

**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:	2023/62/90209/E
Site Address:	Land off, Thornhill Road, Dewsbury, WF12 9QE
Description:	Erection of detached dwelling and two storey workshops
Recommending Officer:	Nina Sayers

DECISION - REFUSE

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 11 January 2024

Officer Report

Site Description

2023/90209 - Land off, Thornhill Road, Dewsbury, WF12 9QE.

The application site comprises a cluster of commercial properties with a large yard area which currently serves as a scrap yard for vehicle parts. There is an access off Thornhill Road to the north-west of the site. The site is surrounded by commercial units to the north and south. There are residential dwellings to the east the site, along with a livery yard/horse riding centre and to the west, across the highway, is a housing development.

The site is allocated as a Priority Employment Area within the Kirklees Local Plan. The site is located within Flood Zones 3, 3a and 3ai. Public right of way DEW/118/10 runs along the northern boundary of the site.

Description of Proposal

Planning permission is sought for the erection of a detached dwelling and two-storey workshops.

The proposed dwelling would be located in the northern part of the site. It would be a large, two-storey detached dwelling with a gable end feature to the front and an L-shaped single storey section to the side. The proposal would have a hipped roof design and would be finished in white render and brick under grey roof slate. There would be parking to the front, accessed from the existing access off Thornhill Road

The proposed commercial aspect of the scheme would be located to the southern part of the site. The proposal would be a semi-detached, two-storey structure with parking and access facing Thornhill Road. The proposal would have a curved roof form and would appear to be finished in brick on the ground floor and cladding on the first floor.

History of negotiations/amendments received

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. Initially the following information was submitted:

- 2794_acu (100)01 Existing site & 3d
- 2794_acu (100)02 Proposed site plan
- 2794_acu (100)03 Proposed dwelling plans & elevations
- 2794_acu (100)04 Proposed commercial units plans & elevations
- 2794 - Land off Thornhill road, Dewsbury - design and access statement

- B24955-jnp-xx-xx-rp-c-1001 fra & ds_optimized

Officers raised concerns with the agent regarding the principle of development and the harm to flood risk. Extensive discussions were undertaken with the applicant, agent and planning officers regarding these matters. The applicant provided the following:

- Planning Statement Addendum ref. 2794
- Terminal schedule of dilapidations and wants of repair
- Build cost estimates

Upon further discussions with the applicant, agent and planning officers, the applicant was given the opportunity to submit additional flood risk assessments and amended plans to overcome the flood risk issues. No amended information or plans were received.

Relevant Planning History

2008/92674 Change of use from haulage business's with garage, repair pit and yard to vehicle repair business. Conditional full permission.

2010/91341 Erection of vehicle service garage. Conditional full permission.

2011/90473 Change of use from a vehicle service garage to residential. Invalid.

2011/90925 Outline application for erection of 10 dwellings. Withdrawn.

2012/93175 Change of use of commercial vehicle repairs to include vehicle dismantlers and associated sales. Conditional full permission.

Representations

The application was advertised via site notice, in the press and by neighbour notification letter due to the proximity to public right of way DEW/118/10. Publicity expired on 16th March 2023.

51 representations were received in response to the above publicity. 39 in objection from 38 individuals and 12 in support from 5 individuals. A petition was also received in objection to the application, signed by 49 individuals and 13 businesses. They raised the following comments which will be discussed by officers in section 6 of this report:

Objection:

- Don't want to lose existing, established business
- Three established businesses would be lost
- Negative impact on character of the area
- Impact green land
- Flood risk and outstanding sequential and exemptions test
- Should be restrictions to stop 24hr working
- Contaminated land
- Loss of priority employment area
- Lack of parking and vehicle access for employment units

- Harm to amenity of future residents
- The current site is viable and existing buildings are fit for purpose
- Site has not been marketed
- Contrary to LP8 and LP27 of the Kirklees Local Plan
- Not in keeping with surrounding character
- Land contamination

Support:

- Site is in need of redevelopment
- Existing site is an eyesore
- Proposal will improve visual amenity
- Litter/debris
- No car park
- Land contamination
- Other mechanics/scrap yards in the area
- Highway issues with existing commercial use
- Odours from existing use

It is noted there has been significant number of representations on this application. Given the majority of representation align with the officer recommendation, this was presented to the Chair of Heavy Woollen Planning Sub-Committee who confirmed this application could progress as a delegated decision for this reason.

It is noted that Cllr O'Donovan also expressed his support for this application. He requested it be deferred to planning committee for determination for the following reason: "*On the basis that I do not believe the flood risk is sufficient, given mitigation, to prevent the development*". This was also presented to the Chair of Heavy Woollen Planning Sub-Committee who concurred with officer's recommendation and confirmed this application could progress as a delegated decision for this reason.

Consultation Responses

KC Highways DM: Insufficient information - requested parking provision, a footway and refuse storage and collection points demonstrated on a submitted plan.

KC Environmental Health: No objections subject to condition.

KC Planning Policy: Object to the proposal.

Lead Local Flood Authority: object and recommend the application is refused

KC Ecology: Insufficient information - requested a Preliminary Roost Assessment or Bat Scoping Survey.

The Environment Agency: object and recommend the application is refused.

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 allocated as Priority Employment Area on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Achieving Sustainable Development
- **LP2** – Place Shaping
- **LP7** – Efficient and Effective Use of Land and Buildings
- **LP8** – Safeguarding Employment Land and Premises
- **LP9** – Supporting Skilled and Flexible Communities and Workforce
- **LP13** – Town Centre Uses
- **LP21** – Highway Safety
- **LP22** – Parking Provision
- **LP24** – Design
- **LP27** – Flood Risk
- **LP30** – Biodiversity and Geodiversity
- **LP31** - Strategic Green Infrastructure Network
- **LP51** – Protection and Improvement of Local Air Quality
- **LP52** – Protection and Improvement of Environmental Quality
- **LP53** – Contaminated and Unstable 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, 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 4** – Decision-Making
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Effective Use of Land
- **Chapter 12** – Achieving Well-Designed and Beautiful Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations:

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide SPD (2021).

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development:

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The proposal falls within the strategic green infrastructure network and therefore LP31 will need to be considered. Development should not be prevented, providing the development does not affect the function and continuity of the network. In this case provision should be made to ensure the development does not have any negative affect on the River Calder or flood relief channel. The proposed development would be set adjacent to the flood relief channel for the River Calder. The full impact on flood risk will be assessed below.

This application is for the erection of a dwelling and workshops. The application site is located in a Priority Employment Area (PEA36 – Dewsbury Mills, Thornhill Road, Dewsbury) as designated in the Kirklees Local Plan and currently serves a scrap yard and 3 small industrial units. The site is also located within flood zones 3, 3a and 3ai as outlined on the Environment Agency's flood mapping.

Priority Employment Area

Priority Employment Area (PEA36 – Dewsbury Mills, Thornhill Road, Dewsbury) was assessed as part of the Council's PEA assessment (D&M14) and was considered at the time to be a large strategic site. The site comprises older style industrial units with little room for expansion. The allocation of land

as PEA's allows for churn and supports the growth aspirations of the small and medium sized businesses (SME's) established in Kirklees. These existing employment areas will need to be retained if jobs are continued to be provided in locations which are close to residential areas and reasonably accessible by public transport.

The Local Plan Inspector concluded that the PEA assessment is appropriate and proportionate and that PEA's play an important role in providing local employment opportunities and contributing to the local economy. She concluded that the employment strategy and policies are justified, effective and consistent with national policy.

Policy LP8 of the Kirklees Local Plan outlines policy requirements for development within Priority Employment Areas and is relevant to this application:

'1. Proposals for development or re-development for employment generating uses (as defined in the Glossary) in Priority Employment Areas will be supported where there is no conflict with the established employment uses (as defined in the Glossary) in the area. In instances where the site is out of centre and the proposal includes main town centre uses then policy LP13 will need to be applied.

2. Within Priority Employment Areas, proposals for redevelopment resulting in a non-employment generating use, or for the conversion or change of use of sites and premises in use or last used for employment, will only be supported where:

- a. it can be demonstrated that the site or premises are no longer capable of employment use; and*
- b. the proposed use is compatible with neighbouring uses and where applicable, would not prejudice the continued use of neighbouring land for employment.'*

The industrial aspect of the proposed application is appropriate when considered against LP8, however the dwelling is not, and the applicant must demonstrate that the proposal complies with the requirements of LP8.

The principle in the first instance is not to accept the loss of business and industrial land and premises to non-employment generating uses. To comply with this part of the policy applicants will need to demonstrate: the site or premises are no longer capable of employment use, the availability of business/industrial sites of equivalent quality in the area (this is particularly relevant in south Kirklees where existing employment sites are locally significant), that the proposed use is compatible with neighbouring uses and where applicable would not prejudice the continued use of neighbouring land for employment.

It was requested that the applicant demonstrate that the site has been marketed as a potential site for business and industry and why the buildings/land do not fulfil the standards required for modern commercial uses. The applicant chose not to market the site. The units are currently operational as a commercial use, the applicant hasn't demonstrated that the

buildings are unsuitable to fulfil the standards required for modern commercial uses.

The applicant provided a Planning Statement Addendum in response to the request for the above information. Accompanying this statement is a Costed Schedule of Dilapidations. Paragraph 10 of the planning statement outlines *“this application is not seeking to lose business and industry on the site, but seeking to improve the offer for business and industry on the site by seeking to provide new premises, that will employ more people than are currently employed on the site”*.

Paragraph 11 highlights another PEA within the district where permission was approved for a mixed-use scheme, (2018/90501, Stanley Mills). The comparison of the two schemes is not relevant in this case as Stanley Mills had been marketed for a number of months and couldn't meet the needs of modern businesses. It would have been hard to refurbish and the mill had been empty for some time. The applicant's site has current commercial tenants, therefore in this case is not a relevant comparison.

Paragraph 13 identifies that this application seeks to intervene before the premises are no longer safe or fit for occupation. The council has no objection to new industrial units on the site. The new units on the site are acceptable and the cost of which is not a material planning consideration in this case. The issue is the loss of employment land to a non-employment use, not the replacement of industrial units.

To comply with policy LP8 the applicant must demonstrate that the land is no longer capable of delivering an employment generating use. The applicant has not demonstrated that the land where the dwelling is proposed is no longer capable of doing so. The land is designated as priority employment area in the current Local Plan and the loss of this area of land to another use has not been justified by the applicant. The applicant was given another opportunity to address these concerns. No additional detail was received.

Flood risk

The site lies within Flood Zone 2 and 3 (EA) and Flood Zone 3a and 3ai (SFRA), where there is a high probability of flooding. Dwellings (excluding basement dwellings) are a more vulnerable use and employment (office, general industry and storage and distribution) are a less vulnerable use as set out in the flood risk vulnerability classification, Annex 3 of the NPPF. Therefore, a sequential test for this development must be passed (Table 2, NPPG). An Exception Test would also be required for the parts of the site on Flood Zone 3a and 3ai where residential development is proposed.

The applicant was asked to provide the above information, in order for officers to assess the risk and impact of the proposed development on flood risk. No additional information was provided.

The proposed scheme would result in a dwelling and commercial use located partially within flood zone 3a and 3ai. LP27 of the Kirklees Local Plan outlines that:

“Proposals within flood zone 3ai will be assessed in accordance with national policies relating to flood zone 3a but with all of the following additional restrictions:

- a. no new highly vulnerable or more vulnerable uses will be permitted;*
- b. less vulnerable uses may only be permitted provided that the sequential test has been passed and;*
 - i. where extensions are linked operationally to an existing business or,*
 - ii. where redevelopment of a site provides buildings with the same or a smaller footprint;”*

The scheme would introduce a more vulnerable use within flood zone 3ai and therefore would fail to comply with sub paragraph a) of LP27. The applicant was asked to relocate the dwelling outside of flood zone 3ai, however no amended plans were received. The scheme would also introduce a less vulnerable use within flood zone 3ai. Without a sequential test, the proposal also fails to comply with sub paragraph b) of LP27.

The Lead Local Flood Authority (LLFA) were consulted on the proposal who outlined that Flood Zone 3ai is an area that is very high risk and would have been designated as a function flood plain had development not already occurred on site. The LLFA object to the proposal and recommend the application is refused.

The Environment Agency (EA) were also consulted on this proposal and object as “the submitted flood risk assessment (FRA) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change section of the planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development.” The EA therefore recommend the application is refused.

The applicant has not demonstrated that the land where the dwelling is proposed is no longer capable of delivering an employment generating use. It is therefore considered that the proposed development would result in loss of priority employment land and would fail to comply with LP8 of the Kirklees Local Plan.

The required sequential and exception tests regarding flood risk were not provided. Therefore, the potential impact on the site, set within Flood Zones 3, 3a and 3ai as demonstrated on the Environment Agency’s Flood Map for Planning, cannot be suitably assessed. The submission of a sequential test is a statutory requirement in this instance. Officers consider that the proposal could result in flood risk to the dwelling and commercial units proposed. Given the omission of an exception and sequential test, the proposal is, contrary to Policy LP27 of the Kirklees Local Plan and guidance set out in National Planning Policy Guidance.

Taking the above into consideration, the principle of residential and commercial development in this location is not considered acceptable and the scheme fails to comply with Policies LP8 and LP27 of the Kirklees Local Plan. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

2 – Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed and beautiful places) whereby 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

“c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...”

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Part of the proposed development is for a residential dwelling. The surrounding area is predominantly commercial in nature and varies in terms of design and materials. The existing structures on site are relatively small in scale and finished in stone. There is a residential development to the western side of Thornhill Road, which is characterised by red brick detached, and semi-detached properties. There are also two residential properties to the east of the site which are traditional stone-built structures.

The proposed dwelling would be a large, double fronted, detached structure finished in white render. The proposal does not appear to have drawn on the design of the existing buildings in the area and would therefore not be in keeping with visual amenity of the wider street scene. A dwelling of this scale, design and materials would appear incongruous in this location and as such would be detrimental to the visual amenity of the area.

The proposed commercial unit would be a rectangular structure with a shallow pitched roof design. No details of materials have been submitted however this could be secured by condition should approval be recommended. The development would front Thornhill Road with parking to the front. Based on the information submitted, the proposal would be somewhat in keeping with the large commercial unit set to the east of the south, which is also visible from Thornhill Road. Therefore the proposed commercial units are considered to not cause any significant harm to visual amenity.

As such, Officers consider that the commercial element of the scheme would be acceptable in terms of visual amenity but the proposed dwelling would cause harm to the visual amenities of the locality and would therefore fail to comply with Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The proposed development would be ~35m from the nearest residential dwelling which is separated from the site by an existing structure. Therefore, no additional harm is considered to be caused to residential amenity of the neighbouring occupants over and above the existing arrangement on site.

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The proposed dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed garden is considered to be a good size for a dwelling of this scale.

The proposal would introduce a new dwelling where one currently does not exist which would be adjacent to commercial development. The proximity to existing industrial/commercial uses is likely to result in noise which could have an adverse impact on future occupiers of the proposed residential property. KC Environmental Health were consulted on the scheme and requested that a condition relating to a noise impact assessment is added to any positive determination.

As such, it is considered that subject to conditions, the proposed development would not result in harm to residential amenity. The proposal therefore complies with Local Plan Policy LP24(b) and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Paragraph 115 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

The application site is a scrap yard and three small workshops on the north-eastern side of Thornhill Road and to the south-west of Water Lane and the Northern Riding Centre. The existing workshops have no clearly defined forecourt or parking and cars visiting the business, or being repaired, park in the area to the front of the units and spill out onto the highway which creates highway safety issues.

The proposed development would see the clearance of the scrap yard, and the replacement of 3 small industrial units/workshops with 2 larger workshops, and the erection of a large, 4 bedroomed detached dwelling. Access to the proposed dwelling would be taken from the existing access to the Riding School.

The new industrial units would have a roadside frontage with forecourt and parking area. Whilst there would only be two units, each would have a larger footprint than the existing units and would be two storeys to allow office/storage space on the first floor.

KC Highways DM (HDM) were consulted on the proposal and raised concerns regarding the proposed parking provision. The existing workshops have insufficient off-street parking and cars visiting the business, or being repaired, park in the area to the front of the units and spill out onto the highway which

creates highway safety issues, HDM would not want to see this situation repeated with the new development. The submitted Site Plan is unclear as far as access and parking for the proposed detached dwelling is concerned. The Council request a new 4-bedroom dwelling to provide at least three off-street parking space. A single integral garage is proposed in the dwelling which would provide parking provision for one vehicle and it would appear that given the space to the front of the property, there would be sufficient space for parking two vehicles. Therefore, whilst this has not been demonstrated on a site plan, as requested, it is considered this would not warrant a reason for refusal in this instance.

HDM also requested that the applicant shows the footway to the site frontage on a plan, which should be continuous and a minimum width of 2.0m, no details were provided. No details regarding storage or collection of refuse have been provided. These could be secured via condition should the application be recommended for approval.

It is therefore considered that, subject to conditions, the proposal would not cause significant additional harm to the safe and efficient operation of the highway network, thus complying with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

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. The proposed development would include the demolition of a number of buildings which appear to date back to the 19th century. Given the age and construction of the building there is a reasonable likelihood of disturbance to roosting bats. KC Ecology therefore recommended the applicant engages with a suitably qualified ecologist to undertake a daytime inspection for bats (also known as a Preliminary Roost Assessment or Bat Scoping Survey). As the principle of development was considered unacceptable, and a bat survey would incur additional costs to the applicant, this has not been provided in this instance. Should the application be recommended for approval, this would need to be provided, and assessed by the Council, prior to determination.

Furthermore, a condition would be added regarding the provision of a bat box to ensure a biodiversity net gain. This would accord with the aims of Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD, the Biodiversity Guidance Note, and Chapter 15 of the National Planning Policy Framework.

Land contamination

The site of the proposed development is currently used as a scrap yard and workshops, therefore there is the potential for ground contamination. As the development involves groundworks and is for a sensitive end use KC Environmental Health consider conditions relating to ground contamination

necessary. Should approval be recommended the relative conditions would need to be added to the decision notice. As such the proposal complies with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The proposal is a residential and commercial development. In order to meet the policy and guidance outline above, it would be conditioned that the provision of at least one electric vehicle charging point per dwelling and for every ten spaces at the commercial units is installed prior to the building being bought into use. There are controls in terms of Building Regulations, which will need to be adhered to as part of the construction process and which will require compliance with national standards. This will ensure the proposal accords with LP51 and LP52 of the Kirklees Local Plan.

6 – Representations:

51 representations were received in response to the above publicity. 39 in objection from 38 individuals and 12 in support from 5 individuals. A petition was also received in objection to the application, signed by 49 individuals and 13 businesses. They raised the following comments which have been responded to by officers below:

Objection:

- Don't want to lose existing, established business
- Three established businesses would be lost
- Loss of priority employment area
- Site has not been marketed
- The current site is viable and existing buildings are fit for purpose
- Flood risk and outstanding sequential and exemptions test
- Contrary to LP8 and LP27 of the Kirklees Local Pla

Officer Response: These are all material planning considerations which have been carefully considered in the principle of development section of this report.

- Negative impact on character of the area
- Impact green land
- Not in keeping with surrounding character

Officer Response: These are all material planning considerations which have been carefully considered in the visual amenity section of this report.

- Should be restrictions to stop 24hr working
- Harm to amenity of future residents

Officer Response: These are material planning considerations which have been carefully considered in the residential amenity section of this report.

- Lack of parking and vehicle access for employment units

Officer Response: This is a material planning consideration which has been carefully considered in the highway safety section of this report.

- Land contamination

Officer Response: This is a material planning consideration which has been carefully considered in the other matters section of this report.

Support:

- Site is in need of redevelopment
- Existing site is an eyesore
- Proposal will improve visual amenity
- Litter/debris

Officer Response: These are all material planning consideration which have been carefully considered in the visual amenity section of this report.

- No car park

Officer Response: This is a material planning consideration which has been carefully considered in the highway safety section of this report.

- Land contamination

Officer Response: This is a material planning consideration which has been carefully considered in the other matters section of this report.

- Other mechanics/scrap yards in the area

Officer Response: This is not a material consideration for an application of this nature. No further comment would be made.

7 – Conclusion:

This application for the erection of a detached dwelling and two-storey workshops

at land off Thornhill Road in Dewsbury 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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2023/90209

Officer Recommendation: Refuse

1. The applicant has failed to demonstrate, through submission of sufficient information regarding flood risk (site specific Flood Risk Assessment, Sequential Test and Exception Test), that the potential impact on the site, set within Flood Zones 3, 3a and 3ai, as demonstrated on the Environment Agency's Flood Map for Planning, can be mitigated for the lifetime of the development. The submission of a satisfactory sequential and Exception Test are a statutory requirement in this instance. The proposal is likely to result in harmful flood risk to the dwelling and commercial development proposed. Given the omission of an acceptable sequential and Exception Test, the proposal is, thus, contrary to Policy LP27 of the Kirklees Local Plan, the guidance set out in National Planning Policy Guidance and the aims of Chapter 14 of the National Planning Policy Framework.
1. The applicant has failed to demonstrate, as required by Policy LP8 of the Kirklees Local Plan, that the land where the dwelling is proposed is no longer capable of delivering an employment generating use. As such, the proposed development would result in undue loss of priority employment land and would fail to comply with Policy LP8 of the Kirklees Local Plan and the aims of Chapter 11 of the National Planning Policy Framework.
2. The proposed dwelling by virtue of its scale and design, would not be in keeping with the character of the wider street scene. A dwelling of this scale, design and materials would appear incongruous in this location and as such would be detrimental to the visual amenity of the area. The scheme therefore fails to comply with Policy LP24(a) of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	2794 LOC		30/01/2023

Existing Site and 3D	2794 (100)01		30/01/2023
Proposed Commercial Units Plans & Elevations	2794 (100)04		30/01/2023
Proposed Dwelling Plans and Elevations	2794 (100)03		30/01/2023
Proposed Site Plan	2794 (100)02		30/01/2023
Floor Risk Assessment	B24955-JNP-XX-XX-RP-C-1001		30/01/2023
Planning Statement	2794	January 2023	07/03/2023
Planning Statement Addendum	2794	May 2023	12/05/2023
Terminal schedule of dilapidations and wants of repair	BD/JM/23004		12/05/2023
Elemental building cost estimate: rev 0 new build commercial units	2794_ACU(SK)02D, 2794_ACU(100)04		12/05/2023

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 Planning Authority has, 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.

Officers raised concerns with the agent regarding the principle of development and the harm to flood risk. Extensive discussions were undertaken with the applicant, agent and planning officers regarding these matters. The applicant provided the following:

- Planning Statement Addendum ref. 2794
- Terminal schedule of dilapidations and wants of repair
- Build cost estimates

Upon further discussions with applicant, agent and planning officers, the applicant was given the opportunity to submit additional flood risk assessments and amended plans to overcome the flood risk issues. No amended information or plans were received.

Report dated: 08/01/2024

