

**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>2023/62/92593/W</b>  |
| Site Address:         | Pearson Funeral Service, Manchester Road,<br>Marsden, Huddersfield, HD7 6EY   |
| Description:          | Demolition of existing shed and erection of<br>replacement shed including associated alterations to<br>the existing building (within a Conservation Area) |
| Recommending Officer: | Katie Chew  |

**DECISION – Conditional Full Permission**

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

Teresa Harlow

***AUTHORISED OFFICER***

**Date:** 6<sup>th</sup> December 2023

## **Officer Report**

### **Site Description**

Pearson Funeral Services, Manchester Road, Marsden, Huddersfield, HD7 6EY

The application site relates to Pearson Funeral Services and comprises of a small stone-built and brick building from which the business is run. To the rear of this building is a small store area constructed from timber boarding. To the north of the application site are residential properties, to the east and south-west are other commercial properties. To the south is Marsden Football Club.

The site is located within Marsden Conservation Area and is adjacent to a Listed Building to the north-east.

### **Description of Proposal**

The application seeks planning permission for the demolition of existing shed and erection of replacement shed (within a Conservation Area) including associated alterations to the existing building.

The existing shed/store to be removed measures 10.1m x 4.7m, with a ridge height of 4.5m. The replacement shed/store is to be located on a similar footprint and will measure approximately 11.2m x 9.3m, with a ridge height of 4.2m. The proposed shed/store is to be constructed from profiled steel sheeting with a roller shutter and will provide accommodation for some of the vehicles required, and currently stored on site, at the applicant's home address, and within the adjacent Mountain Rescue building and forecourt.

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

Following receipt of comments from the Council's Ecology Officer it was requested that Preliminary Roost Assessment/Bat Scoping Survey be submitted.

### **Relevant Planning History**

There is no relevant planning history at the application site or at adjacent sites.

### **Representations**

Final publicity date expires:

Neighbour Letters – Expired 17<sup>th</sup> October 2023.

Press Notice – Expired 3<sup>rd</sup> November 2023.

Site Notice – Expired 19<sup>th</sup> October 2023.

No representations have been received to date.

**Officer note:** The application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the site being located within Marsden Conservation Area and being adjacent to a Grade II Listed Building.

### **Consultation Responses**

**KC Environmental Health** – Comments received 27<sup>th</sup> September 2023. No objections to the proposals, subject to conditions and informatives relating to unexpected land contamination.

**KC Ecology Unit** – Comments received 5<sup>th</sup> October 2023. As no ecological information has been submitted with the application Officers request the submission of a Preliminary Roost Assessment/Bat Scoping Survey prior to a decision being made on the application.

**Officer note:** Following receipt of a Bat Survey Report, the Council's Ecology confirmed that they had no objections to the proposals subject to the inclusion of a **bird box within the new building and the removal of cotoneaster from the site** (as outlined within the above report).

**KC Conservation & Design** – Comments received 11<sup>th</sup> October 2023. No objections subject to a condition requiring the **colour of the proposed shed to match the colour of the existing shed**.

**KC Highways Development Management** – Comments received 24<sup>th</sup> October 2023. No objections.

### **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 Marsden Conservation Area, Bat Alert Area, Strategic Green Infrastructure Network, adjacent to a Grade II Listed Building to the north-east.

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

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and Effective Use of Land and Buildings
- **LP13** – Town Centre Uses
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP26** – Renewable Energy
- **LP30** – Biodiversity and Geodiversity
- **LP31** – Strategic Green Infrastructure Network
- **LP33** - Trees
- **LP35** – Historic Environment
- **LP51** – Protection and Improvement of Local Air Quality
- **LP53** – Contaminated and Unstable Land

#### **Other Guidance Documents:**

- Kirklees Highway Design Guide (2019)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)

#### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 5<sup>th</sup> September 2023, 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **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
- **Chapter 16** – Conserving and enhancing the historic environment

### **Summary of Principal Planning Issues**

The following matters are considered in the assessment below -

- 1) Principle of development
- 1) Impact on visual amenity
- 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:**

##### 1.1 – Sustainable Development

NPPF Paragraph 11 and Policy LP1 of the KLP 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 of the NPPF concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

##### 1.2 – Town Centre Uses

Policy LP13 of the Kirklees Local Plan states that *'proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test'*.

Given the nature of the proposals, which seek to replace an existing shed with a new shed for the storage of vehicles used for the main use of the site, which is a funeral directors, Officers do not consider a Sequential Test to be required on this occasion. The site has been operating as a funeral directors for a number of years, and the new shed would simply replace an existing structure of the same use. Whilst located outside of a defined town centre, it is not considered that the provision of this new shed would detrimentally impact upon the vitality of any local/town centres and would support the ongoing operation of an existing building. Therefore, for the above reasons, the proposals are considered to be acceptable in principle.

#### **2 – Impact on Visual Amenity and Heritage Assets:**

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 126 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 the development in the local area, thus retaining a sense of local identity.

Policy LP24 states that all proposals should promote good design by ensuring the following:

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

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

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

Paragraph 199 of the NPPF states: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...”. This is further supported by paragraph 202 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this weight should be weighed against the public benefits of the proposal.

The application site is located within Marsden Conservation Area, adjacent to a Grade II Listed Building to the north-east.

The proposal is for the demolition of an existing shed and erection of replacement shed which is to be located on a similar footprint and will be constructed from profiled steel sheeting with a roller shutter. The proposed shed is to have a pitched roof and be of a simple and functional design, much like the existing shed on a bigger scale. Whilst the proposed shed will be somewhat tucked away from public views from Manchester Road, glimpses of the shed will be visible from Fall Lane to the west given the differences in land levels. However, the site is bounded by a small drystone wall and mature planting which helps provide a buffer, helping to soften the views from Fall Lane.

Given the nature of the proposals the Council's Conservation & Design Officer was consulted. They raised no objections to the proposals subject to the colour of the new shed being conditioned to match the colouring (dark brown) of the existing dilapidated shed to be replaced.

In conclusion, taking the above assessment into account the proposals are considered to be of a scale, size and design that is both sympathetic to the setting and significance of the Marsden Conservation Area and adjacent heritage assets, whilst also providing a building that is proportionate and function for its intended use. It is therefore considered that the proposals comply with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the NPPF.

### **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.

#### *Impact on no. 30 Oliver Lane*

This neighbouring property is located to the north-east of the application site, approximately 26m away. Given the large separation distances and that the proposed store/shed is to be located to the rear of the existing building Officers have no concerns in respect to overlooking, overshadowing, or the proposals appearing overbearing to this neighbouring property on this occasion.

#### *Impact on The Stable*

This neighbouring property is located to the north of the application site, approximately 19m away. As above, given the large separation distances and that the proposed store/shed is to be located to the rear of the existing building, Officers have no concerns in respect to overlooking, overshadowing, or the proposals appearing overbearing to this neighbouring property on this occasion.

#### Impact on no. 27 Weir Side

This neighbouring property is located to the north-west of the application site, approximately 28m. Again, similar to the above neighbouring properties, given the large separation distances and that the proposed store/shed is to be located to the rear of the existing building, Officers have no concerns in respect to overlooking, overshadowing, or the proposals appearing overbearing to this neighbouring property on this occasion.

In conclusion, taking the above into account, it is considered that the proposals would not result in significant and detrimental impacts on the privacy and amenity of any neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Chapter 12 of the National Planning Policy Framework.

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

Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on 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.

The application relates to the demolition of an existing shed and erection of a replacement shed for the secure storage and parking of vehicles. Current vehicles owned by the funeral directors include 3 no. private ambulances (stored outside in the site), 1 no. hearse and 2 no. ceremonial cars (stored outside in the site), 2 no. hearse and 2 no. ceremonial cars (stored in the adjacent Mountain Rescue building and forecourt on a rental basis) and finally 3 no. ceremonial vehicles (stored at the applicant's home address).

Given the nature of the proposals the Council's Highways Officers were consulted. They note that as the vehicle access to the site is to remain as existing onto Manchester Road, and that the proposals are unlikely to significantly intensify the use of this road, they deem the proposals to be acceptable.

For the reasons outlined above, it is concluded that the scheme would not represent any additional harm in terms of highway safety, and as such complies with Local Plan Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

## 5 - Other Matters:

### 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 site of the proposed development is indicated on the Council's mapping system as being situated on land that is potentially contaminated due to historic setting, mills. As the application concerns the erection of a new building for the storage of vehicles used by the existing business, the Council's Environmental Health team recommend a condition for unexpected contamination only. However, they do note that the applicant should be reminded that any attempt to encapsulate or insulate the building in future would compromise the natural ventilation and may put receptors within the building at risk. 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.

### Biodiversity

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with the Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

As the application site is located within a Bat Alert Area the Council's Ecology Officer was consulted, they requested the submission of a Preliminary Roost Assessment to a decision being made on the application. Following receipt of a Bat Survey Report, the Council's Ecology confirmed that they had no objections to the proposals subject to the inclusion of a bird box within the new building, which is outlined within the above report as to be installed on the western gable end of the building. In addition, it was identified in the report that there are two wall cotoneaster plants within the site, one is located to the front of the existing office building, and the second on the southern boundary wall. As wall cotoneaster is listed on Schedule 9 of the Wildlife and Countryside Act, making it illegal to cause it to spread or grow in the wild, the Council's Ecology Officer requests that a pre-commencement condition be imposed requiring the removal of this plant from site prior to construction works commencing.

Subject to conditions, the proposed development is considered to accord with LP30 and LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

## Trees

Local Plan Policy LP33 relates to trees, within this policy it states that the Council will not recommend approval for developments which directly or indirectly threaten trees or woodlands of significant amenity.

Whilst no trees are subject to Tree Preservation Orders (TPO) within the site, Officers do acknowledge that there are mature trees located adjacent to the site (to the south and west), which are protected due to their location within the Marsden Conservation Area. Nevertheless, while the proposed replacement shed is to be somewhat larger than the existing building and therefore will be located in closer proximity to these adjacent trees, the site is already covered by hardstanding with the trees separated from the site by either a large timber fence or a smaller dry-stone wall. The proposed building is somewhat lightweight in form and does not include any windows/rooflights, Officers therefore have no concerns in respect of the building having any direct or indirect (from pressure to prune or fell the adjacent trees) impact and therefore to proposals are considered to accord with LP33 and LP24(i) of the Kirklees Local Plan on this occasion.

## Climate Change

On 12<sup>th</sup> 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.

The application is supported by a Climate Change Statement, this statement outlines that the store/shed building will not be heated, and that the applicant will source materials locally, recycling existing materials where possible.

In addition, and in accordance with Government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24 and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers would seek the provision of electric vehicle charging points should planning permission be granted. The purpose of this is to promote modes of transport with low impact on air quality. In addition, the proposal is for a profiled steel sheeting building which is somewhat temporary in nature and therefore it is not considered reasonable to expect any additional information to be submitted in respect to meeting the Council's climate change agenda in this instance.

There are no other matters for consideration.

## **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 application has been assessed against relevant policies in the development plan and other material considerations. It is considered that; the proposed development would constitute sustainable development and is therefore recommended for approval.

## **Recommendation:**

Approve subject to conditions.

Decision Authorisation - Delegated Powers

Application Number: 2023/92593

Officer Recommendation: Approve.

## **Conditions and Reasons:**

1. The development hereby permitted shall be begun within three years of the date of this permission.  
**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.
1. The development hereby permitted shall be carried out in accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.  
**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP13, LP21, LP22, LP24, LP30, LP31, LP33, LP35, LP51 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 6, 7, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.
2. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, 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. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has

been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works 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. 178 and 179 of the National Planning Policy Framework.

3. The external walls and roof the building hereby permitted shall be finished in the colour 'dark brown' to match the colour of the existing shed of which this building is to replace.

**Reason:** In the interests of visual amenity to ensure a sympathetic appearance within the Marsden Conservation Area, and so as to not detract from the setting and significance of adjacent heritage assets, to accord with LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

4. Notwithstanding the approved plans and information, one swift box shall be installed on the hereby approved building on the western gable elevation, at least 3.5m above ground level and not directly above any doors or windows. Once installed the swift box shall be retained.

**Reason:** To enhance opportunities for biodiversity at the site and to accord with Chapter 15 of the National Planning Policy Framework and LP30 of the Kirklees Local Plan.

5. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the measures for the containment, control and removal of Cotoneaster on site. The measures shall be carried out strictly in accordance with the approved scheme.

**Reason:** This is a pre-commencement condition to ensure that adequate measures are in place to protect the biodiversity by preventing the accidental spread of non-native plant species within and outside the site during and after development in line with the requirements of policies LP30 and LP53 and Section 15 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 2019. 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

**Plans and specifications schedule:-**

| <b>Plan Type</b>  | <b>Reference</b>    | <b>Version</b> | <b>Date Received</b>            |
|---|---------------------|----------------|---------------------------------|
| Existing Layouts and Elevations                                   | 01                  | -              | 11 <sup>th</sup> September 2023 |
| Proposed Layouts and Elevations                                   | 01                  | -              | 11 <sup>th</sup> September 2023 |
| Design and Access and Heritage Statement – Supporting Information | -                   | -              | 11 <sup>th</sup> September 2023 |
| Climate Change Statement – Supporting Information                 | -                   | -              | 11 <sup>th</sup> September 2023 |
| Bat Survey Report – Supporting Information                        | MBE/BAT/2023/113/01 | -              | 7 <sup>th</sup> November 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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Following receipt of comments from the Council's Ecology Officer it was requested that Preliminary Roost Assessment/Bat Scoping Survey be submitted. The pre-commencement condition was agreed in writing with the agent.

Report Dated:

6<sup>th</sup> December 2023.

