

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning (General Permitted Development) (England) Order 2015(as amended) - Schedule 2, Part 20, Class ZA, Demolition of buildings and construction of new dwellinghouses in their place

**DELEGATED DECISION FOR DISCHARGE OF CONDITION -
NOTIFICATION OF DEVELOPMENT UNDER THE ABOVE PROVISIONS**

Reference no. 2024/CL/90544/E

**Site Address Castle House, Castle Hill Road,
Gomersal, Cleckheaton, BD19
4HW**

**Description Prior notification for demolition of
buildings and erection of one
dwelling**

Recommending Officer Elenya Jackson

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.

Kevin Walton

AUTHORISED OFFICER

Date: 18-Apr-2024

Officer Report

Site Description

The application site is located to the east of Gomersal Road and is set back from the street scene by a private access. The site is part of a small cluster of development surrounding caste house.

The site is located in the Green Belt, a High Risk Coal Area and a Hazardous Material Site.

Description of Proposal

The application has been received for Prior notification for demolition of buildings and erection of one dwelling.

The application form indicates that the existing unit would be demolished by hand using scaffolding.

The replacement building would feature four floors with a maximum height of 12.8m with an eaves height 9.6m. This would feature a pitched roof. The proposed would be constructed in stone with slate.

History of Negotiations/Amendments Received

No negotiations have taken place and no amended plans have been received.

Relevant Planning History

No previous planning permission

Representations

As this is an application for prior approval, no advertisement of the application has been undertaken by the LPA in accordance with The General Permitted Development Order 2015, Schedule 2, Part 20, Class ZA.

Consultation Responses

Informal consultation with KC Highways 17/04/2024: An updated site plan would be required which demonstrates 2.4x43M visibility splays.

HSE:

Environmental Heath

Procedural Matters and Policy Context

The above described proposal is defined as development within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015, Schedule 2, Part 20, Class ZA permits the following development:

ZA(1). Development consisting of works for the demolition of one or other of–

- a) any building comprising a single purpose-built detached block of flats, and
- a) any other single detached building, comprising premises established
 - (i)for office use falling within Class B1(a) of the Schedule to the 1987 Order,
 - (ii)for research and development falling within Class B1(b) of the Schedule to the 1987 Order, or
 - (iii)for an industrial process falling within Class B1(c) of the Schedule to the 1987 Order,

Or for any combination of them,

Transitional arrangements provided via the amendments to the Use Classes Order 1987 (SI 2020/757), set out that any use class referred to in the General Permitted Development Order that require prior approval is to be read as if the use is referring to use prior to the amendment coming into force. However, the arrangements disapplied this provision on the 31 July 2021 without further arrangements being put into place. Consequently it is unclear whether the Order is now referring to Class B1 or Class E(g) of the amended Use Classes Order.

Notwithstanding this, the applicant has not demonstrated that the existing use of the building falls within Class E(g) Use Classes Order 1987(as amended), or previously B1. No planning permission exists for the building and the Council holds no record of business use at the premises for the purposes of non-domestic rates. Moreover, the Council's historic maps indicate the building was associated with Castle House, most likely being an ancillary outbuilding to the main residential house.

Consequently, it is considered the subject building does meet the description of development set out in paragraph 1 of Class ZA and therefore not benefit from a general planning permission under the Permitted Development Order.

ZA.1 outlines when development is not permitted:

(a) if land covered by, or within the curtilage of, the old building

(i) is occupied in any part under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;	Pass: The site is not under agricultural tenancy
(ii) is or forms part of article 2(3) land	Pass: The site is not on article 2 (3) land.
(iii) is or forms part of a site of special scientific interest;	Pass: The site is not on a site of scientific interest
(iv) is or forms part of a listed building or land within its curtilage	Pass: The site is not part of a listed building
(v) is or forms part of a scheduled monument or land within its curtilage;	Pass: not of a scheduled monument
(vi) is or forms part of a safety hazard area;	FAIL: The site is in a safety hazard area known as 'Hays Chemicals Ltd., Union Mills, Oxford Road, Cleckheaton'
(vii) is or forms part of a military explosives storage area; or;	Pass: N/A
(viii) is within 3 kilometres of the perimeter of an aerodrome;	Pass: N/A
(b) if the old building was constructed after 31 December 1989	Pass: The building was constructed prior to 31 December 1989
(c) if the footprint of the old building exceeds 1,000 square metres;	Pass: Not applicable.
(d) if the height of the highest part of the roof of the old building above ground level (not including plant, radio masts and antennae) is greater than 18 metres at any point	Pass: The existing building does not exceed 18m at any point
(e) unless the old building has been vacant for a period of at least 6 months immediately prior to the date of the application for prior approval;	N/A

<p>(f) if the old building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the old building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support (and for this purpose keeping the if any of the footprint of the new building falls outside the footprint of the old building;old building vacant does not of itself count as action or inaction)</p>	<p>Pass: The building has not been rendered unsafe</p>
<p>(g) if the demolition is “relevant demolition” for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area);</p>	<p>Pass: The demolition is not relevant demolition</p>
<p>(h) if any of the footprint of the new building falls outside the footprint of the old building;</p>	<p>Pass: The footprint is not greater than the old building</p>
<p>(i) if any part of the exterior wall of the new building nearest to a highway is nearer to the highway than the part nearest the highway of the exterior wall nearest the highway of the old building</p>	<p>Pass: No part of the new building is nearer to the highway</p>
<p>(j) if the height (not including plant, radio masts and antennae) of the new building would at any point exceed the lower of— (i) 7 Meters above the height (not including plant) of old building; or (ii) 18 Meters above ground level</p>	<p>Pass: The proposal would not be 7m higher than the existing building or 18m above ground level</p>
<p>(k) if the new building has more than X + 2 storeys, where “X” is the number of storeys in the old building;</p>	<p>Pass: The building would not have more than two storeys</p>
<p>(l) if the new building has more storeys than the old building and the floor to ceiling height of any additional storey in the new building, measured internally, would at any point be greater than the lower of— (i)the floor to ceiling height, measured internally, of any storey in the old building; or (ii)3 metres; or</p>	<p>Pass: The ceiling height do not exceed 3 metres or the ceiling height of the old building.</p>

<p>(m) if the height of any plant on the roof of the new building as measured from the lowest surface of that roof would be greater than the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the old building.</p>	<p>Pass: No plant is proposed to be erected on the roof.</p>
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Assessment

Paragraph (2) of Class A.2 requires the developer to apply in writing to the local planning authority for a determination as to whether the prior approval is required for:

- Transport
- Contamination risks in relation to the new building
- Flooding risks in relation to new building
- The design of the new building
- The external appearance of the new building
- The provision of natural light in habitable rooms
- The impact of the development on the residential amenity of neighbouring residents
- Impacts of any noise from commercial premises on future occupiers
- Impact on business
- Impact heritage and archaeology
- Method of demolition
- Landscaping plans
- Impact to air traffic
- Impact to protected vista

As part of the assessment, the Local Planning Authority should determine whether or not the proposal complies with the requirements and conditions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2. Part 20, Class ZA.

The proposal is for demolition of an existing structure and its replacement with a four storey dwelling.

A search of planning history indicates that there are no previous permissions relating to the site.

Officers are unable to locate any previous planning permission on site and therefore it is unknown what the current use of the site is.

Transport

KC Highways have been consulted on the application due to the site having the possibility of intensifying the existing access.

The site plans provided indicate two parking spaces in conjunction with the dwelling; however, there is a large amount of hard standing associated with the existing unit.

KC Highways have not raised any objections to the application providing that a 2.4mx43m visibility splay can be demonstrated along Castle Hill Road.

Contaminated Land

The site is located within a consultation zone for HSE hazardous materials due to its location in relation to Hays Chemicals to the North of the site and a High Risk Coal Area. As such, conditions would be required relating to the submission of details associated with contaminated land.

Flood Risk

The site is within Flood Zone one; therefore, the statutory drainage bodies have not been consulted in association with this application. In view of this, and as control over drainage matters can reasonably be exercised through the Building Control process, it is considered that there are no reasonable drainage grounds for opposing this development.

Design and External Appearance

Siting

The proposal is for the creation of a dwelling in the location of an existing two storey unit. The proposal would be situated 134m away from Castle Hill Road, it is considered that this distance would help to mitigate against the scale of the proposal. As such, the siting of the building is considered acceptable in this instance.

Design and External Appearance

The existing structure is made of natural stone which replicates the materials used in the existing structure and the neighbouring dwelling.

The structure is located within the Green Belt.

It is considered that the proposed structure would have a maximum height of 13m and feature four storeys of accommodation, officers have considered the

context of the site and its relation to neighbouring development and considered that the scale and design of the proposal would not be in keeping with development in the immediate vicinity of the site.

It is acknowledged that the proposal would be set some distance from the public realm; however, officers consider that the proposal should be reduced in scale to reflect the prevailing character of the area and appear more in-keeping.

It is considered that due to the scale location and design of the proposal would not adhere to policy LP24 in terms of visual amenity.

Future occupiers

Natural light provision

Officers have reviewed the floor plans provided to support the application and all rooms have been provided with adequate fenestration on all elevation.

Noise

There are no commercial buildings in close proximity to the site and therefore no significant concerns regarding noise.

Residential amenity of neighbouring residents

It is acknowledged that the application is for a prior notification; however, in order to give context to the proposals impact on the residential amenity of neighbouring assessment it is considered that LP24 of the Kirklees Local Plan and the House Builders Design Guide are considered relevant in this instance.

Policy LP24 c), sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Builder's Design Guide SPD goes into further detail with respect to Key Design Principle 6 on maintaining high standards of residential amenity.

Principle two of the Kirklees House Builders Design Guide 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.'

Castle House

Adjoins the application site east 19.7m to the east which is understood to be a residential property.

Overlooking: The proposal would feature 11 windows on its eastern elevation which would be 19.7m away from the rear of Castle House. It is considered that the usual acceptable separation distance between habitable room windows is 21m and therefore there would not be sufficient separation distance between the properties to limit an unacceptable overlooking relationship. This would be discordant with principle 6 of the house builders design guide SPD.

Overshadowing/loss of light: The proposal would have a maximum height of 12.8m and be situated to the west of Castle House. It is considered that although the proposal would be significantly taller than Castle House no significant issues would be raised regarding overshadowing/loss of light due to the separation distance between the dwellings.

Overbearing: The proposal would be located to the west of Castle House and 19m away. It is acknowledged that it is the rear of Castle House which would be impacted by the proposal, but it is considered that the increased scale of the proposal in conjunction with the reduced separation distance would result in an unacceptable overbearing relationship to the occupiers of Castle House.

Impact on neighbouring businesses

There are no other commercial properties within the immediate vicinity of the site.

Impact heritage and archaeology

The site is not within close proximity to any Listed Buildings, Article 2(3) Land or any archeologically sensitive sites.

Method of demolition

Details of demolition have not been provided to support the application, but it has been clarified that the building would be demolished by hand using scaffolding. This would be a top-down approach and is considered acceptable in this instance.

Landscaping plans

No details of landscaping have been provided in this instance; however, the site is within the Green Belt and already features hard standing, so this is preferential in this instance.

Impact to air traffic

N/A

Impact to protected Vista

N/A

Conclusion

- The purpose of the prior notification process is to apply to the Council to determine whether prior approval would be required as to: Transport, Contamination risks in relation to the new building, Flooding risks in relation to new building, design, appearance, natural light, residential amenity, Impact on business, Impact heritage and archaeology, Method of demolition, Landscaping plans, Impact to air traffic and Impact to protected vista

It is considered the existing use of the building does not fall within Class E(g) of the Use Classes Order 1987 (as amended) (formally Class B1) and thus cannot benefit from the general planning permission under Article 3(1) and Part 20, Class ZA of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015(amended).

Moreover, in the event it is demonstrated the building falls into Class E(g), from assessing the application it is concluded that the proposal would fail to accord with subparagraph (vi) and would not be permitted under Schedule 2, Part 20, Class ZA of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). In addition, it is considered that the proposal would not be of acceptable scale and mass given the context of the site and result in the loss of privacy of occupiers of Castle House by reason of proximity. Under these circumstances prior approval of the development would be required and is refused.

Recommendation:

Prior Approval Refused

Decision Authorisation - Delegated Powers

Application Number: 2024/90544

Officer Recommendation: Prior Approval Refused

I refer your submission for the demolition of buildings and erection of one dwelling. Prior approval would be required and is refused for your submission of details relating to the above application as it cannot be considered for the purposes of Schedule 2, Part 20, Class ZA of the Town & Country Planning (General Permitted Development) (England) Order 2015. This is because it would be located within a Hazardous Material Site thus failing to accord with paragraph (vi) and the scale and mass of the proposal would not be appropriate given the sites location in the Green Belt and context of neighbouring development.

It is considered the existing use of the building does not fall within Class E(g) of the Use Classes Order 1987 (as amended) (formally Class B1) and thus cannot benefit from the general planning permission under Article 3(1) and Part 20, Class ZA of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015(amended).

Moreover, in the event it is demonstrated the building falls into Class E(g), from assessing the application it is concluded that the proposal would fail to accord with subparagraph (vi) and would not be permitted under Schedule 2, Part 20, Class ZA of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). In addition, it is considered that the proposal would not be of acceptable scale and mass given the context of the site and result in the loss of privacy of occupiers of Castle House by reason of proximity. Under these circumstances prior approval of the development would be required and is refused

Plans and specifications schedule:-

Plan Type	Reference	WebID	Date Received
Existing Floor Plan	2377-D-20-013		26/02/2024
Proposed Floor Plan	2377-D-20-014		26/02/2024
Location Plan	2377-D-20-010		26/02/2024
Existing Site/Block Plan	2377-D-20-011		26/02/2024
Proposed Site/Block Plan	2377-D-20-012		26/02/2024
Existing Elevations	2377-D-20-015		26/02/2024
Proposed Elevations	2377-D-20-016		26/02/2024