

**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>2023/62/92072/W</b>
Site Address:	164, Lockwood Road, Lockwood, Huddersfield, HD1 3QR
Description:	Conversion of basement to form self contained apartment and refurbishment of existing dwelling with associated internal and external alterations
Recommending Officer:	Katie Chew

**DECISION - REFUSED**

**I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Teresa Harlow

***AUTHORISED OFFICER***

**Date:** 5<sup>th</sup> September 2023

## **Officer Report**

### **Site Description**

164, Lockwood Road, Lockwood, Huddersfield, HD1 3QR

The application site relates to a three-storey end-terraced stone-built dwelling located off Lockwood Road which is an adopted road. The dwelling house is stepped back from the public highway and benefits from a garden/amenity area to the rear, a lightwell is provided to the front of the basement area.

The application site is not located within a Conservation Area and is not located in close proximity to any Listed Buildings.

### **Description of Proposal**

The application seeks planning permission for the conversion of basement to form self-contained apartment and refurbishment of existing dwelling with associated internal and external alterations. The application form and evidence from the site visit indicates that development has commenced.

The proposed apartment is to be accessible from the front of the property down a set of new access steps which are to be installed, the apartment would be located within the basement of no. 164 Lockwood Road which is currently used as a residential property. The apartment is to comprise of 1 double bedroom, bathroom, store and open plan living/kitchen/dining area. The apartment would have an internal floorspace of approximately 53sqm. There would be 1 window within the front elevation serving the living/dining/kitchen area, and 1 window to the rear with the creation of a new light well to serve the bedroom.

Parking is to be provided to on the gable side road and is noted as being available for several cars. No access is shown from the basement apartment to the existing residential/amenity area to the rear, therefore it is assumed that the apartment will not benefit from any private amenity space.

External and internal alterations are also proposed to the existing dwelling and include internal alterations to allow for a separate residential apartment within the basement of no. 164 Lockwood Road as well as integral renovation works for the occupation of new tenants within the above dwellinghouse. Externally, a previously blocked up window within the rear elevation is to be unblocked and a new outside light well provided in the yard area, a new and enlarged basement well is also to be provided to the front of the property to allow for the provision of a stairway down to the basement apartment. A gated entrance will be provided along the front of Lockwood Road and new flood resilient entrance doors and windows are to be installed.

Materials used are to be stone to match the existing building and the basement well and steps are to have a wrought iron railing and handrail.

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

No amendments have been sought in this instance as the proposals are deemed to be wholly unacceptable upon submission. The applicant did not seek pre-application guidance as offered by the Local Planning Authority and the scheme appears not to have taken into account adopted Policies of the Local Plan or SPDs.

### **Relevant Planning History**

2022/93718 – Certificate of lawfulness for proposed use of dwelling for children’s home. Withdrawn 25<sup>th</sup> January 2023.

### **Representations**

Final publicity date expires:

Neighbour Letters – Expired 29<sup>th</sup> August 2023.

No representations have been received to date.

**Officer note:** 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 only, details of which are outlined above.

### **Consultation Responses**

**KC Environmental Health** – Comments received 1<sup>st</sup> August 2023. No objections subject to conditions and informatives relating to contaminated land, electric vehicle charging points and construction hours.

**KC LLFA** – Comments received 26<sup>th</sup> July 2023. Objects to the proposals on flood risk grounds. The SFRA used for allocating sites shows the property to be in flood zone 3a. A self-contained basement dwelling is classed as ‘highly vulnerable’ and is not allowed in flood zone 3 as stated in the NPPF.

**Officer note:** Noted. However, the Environment Agency flood risk map for planning (main river) has now been updated and subsequently flood outlines in this area now differ. Therefore, due to this remodelling the application site no longer falls within Flood Zone 3a in more up to date mapping and therefore there is no reason to consult LLFA or obtain a sequential/exceptions test.

**KC Highway Structures** – Comments received 17<sup>th</sup> August 2023. No objections subject to a condition requiring the submission of details for the new basement wall to be submitted for approval prior to works commencing on site.

**KC Highways Development Management** – Comments received 21<sup>st</sup> August 2023. No objections subject to a condition requiring the details of the design and construction of the new basement wall to facilitate the creation of a new access from Lockwood Road to be submitted prior to development commencing.

### **Parish/Town Council**

N/A.

### **Local Ward Members**

None.

### **Planning Policy Background**

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 application site is located within Newsome Neighbourhood Area and a Bat Alert Area. It is also important to note that the site is adjacent to a Priority Employment Area to the south-east.

### **Kirklees Local Plan (LP):**

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP11 – Housing Mix and Affordable Housing**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP26 – Renewable and Low Carbon Energy**
- **LP27 – Flood Risk**
- **LP28 – Drainage**
- **LP30 – Biodiversity & Geodiversity**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**

### **Other Guidance Documents:**

- Kirklees Highways Design Guide SPD (2019)
- DCLG: Technical Housing Standards – Nationally Described Space Standard
- MHCLG: National Design Guide

- Housebuilders Design Guide SPD (2021)
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

### National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making Effective Use of Land
- Chapter 12 – Achieving Well Designed Places
- Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Chapter 15 – Conserving and Enhancing the Natural Environment

### Summary of Principal Planning Issues

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Scale, design and visual impact of the proposed development
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety
- 4) Other matters
- 5) Conclusion

#### **1 – Principle of Development:**

NPPF paragraph 11 and Policy 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 this 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 would lead to the formation of one residential apartment; therefore it is considered appropriate to consider the Council's housing land supply.

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

The 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The Council's inability to demonstrate a five year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment below.

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

The site is without notation on the Kirklees Local Plan, Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to state that:

*'The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible,*

*and to secure development that improves the economic, social and environmental conditions in the area’.*

In this instance Policy LP11 is also relevant as the scheme aims to create additional units within an existing residential block. Furthermore, the policy states that ‘all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need’.

Therefore, having taken into account general policies regarding the provision of an additional residential accommodation within the basement of no. 164 Lockwood Road, within the wider context, it is considered that the principle could be acceptable, subject to an assessment against all other material planning considerations below.

## **2 – Impact on Visual Amenity**

Chapter 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: “New residential development proposals will be expected to respect and enhance the local character of the area by:

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Principle 14 of the Housebuilders design guide states that the design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials.

Principle 13 seeks to ensure consideration is given to use locally prevalent materials and finishing to reflect the locality.

The majority of the works proposed relate to internal alterations to provide a new residential apartment within the basement of no. 164 Lockwood Road. External alterations are proposed, however, to unblock a previously blocked window on the rear elevation of the property to create a larger light well in the interests of providing light into the basement apartment. In addition, to the front of the property, a new stairway is to be installed, providing access from

the front of the dwelling down into the basement apartment. Railings and a handrail are also proposed to the front of the property. Given the minimal nature of the proposals and that the materials are to be in keeping with the host dwelling, Officers do not believe the alterations will significantly detract from the streetscene and may also result in a visual enhancement to the property given the renovation plans proposed. However, in the interests of visual amenity samples of the materials to be used within the external alterations should be submitted to the LPA for approval prior to their use, this can be covered by condition.

Taking the above into account, Officers consider the external changes to result in minimal harm to the existing building, and would not significantly alter the visual appearance of the dwelling when viewed within the general context of the area, therefore it is concluded that the works would accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and Principles 2, 13 and 14 of the Housebuilders Design Guide SPD.

### **3 – Impact on Residential Amenity:**

Sections B & C of the Kirklees Local Plan Policy LP24 which 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 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Principle 6 of the Housebuilders Design Guide sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

The text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable room;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Principle 7 of the Council's adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Neighbouring properties with the most potential to be impacted by the proposals are discussed below.

*Impact on no. 166 Lockwood Road*

This neighbouring property adjoins the application site to the south. Given the nature of the proposals and minimal external changes required Officers do not consider the scheme to cause issues with overshadowing, overlooking, or that it would appear overbearing on this adjoining neighbouring property. In addition, the Council's Environmental Health Team have been consulted and raised no concerns in respect of noise or odour pollution.

*Amenity of future occupiers of the proposed dwelling*

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees 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."*

In this instance, Officers note that the proposed basement apartment would provide sufficient internal floorspace in line with the Nationally Described Space Standards for 2 persons. Moving on to outlook and light however, Officers have significant concerns in respect of the lack of outlook and natural light gained into the apartment from the 2 lightwells (to the front and rear). Future occupiers would only be able to gain oblique views out of these windows given the differences in ground levels. Furthermore, to the front of the dwelling there is an existing stone wall and railings running along the eastern boundary, this is also where bin collection points are located. This would result in some additional visual impact on the outlook of the future occupiers from this window due to additional bulk and visual clutter outside of the well, adding to a sense of enclosure. It is therefore considered that whilst some natural light will be available there would be an overdependence on artificial lighting combined with a very limited outlook towards deep lightwells, detrimentally affecting the living conditions of future occupiers.

Finally, in terms of accessible outside amenity space for private use of the future occupiers of the basement apartment, no available space is to be provided. Whilst this is unfortunate, the dwelling is within a sustainable location close to several facilities, amenities and services and is located adjacent to an area of grassland and play area to the north-west. It is also noted that this lack of adequate amenity space would be considered a common feature of accommodation in the area. Officers therefore recommend

that this element of the proposals would be acceptable and is in general compliance with Principle 17 of the above SPD.

In conclusion, taking the above into account it is considered that the proposed basement apartment would provide sufficient internal living accommodation, but would not provide a reasonable amount of natural light and outlook to be gained from the apartment to provide a high standard of amenity for future occupants. This would result in the proposal being contrary to Policy LP24(b) of the Kirklees Local Plan, Chapter 12 of the NPPF and Principle 6 of the Housebuilders Design Guide SPD.

#### **4 – Impact on Highway Safety:**

Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Paragraph 111 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.

Principle 12 of the Housebuilders Design Guide sets out, amongst other things that parking to serve dwellings should not dominate streets and should be to the side/rear.

Principle 19 of the above guide states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development. There appears to be no provision for bins to serve the new property on the plans, and no convenient space to do so either.

The application seeks approval for the conversion of an existing basement to form a self-contained apartment and the refurbishment of an existing dwelling with associated internal and external alterations.

The proposals include the provision of a new and enlarged 'basement well' with new steps and a gated entrance provides a new access to the proposed apartment. The property has no off-street parking provisions, and none are proposed. The spaces referred to on the application form is on-street parking not in the control of the applicant.

Given the nature of the proposals the Council's Highways Officers were consulted. They note that whilst they do have concerns regarding the lack of off-street parking provisions, given that this is for a one bedroomed apartment it would be difficult to justify a refusal on highway safety grounds in this instance and therefore on-balance these proposals are considered acceptable. However, the Highways Structures section have requested that a condition is attached to any permission requiring details of the design and construction of the new basement wall to facilitate the creation of a new access from Lockwood Road should planning permission be granted. It

should be noted that works have already been undertaken and no details received.

Taking the above into consideration, subject to conditions, the proposals are not considered to result in any highway safety impacts from parking and therefore accord with LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the NPPF and Principle 12 of the Housebuilders Design Guide SPD.

However, the lack of bin storage arrangements, even if these were to the rear there is no access to the rear space from the apartment, is contrary to Policy LP24d of the Kirklees Local Plan. In addition, it is likely in these circumstances that bins would be stored on the footway, which is harmful to highway safety and visual amenity.

No details of the highway retaining wall have been received either.

## **5 – Other Matters:**

### Air Quality

No parking is proposed and the proposals would not impact on air quality in the area.

### 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.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council’s ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should also seek to design water retention into proposals.

Furthermore, Local Plan Policy LP26 refers to renewable and low carbon energy and states that:

*‘renewable and low carbon energy proposals (excluding wind) will be supported and planning permission granted where the following criteria are met:*

- a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;*
- b. the proposal would not have either individually or cumulatively an unacceptable impact on protected species, designated sites of importance for biodiversity or heritage assets;*
- c. the statutory protection of any area would not be compromised by the development;*
- d. any noise, odour, traffic or other impact of development is mitigated so as not to cause unacceptable detriment to local amenity;*
- e. any significant adverse effects of the proposal are mitigated by wider environmental, social and economic benefits'.*

A Climate Change Statement supports the application, this statement notes that all materials of construction will be sourced locally and undertaken by local craftsmen. The new basement floor will also be well insulated with perimeter walls and attic ceilings lined with insulated plasterboard such as Kingspan TW56.

Given the above, and that the proposal is for a small-scale development to an existing building, it is not considered reasonable to expect any additional information to be submitted in respect of meeting the Council's climate change agenda in this instance and that as a minimum the conversion would need to adhere to Building Regulations.

### Contaminated Land

With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

The Council's Environmental Health Officers were consulted on the application whereby they note that their records indicate that the site is adjacent to potentially contaminated land (refs 525/9, 515X/9 & 623/9) and due to its proximity, a condition for unexpected contamination is therefore necessary. The implementation of this condition is deemed to be sufficient to comply with the aims of LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

### **6 - 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. This

also takes into account the Council can no longer demonstrate a 5-year housing land supply.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would not constitute sustainable development and that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole and is therefore recommended for refusal.

**Recommendation:**

Refuse.

Decision Authorisation – Delegated Powers

Application Number: 2023/92072

Officer Recommendation: Refuse.

**Reasons for Refusal:**

1. The habitable room windows to serve the proposed basement apartment would, by reason of their relationship with existing ground levels, experience a severely restricted and poor outlook which would not result in a high standard of amenity to future occupants of the dwelling. This would therefore be contrary to the aims of paragraph 130 (f) of Chapter 12 of the National Planning Policy Framework, Principle 6 of the Housebuilders Design Guide Supplementary Planning Document and LP24(b) of the Kirklees Local Plan.
1. The proposed development would not provide on-site provision for the storage of refuse bins for future residents. This would likely require the storage of refuse bins on the public footway which is not in the interests of highway safety or visual amenity. This is contrary to Policies LP21 and LP24(d) of the Kirklees Local Plan and the Waste Management Design Guide for new developments 2020.

**Plans and Specifications Schedule:**

<b>Plan Type</b>	<b>Reference</b>	<b>Web ID</b>	<b>Date Received</b>
Plans and Elevations	2320-01	-	19 <sup>th</sup> July 2023
Design and Access Statement – Supporting Information			19 <sup>th</sup> July 2023
Flood Risk Assessment –	-	-	19 <sup>th</sup> July 2023

Supporting Information			
Climate Change Statement Supporting Information	-	-	19 <sup>th</sup> July 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 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. No amendments have been sought in this instance as the proposals are deemed to be wholly unacceptable upon submission, the applicant did not engage in the Council's pre-application advice service and the development had commenced on site at the time the application was submitted.

Report Dated:

05/09/2023