

**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>2024/62/90279/E</b>
Site Address:	adj, Parsonage House, Edge Road, Thornhill Edge, Dewsbury, WF12 0QD
Description:	Erection of detached dwelling
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:** 24 October 2024

## **Officer Report**

### **Site Description**

The application site forms part of the domestic curtilage for Parsonage House. The existing site serves a detached, pitched roofed double garage, a driveway and trees and shrubbery. The site is accessed via Edge Road to the north and slopes steeply from north to south. The site is on the edge of a predominantly residential area which vary in terms of design.

The site is located within the Green Belt as allocated on the Kirklees Local Plan

### **Description of Proposal**

The applicant is seeking permission for the erection of a detached dwelling. The proposed dwelling would be located within the southern part of the site, with parking and access to the north. The dwelling would be a two and a half storey, flat roofed dwelling. Due to the topography of the site, the dwelling would appear two-storey from the front (north) and three-storey to the rear (south).

The building would be of a contemporary design with limited openings to the front and glazing to the rear. There would be amenity space proposed on the roof of the dwelling.

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

Officers raised concerns regarding the principle of development and the failure to comply with Green Belt policy. No additional supporting information was submitted. The applicant attempted to address highway concerns and submitted a revised plan.

### **Relevant Planning History**

86/05555 Change of use of garage and store to residential accommodation

On land nearby:

2019/93278 Erection of detached dwelling. Conditional full permission.

### **Representations**

No representations received.

### **Consultation responses**

KC Highways Development Management: raised concerns regarding access and parking provision.

KC Highway Structures: recommendations regarding highway structures.

The Coal Authority: no objections.

### **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 allocated as Green Belt land within the Kirklees Local Plan Proposals Map.

**Kirklees Local Plan (LP):**

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 9** – Supporting skilled and flexible communities and workforce
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 53** – Contaminated and unstable land
- **LP 59** – Brownfield sites in the Green Belt

**National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20<sup>th</sup> December 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.

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 13** – Protecting Green Belt land
- **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).

**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 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.

It is noted that this site is within the Green Belt. Irrespective of the Councils position on the five-year supply of deliverable housing sites, the National Planning Policy Framework at paragraph 11 is clear that in the event a Council cannot demonstrate a five-year supply of deliverable housing sites, the council should grant permission “unless the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”. Footnote 7 at paragraph 11di) states that the protected areas include land designated as Green Belt. Although the

Council are not able to demonstrate a five-year supply of housing, the tilted balance would not be engaged for this proposal.

Therefore, the principle of developing in the Green Belt must be assessed in order to determine whether the principle of development is acceptable. The proposal will also be assessed against all other material considerations.

### *Green Belt*

The application site is within the Green Belt as located on the Kirklees Local Plan. Chapter 13 of the NPPF requires Local Planning Authorities to regard the construction of new buildings in the Green Belt as inappropriate development. Paragraph 154 states “*a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

- a) buildings for agriculture and forestry;*
- a) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- b) 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;*
- c) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- d) limited infilling in villages;*
- e) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- f) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
  - not have a greater impact on the openness of the Green Belt than the existing development; or*
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

The application is for a new dwelling which would not fall under exceptions a, b, c or f.

There is an existing detached garage on the site which would not be the same use as the proposed dwelling. The agent has also provided volume calculations which demonstrate the existing garage is 117m<sup>3</sup> and the proposed dwelling is 317m<sup>3</sup>, which is significantly larger than the existing building. Therefore, the development would not fall under sub-paragraph d.

With regard to sub-paragraph e), Paragraph 19.31 of the Kirklees Local Plan outlines the Council's approach to assessing infilling in villages. It states that:

*“Any application for infill development within the Green Belt will therefore be judged in the first instance on whether the settlement is a village for the purposes of Green Belt policy. If it is established that the site is within a village the plot should be small, normally sufficient for not more than two dwellings and within an otherwise continuously built-up frontage.”*

The application site is located on the end of a residential road which falls under Thornhill/Thornhill Edge. within a cluster of dwellings. There is a separation of ~15m between the application site and Parsonage House to the west and ~100m between the application site and 124 Edge Lane, the next residential dwelling to the east. Notwithstanding whether the site is within a village, it is considered that the proposal would not infill a gap in a 'continuously built-up frontage' as set out in paragraph due to the significant distance between the adjacent dwellings. The site would therefore not fall under exception e.

With regard to sub-paragraph g), the NPPF glossary defines previously developed land as:

*“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”*

Policy LP59 of the Kirklees Local Plan is also relevant when assessing previously development land in the green belt. Policy LP59 outlines:

*“Proposals for infilling within existing brownfield sites or for their partial or complete redevelopment will normally be acceptable, provided that:*

- a) in the case of infilling, the gap is small and is located between existing built form on a brownfield site;*
- a) in the case of partial or complete redevelopment the extent of the existing footprint is not exceeded; and*
- b) redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for.”*

In the supporting text for Policy LP59, paragraph 19.33 of the Kirklees Local Plan states:

*“The redevelopment of the site, either in the same use or for a new use, may be acceptable provided that the redevelopment is designed so as not to have any more impact on the openness of the Green Belt than the existing built form”*

The application site does form part of the curtilage of Parsonage House and there is a detached garage on the site. The site would therefore be considered previously developed land. The footprint of the proposed dwelling

would be around three times greater than the existing footprint of the garage and as outlined above, the volume would be almost tripled. The scheme would therefore fail to comply with Policy LP59(b). It is also considered that this scale of development, in comparison to the moderate existing garage, would result in harm to the openness of the green belt, thus failing to comply with paragraph 19.33 of the Kirklees Local Plan and exception (e) of paragraph 154 of the NPPF.

It is therefore considered that the proposed development would constitute inappropriate development in the /Green Belt thus causing harm to the openness. The scheme would therefore fail to comply with policy LP59 of the Kirklees Local Plan and the aims of Chapter 13 of the National Planning Policy Framework.

## 2 – Impact on Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed and beautiful places) 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. Policy 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...”

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.

Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design. 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.”*

The proposed development would be of a contemporary design, with a flat roof finished in stone facing and monocouche render. The existing Parsonage House is a traditional pitched roofed, stone faced dwelling. It is noted that within the street scene the existing dwellings vary in terms of design and materials although they are primarily finished in stone with clad features and the roof types are pitched. The proposed flat roofed design, and render finish would therefore not be in keeping with the existing street scene.

The existing building line is staggered, however the properties generally front the highway. The proposed dwelling would be set back significantly from the highway and would not align with the existing development. It is noted that the proposal would be set back and down from the highway, thus somewhat reducing its prominence. However, no site section or street scene plan have been submitted with the application to demonstrate if the dwelling would be set below visibility from the highway. Therefore, based on the information available to officers there is no evidence to demonstrate that the proposed contemporary design would not cause harm to the street scene.

Notwithstanding the concerns raising in the principle of development section of this report, the proposed dwelling, by virtue of design and materials, would not be in keeping with the existing built development and as a result would cause harm to the visual amenity of the area. The proposal fails to accord with Principle 2 of the Housebuilders Design Guide SPD, Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the NPPF.

### 3 – Impact on residential amenity

Sections B and C of LP24 state 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, Chapter 12 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.

Principle 6 of the Housebuilder Design Guide SPD states ‘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 SPD goes on to set out typical minimum separation distances. These are as follows:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and

- 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.

The residential properties mostly likely to be affected by the proposed development are considered to be Parsonage House and the new dwelling to the north of the site, approved under application 2019/93278. The impact upon these properties will be discussed below. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect.

#### Impact on Parsonage House

Parsonage House is located west of the application site and is within the ownership of the applicant. There would be a separation distance of ~15m between the side elevation of the proposed dwelling and Parsonage House. There would be no openings proposed in the side elevation of the dwelling and therefore, this distance is considered sufficient and would comply with the Housebuilders Design Guide SPD.

There would be amenity space proposed on the roof of the proposed dwelling which could result in overlooking harm to the occupants of Parsonage House. Should this application be approved, it would be recommended that a condition is imposed to ensure there is screening to the western side of the amenity space to prevent overlooking harm.

#### Impact on approved dwelling under application 2019/93278

A new dwelling was approved to the north of the site under application 2019/93278. When officers visited the site it was apparent that this development has been erected although construction works were still being undertaken so it did not appear to be occupied. The proposed dwelling would be located ~25m from the front elevation of the newly approved dwelling, however it is noted that it would be at a significantly higher elevation. This being said, there would be limited windows in the northern elevation of the proposed dwelling and these would all serve as secondary windows. Taking this into account, the proposed separation distance is considered acceptable.

#### Amenity of the Future Occupiers

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 there would be amenity space proposed on the roof which would be a good size for a dwelling of this scale. It is considered the proposed windows would have sufficient outlook and natural light for the amenity of future occupants.

Therefore, it is considered the proposed development would not cause significant harm to the residential amenity of the existing or neighbouring occupiers and is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

#### **4 – Impact on highway safety:**

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.”*

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 scheme proposes one dwelling with potential for three bedrooms. The Kirklees Highways Design Guide SPD states that at least 2 on-site spaces are required for dwellings with 3 bedrooms. The proposed site plans show off-street parking provision for two vehicles in the driveway. KC Highways Development Management (HDM) raised concerns regarding the proposed parking spaces as they are insufficient in length and sight lines onto Edge Road are poor. They also recommended that the width of the proposed driveway is widened to 6.0m to allow comfortable turning and manoeuvre.

The proposed dwelling would be built on the footprint of the existing garage and parking provision for Parsonage House, therefore KC HDM requested off-street parking provision was also demonstrated for Parsonage House.

An amended site plan was provided which demonstrated parking provision for both properties and a separate access onto Edge Road for the existing dwelling. These were reviewed by KC HDM who requested a 2.4 x site frontage site line was from the proposed access and the existing telegraph pole need to be re-sited. As the principle of development is considered

unacceptable, no amended plans were requested. This information would need to be secured by condition if the application was to be recommended for approval.

KC Highway Structures were also consulted regarding the proximity of the proposal to the highway and the likely need for retaining structures due to the topography which could affect the stability of the highway. The applicant was advised to submit fully detailed and dimensioned X-sectional drawings perpendicular to Edge Road to assess the impact of their proposals on the adjoining highway to determine whether a formal technical approval (via submission of an AIP) would be necessary. No additional information was provided. This would need to be secured by condition should planning permission be granted.

No details of bin collection or storage have been provided. These can be detailed under a condition.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

## **5 – Other matters:**

### *Ecology*

The application site is within a bat alert layer on the Council's GIS mapping system and would include demolition of the existing garage. A preliminary roost assessment would be required to identify if there is any roost potential and therefore whether the demolition would cause harm to any bats. As the principle of development is considered unacceptable, additional reports were not requested as this would incur an additional cost to the applicant.

Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

With regards to Biodiversity Net Gain, the applicant has stated within their application form that the application is exempt under self-build exemption. The applicant is proposing a self-build dwelling for their own occupation and therefore officers are satisfied that would fall under the self-build exemption.

More information is required to ensure the development would comply with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD.

### Contaminated Land

KC Environmental Health (EH) officers were informally consulted on the proposed scheme. The application site is located near potentially contaminated land and therefore full contaminated land conditions would be recommended if this application is approved.

The site is located within a High Risk Coal Mining Area. A Coal Mining Risk Assessment (CMRA) was submitted and the Coal Authority were consulted on the proposal. The submitted CMRA outlined brief coal mining information reviewing British Geological Survey Maps – BGS Map Sheet 78. However, this information does not provide any assessment of the potential risks posed to the development proposal by past coal mining activity. The Coal Authority therefore objects to this planning application.

In accordance with the agreed risk-based approach to development management in the defined Development High Risk Areas, the applicant needs to submit a Coal Mining Risk Assessment Report to support this planning application. This assessment should be prepared by a suitably qualified person. As the principle of development is considered unacceptable, a more detailed CMRA was not requested as this would incur an additional cost to the applicant.

A CMRA would need to be secured by condition should the application be approved. The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

### **6 – Representations:**

No representations were received.

### **7 – Conclusion**

This application for the erection of a detached dwelling at land adj, Parsonage House, Edge Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the Housebuilders Design Guide SPD, 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 considerations.

**Recommendation**

**Refuse**

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2024/90279

**Officer Recommendation:** Refuse

### **Reason(s) for refusal:**

1. The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework, most development, subject to certain exceptions, is regarded as inappropriate. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposed erection of a detached dwelling is considered to constitute inappropriate development in the Green Belt, thus, detrimentally harming openness and character. No very special circumstances have been demonstrated which would outweigh this harm. To permit the proposed development would impact adversely upon the openness and character of the Green Belt, conflicting with the purposes of including land within the Green Belt, contrary to the aims of Chapter 13 of the National Planning Policy Framework.
1. The proposed dwelling, by virtue of design and materials, would not be in keeping with the character of existing built development and would appear incongruous within the street scene to the detriment of visual amenity. The scheme would therefore fail to comply with Policy LP24 of the Kirklees Local Plan, Chapter 12 of the NPPF and principle 2 of the Housebuilders Design Guide SPD.
2. The applicant has failed to demonstrate, through submission of an adequate Coal Mining Risk Assessment, that the impact of coal mining legacy on the proposed development has been sufficiently addressed. Given the failure to demonstrate that the site would be viable for safe

occupation, the proposal is contrary to Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

**Plans and Specifications Table:**

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan			15/05/2024
Site Plans			15/05/2024
Proposed Plans		26.3.24	15/05/2024
Site Plan with parking			14/08/2024

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. An amended site plan was received in an attempt to overcome highway concerns which was reviewed and assessed.

Report Dated: 17/10/2024