

**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:	2024/62/90417/E
Site Address:	Wilton Mills, 586, Bradford Road, Batley, WF17 8LP
Description:	Erection of retaining wall (within a Conservation Area)
Recommending Officer:	Nicole Helliwell

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 17 April 2024

Officer Report

Reference No. 2024/62/90417/E

Site Address: Wilton Mills, 586, Bradford Road, Batley, WF17 8LP

Proposal: Erection of retaining wall (within a Conservation Area)

Site Description

The application site is tucked to the rear of Wilton Mills, a large industrial building which fronts Bradford Road, Batley. The site is set on a steep gradient which slopes from Chinewood Avenue down to Bradford Road. The wider area comprises a combination of residential and commercial properties of varying ages, architectural styles and materials. There are no listed buildings or Public Rights of Way (PROW) within close proximity. However, the site is located within the Cross Bank Batley Conservation Area.

Description of Proposal

The application seeks planning permission for the erection of a retaining wall to the south-western boundary of the application site. The submitted plans confirm that the wall would measure approximately 3m above ground level and would be faced in concrete.

Relevant Planning History

- **2023/91781:** Erection of retaining wall to north side of site (within a Conservation Area). [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2023/91489:** Discharge of conditions 5 (noise report), 8 (Phase I Report), 9 (Phase II Report) and 10 (Remediation Strategy) on previous permission 2022/93360 for demolition of existing garage and erection of MOT bay/service bay/storage area (within a Conservation Area). [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Split Decision
- **2022/93360:** Demolition of existing garage and erection of MOT bay/service bay/storage area (within a Conservation Area). [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2019/91119:** Discharge conditions 3, 4, 8, 9 on previous permission 2018/91945 for partial demolition of existing garage and erection of MOT testing and service station (within a Conservation Area) [Planning application details | Kirklees Council](#) - Discharge of Condition(s) Split Decision
- **2018/91945:** Partial demolition of existing garage and erection of MOT testing and service station (within a Conservation Area). [Planning application details | Kirklees Council](#) – Conditional Full Permission

- **2015/91278:** Change of use from car sales (Sui generis) to restaurant (A3) (within a Conservation area). [Planning application details | Kirklees Council](#) – Deemed Withdrawn
- **2015/94051:** Change of use from light industrial to car repairs and sales. [Planning application details | Kirklees Council](#) – Deemed Withdrawn
- **99/90852:** Change of use of former weaving mill to sale and storage of small commercial vehicles. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 8th April 2024. As a result of the above publicity, no representations have been received.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the ‘Assessment’ section of the report, where appropriate):

[KC Ecology](#) - No comments

[KC Conservation and Design](#) – No objection

[KC Environmental Health](#) – No objections subject to recommended condition

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, it is situated within the Cross Bank Batley Conservation Area. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity & Geodiversity
- **LP 35** - Historic Environment
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment
- **Chapter 16** - Conserving and Enhancing the Historic Environment

Assessment

1. Principle of development

The site is without notation on the Kirklees Local Plan (KLP). 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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design.

The application site is located within the Cross Bank Batley Conservation Area. Section 72 of the 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. This is also mirrored in Chapter 16 of the National Planning Policy Framework and LP35 of the Kirklees Local Plan.

In this case, the principle of development on the application site could be acceptable subject to its assessment against all other material planning considerations, including design, visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

1. Impact on Visual Amenity and Historic Environment

Visual Amenity

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

The proposed retaining wall would be erected along the south-western boundary of the application site. The proposed wall would be faced in concrete and would measure approximately 3m above ground level. Given that the wall would be an appropriate scale and design and would have limited visibility from public vantage points, it is considered that the proposed development would not have any significant visual impact on the character and appearance of the surrounding area.

Having taken into account the above, it is considered that the proposed development would be acceptable from a visual amenity perspective, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Historic Environment

Paragraph 135(c) of the NPPF sets out that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting. Furthermore, LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Paragraph 203 of the NPPF is also of relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) is relevant, and 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.

The application site is located within the Cross Bank Batley Conservation Area. As such, KC Conservation and Design were informally consulted on the proposed scheme. The retaining wall would be visually acceptable with regard to its scale, siting and design. Furthermore, the retaining wall would be set back from public vantage points and is not considered to harm its heritage significance.

On this basis, it is considered that the proposed development would not cause any detrimental harm to the significance of the Cross Bank Batley Conservation Area and would comply with Policy LP35 of the Kirklees Local Plan, Chapter 16 of the NPPF and the requirements of Section 66 and 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990.

2. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The retaining wall proposed would be erected along the south-western boundary of the application site and would be positioned away from surrounding residential properties. Therefore, it is considered that there would be no detrimental harm to any neighbouring occupants with regards to overshadowing and overbearing impact.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

3. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed retaining wall would not involve the retention of any highway structure or road; would not materially intensify the use or affect the existing parking arrangements on site. Therefore, it is considered that the proposed development would not represent any additional harm in terms of highway safety and would accord with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the NPPF and the Highways Design Guide SPD.

4. Other Matters

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 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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

Biodiversity

Whilst the site is located in an area identified as being within a 'bat alert' layer on the Council's GIS mapping system, in this instance, the nature of the works is considered unlikely to have a detrimental impact on the bat population. However, a footnote will be added to the decision notice to provide the applicant with advice should bats or bat roosts be found during construction. This would accord with the aims of Policy LP30 of the Kirklees Local Plan, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.

Contaminated Land

The site of the proposed development is on land that has been identified as being potentially contaminated due to its former use (our site reference: 63/5). However, as the application is for a retaining wall, KC Environmental Health recommend conditions relating to unexpected contamination being encountered during the construction phase.

There are no other matters relevant to the determination of this application.

5. Representations

No representations were received following the statutory publicity.

6. Negotiations

No amendments were sought or received during the course of the application.

7. Conclusion

This application for the erection of a retaining wall along the south-western boundary at Wilton Mills, 586 Bradford Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

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 would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/90417

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.

2. The development hereby permitted shall be carried out in complete 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, LP21, LP22, LP24, LP30, LP35, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. If contamination, the presence of coal and/or evidence of coal workings is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works 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 Verification 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 Verification 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. 189 and 190 of the National Planning Policy Framework

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action

and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Site Location Plan and Block Plan	-	-	22/02/2024
Proposed Retaining Wall Elevations	-	-	22/02/2024
Proposed Retaining Wall Plan	-	-	22/02/2024
Structural Engineering Design Package	AND/001	A	22/02/2024
Design and Access Statement & Heritage Statement	-	-	22/02/2024

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 have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 08/04/2024

