stables/workshop to dwelling. Conditional full permission.

2019/91304 – Alterations to convert swimming pool/leisure room into one bungalow. Conditional full permission.

At neighbouring properties:

90/00467 – Change of use of redundant barn to saw mill. Refused [Appeal dismissed]. (270 Crossley Lane).

96/92655 – Change of use of barn for business purposes and car parking area. Conditional full permission. (270 Crossley Lane).

98/93378 – Change of use of barn for business purposes and car parking area. Conditional full permission. (270 Crossley Lane).

2004/95400 – Change of use of premises to childrens soft play gym. Refused. (270 Crossley Lane).

2005/90962 – Removal of condition 5 relating to use of the barn in connection with the residential occupation of Primrose Barn on previous permission 98/62/93378 for change of use of barn for business purposes and car parking. Refused [Appeal upheld]. (270 Crossley Lane).

2008/90459 – Erection of stables and tack room. Conditional full permission. (Primrose Farm, Crossley Lane).

2008/92805 – Erection of stables and tack room (modified proposal). Refused. (Primrose Farm, Crossley Lane).

2008/93803 – Erection of extensions. Conditional full permission. (Primrose Farm, Crossley Lane).

2011/93503 – Extension to time limit to application 2008/93803 for erection of extensions. Conditional full permission. (Primrose Farm, Crossley Lane).

2015/91210 – Erection of extensions. Conditional full permission. (Primrose Farm, Crossley Lane).

2018/91781 – Erection of two storey side and rear extensions. Conditional full permission. (Primrose Farm, Crossley Lane).

2021/91818 – Certificate of lawfulness for proposed alterations to stables to create dwelling forming annex accommodation associated with Primrose Farm, Crossley Lane, Mirfield, WF14 0NR. Refused. (Primrose Farm, Crossley Lane).

2021/91443 – Certificate of lawfulness for proposed extension to industrial building. Refused. (270 Crossley Lane).

2021/93446 – Erection of two storey side and rear extensions. Conditional full permission. (Primrose Farm, Crossley Lane).

2023/90287 – Change of use and alterations to convert existing industrial building into single dwelling. Conditional full permission. (270 Crossley Lane).

Publicity and Representations

The application was advertised by neighbour letter, site notice and in the press due to the close proximity to a Public Right of Way. Publicity expiry:

- Neighbour letter – 23rd February 2023
- Site notice – 20th February 2023
- Press notice – 23rd February 2023

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

Mirfield Town Council were consulted although no comments were received.

Consultation Responses

KC Environmental Health – have reviewed this application and supporting documents and consider there would not be any significant environmental health impacts with this development. Therefore, KC Environmental Health have no objections to permission being granted for this development.

KC Highways Development Management (HDM) – requested additional information relating to visibility splays, layout of vehicle parking and turning, and alignment of the PROW.

KC PROW – object as the application fails to protect and enhance the public rights of way network.

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 within the designated Green Belt on the Kirklees Local Plan.

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. The National Planning Policy Framework includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda under other matters.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 10** – Supporting the rural economy
- **LP 21** – Highways and access
- **LP 22** – Parking
- **LP 23** – Core walking and cycling network
- **LP 24** – Design
- **LP 60** – The re-use and conversion of buildings in the Green Belt

Supplementary Planning Guidance / Documents:

Kirklees Council has adopted Supplementary Planning Documents (SPDs) for guidance on house building, house extensions, and open space, to be used alongside existing, previously adopted SPDs. These carry full weight in decision making and are now being considered in the assessment of planning applications. The SPDs indicate how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan and the National Planning Policy Framework, requiring development to be considerate in terms of the character of the host property, street scene, and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)

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 National Planning Policy Framework constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt land

Assessment

The following matters are considered in the assessment below –

1) Principle of development in the Green Belt and impact on visual amenity
1) Impact on residential amenity
2) Impact on highway safety
3) Other matters
4) Representations
5) Conditions
6) Conclusion

<u>1 – Principle of development in the Green Belt and impact on visual amenity</u>

Sustainable development

Policy LP1 of the Kirklees Local Plan and paragraph 11 of the National Planning Policy Framework outline a presumption in favour of sustainable development. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the National Planning Policy Framework indicate development should be restricted. This will be explored.

Paragraph 8 of the National Planning Policy Framework identifies the objectives 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.

Impact on the Green Belt

The site is within the designated Green Belt on the Kirklees Local Plan. Therefore, the impact of the development on the Green Belt needs to be assessed.

The National Planning Policy Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework also identifies five purposes of the Green Belt. Paragraph 147 of the National Planning Policy Framework states that inappropriate development should not be approved except in "very special circumstances".

Paragraphs 149 and 150 of the National Planning Policy Framework set out that certain forms of development are exceptions to "inappropriate development".

The proposal would also involve the re-use of a building of permanent and substantial construction (extension to a dwelling accommodating a swimming pool). Therefore, Policy LP60 of the Kirklees Local Plan is relevant, which states that: *"Proposals for the conversion or re-use of buildings in the Green Belt will normally be acceptable where;*

a. *the building to be re-used or converted is of a permanent and substantial construction;*
a. *the resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings;*
b. *the design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting and the activity can be accommodated without detriment to landscape quality, residential amenity or highway safety."*

Whether the proposal is inappropriate development in the Green Belt.

In terms of Policy LP60 (a), the building to be re-used is constructed from stone with stone slates for the roof covering. This is considered to be “permanent and substantial construction”.

In terms of LP60 (b) and (c), there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. Parking would be provided on existing hardstanding and within the existing garage. On this basis, there would be no need for further parking facilities. Therefore, LP60 (b) and (c) are satisfied.

Therefore, it is considered that the proposed use is considered appropriate in the Green Belt as set out in Chapter 13 of the National Planning Policy Framework and Policy LP60 of the Kirklees Local Plan. The lack of physical alterations means the development would not be out of character with the rural setting, thus according with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Furthermore, the economic benefits of the development are supported by local and national policy. Paragraph 84 of the National Planning Policy Framework states that planning policies and decisions should enable “the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings”. The proposed commercial use of the existing swimming pool would provide a boost to the rural economy without any harm to the Green Belt (as discussed previously), as per the aims of LP10 of the Kirklees Local Plan.

The proposal shall now be assessed against all other material planning considerations, which will be addressed below.

3 – 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 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

Impact on Primrose Farm, Crossley Lane

This is the adjoining property to the southwest of the application site. Given that this is on the opposite side of the host dwelling, it is considered that there would be no significantly detrimental impacts on the amenities of this neighbour as a result of the proposal.

Impact on garage/stables/workshop converted to dwelling (2019/90896)

This application was approved in June 2019. The case officer noted that works related to the conversion had begun as of the site visit in January 2023. The agent confirmed that this is currently in use as an annexe for the host

dwelling, although it has permission for use as a separate dwelling. Given that there are no extensions or alterations proposed, it is considered that there would be no detrimental impact on this dwelling in terms of overlooking, overbearing, or overshadowing over and above the existing situation. There could be some impact from the additional vehicle movements. However, KC Environmental Health have reviewed this application and supporting documents and consider there to be any significant environmental health impacts with this development, including noise. Any loss of privacy from customer parking would likely be a transient impact which would not be significantly detrimental. In summary, officers are satisfied that there would be no significantly detrimental impacts on this dwelling as a result of the proposed development.

Impact on 270 Crossley Lane

This is the neighbouring property to the northwest of the application site. An application has recently been approved for "change of use and alterations to convert existing industrial building into single dwelling" (2023/90287). Given that there are no extensions or alterations proposed, it is considered that there would be no detrimental impact on 270 Crossley Lane in terms of overlooking, overbearing, or overshadowing over and above the existing situation.

After assessing the above factors, officers consider that this proposal would not result in any significant adverse impact upon residential amenity, thereby complying with Policy LP24 of the Kirklees Local Plan and Paragraph 130 (f) of the National Planning Policy Framework.

4 – Impact on highway safety:

KC HDM were consulted. Their response highlights that the applicant has identified two parking areas. One area for the personal use of the applicant and the other for the commercial use.

The access to the personal parking area is via a private right of way through the yard to the adjacent adult centre (recently granted permission for change of use to dwelling) and is acceptable. An additional plan has been submitted demonstrating that two vehicles can park in this area (in tandem) with standard size parking bays (5.0m x 2.4m). This is considered acceptable.

Officers raised concerns that no parking had been provided for the detached outbuilding recently granted permission for conversion to a dwelling. The agent confirmed that this is currently in use as an annexe associated with the host dwelling. Notwithstanding this, it was approved as a separate dwelling and as such, should it be sold or rented separately, parking provision would be required. The agent was informed of this.

The applicant states that the instructor will park within the garage and the driveway can accommodate up to 4 customer vehicles. An additional plan has been submitted demonstrating that 4 vehicles can park in this area with

standard size parking bays (5.0m x 2.4m). It also shows that there is sufficient space to allow for the vehicles to turn so they can enter and exit the site access in forward gear. This is considered acceptable.

The site is located on the western side of Crossley Lane, approximately 460 metres from the junction with Norristhorpe Lane. This section of Crossley Lane is narrow with no footways, poor horizontal alignment, and poor forward visibility for vehicles. Crossley Lane is subject to a 30mph speed limit. KC HDM requested that visibility splays of 2.4m x 43m should be demonstrated on a suitable plan. This was received; however, officers considered that the works to achieve this (partial removal of retaining walls to the front of the property) would be unreasonable for an application of this scale and would also have a detrimental impact on visual amenity. Officers note that there would be a maximum of 4 vehicles per session, which would be pre-boked to ensure that arrival and departure times were staggered. Given that the intensification in the use of the site would not be significant, officers consider that the visibility would be acceptable on balance.

Therefore, the scheme would not, on balance, represent any significant additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Public Right of Way

The definitive route of footpath MIR/14/10 runs along the northern boundary and has been obstructed for a considerable period of time. Previous approvals on the site (2013/91262, 2016/91429, 2019/91304) have noted that the planning consent would neither regularise nor significantly worsen the situation in terms of the PROW, with informative footnotes added to the decision notices. KC PROW did not object to these applications but did request additional information on 2016/91429 and 2019/91304.

However, KC PROW have objected to this application. They note that, as with previous planning submissions for this building, the application neglects to identify and deal with the public footpath that passes through the subject building. The PROW is a material consideration in determining this planning application and is absent from submissions. Details should be submitted showing the existing alignment of public footpath MIR/14/10 and for any proposed amended legal alignment, including details of any proposed diversion application for a public path order. The application fails to protect and enhance the public rights of way network.

Taking the above into account, officers consider that the PROW objection is not sufficient to justify refusal of the scheme in this instance. This application is for change of use of the swimming pool only, with no extensions or alterations proposed which would detrimentally impact the PROW over and

above the existing situation on site. Moreover, the applicants should be aware of the issues with the PROW given the previous applications on the site. Informative footnotes will be added to the decision notice, should planning permission be granted.

KC PROW recommended that a condition regarding the protection of public users of the footpath during construction be added to the decision notice, should planning permission be granted. However, as this application is for change of use of the swimming pool only, with no extensions or alterations proposed, officers consider this would be unnecessary and unreasonable in this instance.

As such it is considered that the ongoing issue with the obstruction of the public footpath is being addressed. It is considered that the proposal would not result in any detrimental impacts on the public rights of way network over and above the existing situation. The proposal therefore complies with LP23 of the Kirklees Local Plan and Chapter 8 of the National Planning Policy Framework.

Carbon Budget

In this case, due to the nature of the proposal it is considered reasonable not to require the applicant to put forward any specific resilience measures.

There are no other matters considered relevant to the determination of this application.

6 – Representations:

No representations have been received.

7 – 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 recommend the inclusion of the following conditions:

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

8 – Conclusion:

This application for change of use from domestic pool to include commercial use at Primrose Barn, 274, Crossley Lane, Mirfield, WF14 0NR, 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. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework 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: 2023/90089
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 Policies LP1, LP2, LP10, LP21, LP22, LP23, LP24, and LP60 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

NOTE: Public footpath Mirfield 14 is adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works. The Council's Public Rights of Way unit may be contacted by telephone on 01484 221000. Public Rights of Way is based at Flint Street, Fartown, Huddersfield HD1 6LG and the email address is publicrightsofway@kirklees.gov.uk

NOTE: Wilful obstruction of a public footpath is a criminal offence subject on initial conviction to fines of £1000, with further fines up to £5000 and additional £250 per day for continuing obstruction after conviction.

NOTE: There is a need to divert or close public footpath Mirfield 14 by separate order, subject to separate application, fees and processes prior to implementation of this consent. Public footpath Mirfield 14 has been formally recorded on definitive maps and statements dating from 1952 and 1985 and has not been subject to any formal diversion or closure by legal order. It should be noted that the alignment of footpath Mirfield 14 is unchanged by any provision of unauthorised alternative routes.

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 13.00 hours, 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	-	978291	02/03/2023
Planning Statement	-	970721	11/01/2023

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 red line boundary was extended for access. Following the KC HDM response, additional information was requested and received. The parking provision for the detached outbuilding recently granted permission for conversion to dwelling was clarified. The amended plans / additional details were not subjected to any formal new publicity since they were not considered to raise substantial new planning issues.

Report Dated: 05/07/2023