

**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:	<b>2023/62/91908/E</b>
Site Address:	The Sanctuary and Orchid House, Northfield Lane, Highburton, Huddersfield, HD8 0QT
Description:	Erection of detached garage
Recommending Officer:	Elenya Jackson

**DECISION – CONDITONAL 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.**

Emma Thompson

***AUTHORISED OFFICER***

**Date: 18-Sept-2023**

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## **Officer Report**

### **Site Description**

The Sanctuary and Orchid House, Northfield Lane, Highburton, Huddersfield, HD8 0QT are detached properties. The site was previously of agricultural use; however, these have been converted to residential dwellings via previously approved Class Q applications.

The site is well set back from the street scene via a shared driveway and open in nature due to its location.

There are three properties within the immediate vicinity which share use of the driveway. There is hard standing between the properties which provides access and a storage shed/open sided barn.

The site is located within the Green Belt and has previously received permission for the alteration of the former farm yard into a turning facility associated with both dwellings.

### **Description of Proposal**

The application follows the aforementioned application which was initially received for the Erection of detached garages and change of use of former farm yard to parking/turning area in connection with both properties. The previous application was amended as the location of the initially proposed garage was not within the domestic curtilage of the dwellings and therefore did not accord with LP57 or LP59.

The change of use of the land has previously received permission and this application is for the erection of a detached garage which would serve both properties.

The detached garage would have a maximum height of 4.7m with an eaves height of 3m. The proposal would have a width of 15m and a depth of 6.4m. The proposal would feature a stone slate pitched roof and stone detailing.

### **History of negotiations/amendments received.**

N/A

### **Relevant Planning History**

95/92026: RE-USE AND ADAPTATION OF EXISTING BARN TO DWELLING. Conditional Full Permission

2000/92785: RE-USE, EXTENSION AND ADAPTATION OF EXISTING BARN AND AGRICULTURAL BUILDINGS TO EXTEND EXISTING FARMHOUSE. Conditional Full Permission

2009/92875: ERECTION SINGLE STOREY EXTENSION. Refused

2010/90816: ERECTION SINGLE STOREY EXTENSION. Conditional Full Permission

2018/92274: PRIOR APPROVAL FOR PROPOSED CHANGE OF AGRICULTURAL BUILDING TO TWO DWELLINGS. Invalid

2018/92620: PRIOR APPROVAL FOR PROPOSED CHANGE OF USE OF AGRICULTURAL BUILDING TO 1 DWELLING. Deemed Consent

2018/92621: PRIOR APPROVAL FOR PROPOSED CHANGE OF USE OF AGRICULTURAL BUILDING TO ONE DWELLING. Deemed Consent

2023/90763: Change of use of former farm yard to parking/turning area in connection with The Sanctuary and Orchid House

### **Representations**

We are currently undertaking the legal 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.

Final publicity date expired 7<sup>th</sup> August 2023.

As a result of the public consultation period, no representations have been received.

### **Consultation Responses**

The Coal Authority: No objection subject to conditions

KC Environmental Health: No objections subject to conditions

KC Policy: no comments received.

KC Highways: No objection

Non Statutory Consultees:

Kirkburton Parish Council: No comments

### **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 27<sup>th</sup> February 2019).

The site is within the Green Belt on the Kirklees Local Plan. The site is within an area identified as being at high risk of ground movement as a result of former mining activity and 200m of a Historic Landfill site

#### Kirklees Local Plan:

LP 1– Achieving sustainable development

LP 2 – Place shaping

LP 21- Highway safety

LP 22 – Parking

LP 24 – Design

LP 30 - Biodiversity and geodiversity

LP 58 – Garden extensions

#### Supplementary Planning Documents:

House Extensions and Alterations SPD

#### National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21<sup>st</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 & coastal change.

Chapter 15 – Conserving and enhancing the natural environment

#### Legislation

The Town & Country Planning Act 1990 (as amended)

The Planning and Compulsory Purchase Act 2004

The Conservation of Habitats and Species Regulations 2017

## **Assessment**

### Principle of development:

This application has been received following the approval of a change of use of existing hardstanding into a turning facility.

This change of use has been implemented and officers are required to assess the construction of a detached garage building.

The application site currently benefits from two previous class Q applications which converted existing agricultural units into residential dwellings.

LP57 of the Kirklees Local Plan which refers to the extension, alteration or replacement of existing buildings.

Chapter 13 of the NPPF is relevant with Paragraph 137 stating that *'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belts are their openness and permanence.'*

Paragraph 138 specifies the five purposes of including land within the Green Belt, which are:

*'to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in the safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.'*

Paragraph 145 states that *'local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.'*

Paragraph 147 states that *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'*

Paragraph 148 goes on to say that *'When considering any planning application local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'*

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the exceptions set out in paragraphs 149 and 150.

Paragraph 150 (c) refers to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

As a result of the implementation of the class Q and in the absence of any other material evidence or alternative case law, Kirklees Council has determined that in this instance, it would not be unreasonable to assess each dwelling as the current planning unit and 'original' for the purpose of assessment under Policy LP57. (Should subsequent evidence to the contrary be published the council's approach may change in the future).

Taking into account the scale of the planning units it is considered that, the principle of the erection of a detached garage within the green belt in this location is considered acceptable and will not result in disproportionate additions to the host. This is subject to the proposal having an acceptable impact in terms of: openness of the green belt, visual amenity, residential amenity, highway safety and other material planning considerations.

#### Impact on visual amenity and openness of the Green Belt

As previously highlighted, it is considered that due to the implementation of two Class Q applications on site, each dwelling is to be assessed as an individual planning unit.

The proposed garage would have a volume of approximately 399m<sup>3</sup> which would equate to 199.5m<sup>3</sup> per dwelling.

Orchid House (to the east of the site) has an existing volume of 965m<sup>3</sup>

Northfield house (to the south of the site) has an existing volume of 1341m<sup>3</sup>

Therefore, the proposal would represent a 20% increase to Orchid House and a 14.8% increase in volume to Northfield House.

Northfield house has a footprint of 222m<sup>2</sup> and Orchid house has a footprint of 229m<sup>2</sup>; the addition of 14.4m<sup>2</sup> of additional floor space per dwelling would not increase the size of the dwellings to such an extent that it would exceed the parameters of the class q application in which it was granted, and it is therefore considered that the addition of a garage would not represent disproportionate additions to the dwellings in this instance.

The garages would be situated within an existing area of hard standing, set within the residential curtilage of the dwellings and not highly prominent within the public realm.

Due to the circumstances of this application and the current absence of any case law, it is considered that in this instance, the application would have limited impact to the openness of the green belt and the visual amenity of the area. The proposed development is of appropriate design and materials when considering the rural context.

Therefore, the proposal would accord with LP24, LP57 and paragraph 149 of the NPPF.

#### Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers.

It is considered that the proposed garage would be situated adjacent to an existing wall, not feature any rear facing fenestration and be situated a sufficient distance from Lavender House to not raise any significant concerns for the residential amenity of the occupiers of neighbouring properties.

#### Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

KC Highways have been informally consulted on this application on 13.09.2023 and determine that, in this case the proposed works would retain the existing access on site and despite the garage only providing two parking

spaces per dwelling, sufficient parking space would be retained in the remainder of the site. As such, no significant issues are considered to be raised and the proposal would accord with LP21 and LP22 of the Kirklees Local Plan.

Other matters:

*Climate Change* - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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 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.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Coal legacy

The site is located within the Coal Authority's "Development High Risk Area". There is a statutory requirement to consult the Coal Authority and as such conditions have been requested by The Coal Authority and agreed by the agent. It is considered that, subject to conditions, the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

Contaminated Land

KC Environmental Health were consulted on the application and commented that the site is located within 250m of a former landfill site (ref:870) where there is the potential for ground gas migration. Conditions have been recommended relating to unexpected contamination. However, as the application has been amended to only being for a change of use, these are not considered necessary.

Air Quality

KC Environmental health have requested conditions relating to electric vehicle charging points. As the proposed garages relate to existing units, it is considered unreasonable to add these conditions in this instance.

Representations:

No representations have been received.

Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

The proposed erection of a detached garage is considered to accord with policy LP24 and LP57 of the Kirklees Local Plan and advice within chapters 12 & 13 of the National Planning Policy Framework.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals accord with the development plan, policies in the NPPF and other material consideration.

**Recommendation**

**APPROVE**

**Decision Authorisation - Delegated Powers**

**Application Number: 2023/91908**

**Officer Recommendation: Approve**

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 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, LP24 and LP57 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

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

Reason: To ensure the safe occupation of the site and to accord with Policies LP52, of the Kirklees Local Plan and advice within the National Planning Policy Framework.

This is a pre commencement condition to ensure the potential risks associated with previous coal mining legacy are fully investigated and remediated.

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

Reason: To ensure the safe occupation of the site and to accord with Policies LP52, of the Kirklees Local Plan and advice within the National Planning Policy Framework

5. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the potential risks associated with previous coal mining legacy are fully investigated and remediated.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (5) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (6) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (7). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance: • Land Contamination Risk Management (LCRM) • BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice • Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group. The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

**NOTE:** Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan			27/06/2023

Plan Type	Reference	Version	Date Received
Existing plans	23133) 1_ AS EXISTING	C	27/06/2023
Proposed Plans	23133) 2_ Scheme Proposals		27/06/2023
Location Plan			27/06/2023
Coal Mining Risk Assessment			27/06/2023
Planning statement			27/06/2023
Climate change statement			27/06/2023

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.  
No alterations were required.