

**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>2024/62/90664/E</b>
Site Address:	Unit C9a Ground Floor, Carlinghow Mills, 501, Bradford Road, Batley, WF17 8LN
Description:	Change of use from offices to nursery, erection of front porch, formation of parking area and associated external alterations (within a Conservation Area).
Recommending Officer:	Nicole Helliwell

**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.**

Kirsty Nicholls

***AUTHORISED OFFICER***

**Date:** 24-FEB-2025

## **Officer Report**

**Reference No.** 2024/62/90664/E

**Site Address:** Unit C9a Ground Floor, Carlinghow Mills, 501, Bradford Road, Batley, WF17 8LN

**Proposal:** Change of use from offices to nursery, erection of front porch, formation of parking area and associated external alterations (within a Conservation Area).

## **Site Description**

The application relates to Unit C9a Ground Floor within Carlinghow Mills, a three-storey building situated off Bradford Road in Batley. The wider area comprises a combination of residential and commercial properties of varying materials and architectural styles. There are no Public Rights of Way (PROW) or Listed Buildings within close proximity to the site. However, the site is located within the Cross Bank Conservation Area.

## **Description of Proposal**

The application seeks planning permission for the change of use from offices to a nursery. The proposal also includes the erection of a front porch, formation of a parking area and associated external alterations. Permission is not required for any internal alterations to the existing building and therefore, the only matters for consideration are the proposed change of use and external alterations. The details of the proposal are summarised below:

- The offices would be converted to a nursery
- The application form states that the proposed opening hours are Monday to Friday 7.00am to 18:30pm
- There would be 5 full time employees and 2 part time employees
- The nursery would care for 9 babies (up to 12 months) in the baby room and pre-school room and would provide childcare for up to 30 children (2-4 year olds).
- Front Porch (projection approx. 1.9m, eaves height approx. 3.35m and overall height approx. 3.4m)
- Erection of a 2m high black timber fence to create an outdoor garden area
- Formation of a parking area to create 9 off road parking spaces
- Alterations to the existing fenestration

## **Relevant Planning History**

- **2001/93796:** Erection of fire escape. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **95/93204:** Erection of 5 no. Industrial units and refurbishment of one existing unit, formation of new road layout, off street parking and alterations to entrance no. 1. – Conditional Full Permission

- **92/03979:** Erection of portable building for use as offices. [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 12<sup>th</sup> July 2024. As a result of the above publicity, no representations have been received.

### **Parish/Town Council Comments**

Not Applicable.

### **Local Ward Members**

Not Applicable.

### **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 – A Preliminary Roost Assessment or Bat Scoping Survey is required.

KC Environmental Health – Further information is required.

KC Highways Development Management – No objection

KC Lead Local Flood Authority – No comments

The Environment Agency – No objection subject to standing advice

KC Conservation and Design – No objection

### **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 UNALLOCATED on the Kirklees Local Plan Proposals Map and is located within the Cross Bank 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 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land and Buildings
- **LP 21** – Highway Safety and Access
- **LP 22** - Parking

- **LP 24** - Design
- **LP 27** - Flood Risk
- **LP 30** - Biodiversity & Geodiversity
- **LP 35** - Historic Environment
- **LP 49** - Educational and Health Care Needs
- **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 December 2024, 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 4** - Decision-Making
- **Chapter 6** - Building a Strong, Competitive Economy
- **Chapter 8** - Promoting Health and Safe Communities
- **Chapter 11** - Making Effective Use of Land
- **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** - Protecting and Enhancing the Historic Environment

**Assessment**

**1. Principle of development**

Policy LP1 of the Kirklees Local Plan states that when considering development proposals, 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.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *“good design should be at the core of all proposals in the district”*.

Paragraph 135 of the National Planning Policy Framework states that “planning policies and decisions should ensure that developments”:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- a) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; 40
- b) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- c) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- d) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- e) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users
- f) and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

This application seeks planning permission to change the use of the ground floor unit from offices to a nursery. Paragraph 135(c) of the NPPF sets out that *‘planning policies and decision should ensure that developments are sympathetic to the local character and history, including the surrounding built environment and landscape...’* Given the context of the existing uses of the application site and the surrounding premises which are predominantly commercial/industrial, it is considered that a nursery would conflict with the surrounding land uses and not be incongruous to the local character and the surrounding built environment. Furthermore, the proposal is considered to be an incompatible use in an area dominated by commercialised / industrial units. As such, the proposal would fail to accord with Paragraph 135(c) of the NPPF.

Furthermore, for reasons of being an incompatible use, the proposal would also fail to comply with Paragraph 135(f) of the NPPF, which seeks to *‘create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users....’*

Given the incompatible use of the site as a nurse, it is not considered that it would accord with Paragraph 135(f), failing to promote a high standard of amenity for existing and future users of the site and neighbouring premises.

This is evidenced through the noise concerns raised by KC Environmental Health within the 'Other Matters' section of the report. Therefore, to permit the development would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and would fail to be in the interest of proper planning.

## **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.”*

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.

### Front Porch

The proposed single storey extension would project approximately 1.9m from the north-eastern elevation of the existing building. The extension would be faced in stone and would incorporate a shallow mono-pitched roof finished in materials to match the appearance of the original build. The extension would be modestly proportioned and would appear subservient in relation to the original build. Furthermore, the enlargement would have limited visibility from public vantage points along Bradford Road. On this basis, it is considered that the proposed development would not have any significant visual impact on the character and appearance of the surrounding area.

### Formation of Parking Area

The proposal seeks to create a parking area to the east of the site. The submitted plans demonstrate that nine off road parking spaces would be created as part of the application. Although the proposal would alter the appearance of the site to a degree, it is considered that the alterations would not have a material impact on visual amenity.

### Alterations to Fenestration

The application also seeks to alter the existing fenestration within the south-east facing elevation of the original build. The submitted plans confirm that one of the existing windows would be removed and replaced with an opening to facilitate a separate access to the garden. Given that the proposed alteration would be in keeping with the appearance of the original build and would not detract from the character of the area, it is considered acceptable in terms of visual amenity.

### External Alterations

The submitted plans confirm that a fence would be erected to create a private enclosed outdoor garden area. The fence would be constructed in black timber and would measure 2m above ground level. Although the fence would have some visibility from public vantage points, it is not considered to have a detrimental impact on the character and appearance of the surrounding area given that there are a range of boundary treatments within the street scene.

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

### Historic Environment

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.

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 Conservation Area. As such, KC Conservation and Design were informally consulted on the application. Officers considered that the proposed works would be visually acceptable with regard to their scale, siting and design and would not harm the heritage significance of the conservation area. It is therefore considered that the proposed development would not cause any detrimental harm to the significance of the Cross Bank 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 outlined, 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 occupants.

The submitted plans confirm that no residential properties located to the north, east, west and south of the application site would be affected by the proposed works. Therefore, it is considered that the proposal would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site.

Having considered the above factors, the proposed works 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 116 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.

This application seeks approval to change the use of the existing offices to a nursery including the erection of a front porch, a parking area and associated external alterations. As such, KC Highways Development Management have been formally consulted on the proposed scheme.

The Design and Access Statement confirms that access to the site will be via the existing access from Bradford Road. The access to the main entrance of the nursery and garden will be fenced off for security and safety. The submitted plans also confirm that nine off-street parking spaces will be provided for the nursery. Whilst KC Highways Development Management have concerns regarding the lack of a pedestrian access into the site, due to the location, it is considered that most children will be taken to the nursery by

car. Therefore, given that ample off-street parking is shown to be provided for staff and for the drop off and pick up of children, it is considered that on-balance this application would be acceptable.

On this basis, it is 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, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

#### **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.

##### Flood Risk

The application site lies within Flood Zone 2, which is land defined by the planning practice guidance as having a medium probability of flooding. The application is for a children's nursery, which is considered to be a 'more vulnerable' land use in Annex 3 of the National Planning Policy Framework. Given that this proposal is within Flood Zone 2, it falls under flood risk standing advice. Whilst the proposal is in close proximity to a main river, the Environment Agency have confirmed that this is not a concern as no construction works would be undertaken close to the river wall. As such, the Environment Agency have raised no objections to the application but strongly recommend that standing advice (FRSA) is referred to. They note that 'if the Local Planning Authority are not satisfied that the proposals meet the requirements of FRSA, then the application should be refused'. In this instance, the information contained within the submitted flood risk assessment appears to meet the requirements of the flood risk standing advice. However, should the application be approved, this advice would need to be adhered to and a condition or footnote is recommended.

### Ecology

The application site is located within the bat alert layer on the Council's GIS mapping system. Therefore, KC Ecology confirmed that a Preliminary Roost Assessment or Bat Scoping Survey would need to be provided to support the application. This was later submitted by the agent. The report details that the proposed alterations would not affect bats and as such the building has negligible value to roosting bats. Furthermore, there will be no loss or fragmentation of foraging habitat and no impact to any other bat roosts in the area. On this basis, it was considered that no further surveys are required. However, an advisory note will be attached to the decision notice should the application be approved. If signs of bats are found, work should immediately cease and the advice of a suitable professional sought.

### Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors. It is therefore necessary for a footnote to be imposed restricting the hours of operation for the site.

### Contaminated Land

The site of the proposed outside garden play area is on land that is potentially contaminated due to its former use. The applicant's agent has confirmed that membrane will be applied to the outdoor play area prior to it being concreted. As such, KC Environmental Health have raised no objection in this regard.

### Noise

KC Environmental Health have raised concerns that the use of the proposed outdoor garden area would affect the frontage of the existing adjacent units due to the associated noise from the children playing. Having reviewed this and the surrounding site, it is considered that any mitigation measures would not be satisfactory and would only give rise to further issues in relation to amenity and incompatibility with adjacent land uses. As such, it is considered that the proposal would result in a harmful impact to the adjacent businesses and the future users of the nursery which would be contrary to Policies LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. Given that the principle of development is not acceptable and this issue could not be addressed, no further information was sought with regard to noise.

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

## **5. Representations**

No representations were received following the statutory publicity.

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

Amendments were received during the course of the application. A revised Flood Risk Assessment and Bat Scoping Survey were submitted to address KC Ecology and The Environment Agency's comments which were considered acceptable.

## **7. Conclusion**

This application for the change of use from offices to nursery, erection of front porch, formation of parking area and associated external alterations at Unit C9a Ground Floor, Carlinghow Mills 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.

The proposed development, by virtue of the intensification of the site, its incompatibility with the surrounding uses and the resultant implications in relation to noise, would result in a harmful impact to the adjacent businesses and the future users of the nursery. To permit the development would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and would fail to be in the interest of proper planning.

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. For the reasons set out above, it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

**Recommendation: Refuse**

**Decision Authorisation - Delegated Powers**

**Application Number:** 2024/90664

**Officer Recommendation:** Refuse

**Reasons for Refusal**

1. The proposed development, by virtue of the intensification of the site, its incompatibility with the surrounding uses and the resultant implications in relation to noise, would result in a harmful impact to the adjacent businesses and the future users of the nursery. To permit the development would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and would fail to be in the interest of proper planning.

**Plans and specifications schedule: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Revision</b>	<b>Date Received</b>
Existing Location and Site Plan	TR-A24-0202-001	1	28/05/2024
Existing Layout	TR-A24-0202-002	-	28/05/2024
Existing Elevations (North &	TR-A24-0202-003	Approver	28/05/2024

<b>Plan Type</b>	<b>Reference</b>	<b>Revision</b>	<b>Date Received</b>
South)			
Existing Elevations (East & West)	TR-A24-0202-004	Approver	28/05/2024
Existing 3D View	TR-A24-0202-005	-	28/05/2024
Proposed Location And Site Plan	TR-A24-0202-006	1	28/05/2024
Proposed Layout	TR-A24-0202-007	Approver	28/05/2024
Proposed Nursery Plan	TR-A24-0202-008	-	28/05/2024
Proposed Elevations (North & South)	TR-A24-0202-009	Approver	28/05/2024
Proposed Elevations (East & West)	TR-A24-0202-010	Approver	28/05/2024
Proposed 3D View	TR-A24-0202-011	-	28/05/2024
Proposed Area Plan	TR-A24-0202-013	Approver	28/05/2024
Bat Scoping Survey	-	-	05/09/2024
Design and Access and Heritage Statement	TR-A24-0202	-	28/05/2024
Flood Risk Assessment	81803.00.01R1	-	01/11/2024
Flood Risk Assessment Tick Sheet	-	-	01/11/2024
Climate Change Statement	-	-	28/05/2024

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 2024 and otherwise actively engaged with the applicant in dealing with the application.

Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. In this instance, no amendments to the scheme were sought on this occasion as the principle of development could not be supported.

**Report Dated: 14/02/2024**

