

**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:	2024/62/90936/W
Site Address:	Building off, Slaithwaite Gate, Scapegoat Hill, Huddersfield, HD7 4NS
Description:	Demolition of existing storage building and erection of new storage building
Recommending Officer:	Katie Chew

DECISION – Full Conditional 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 19-NOV-2024

Officer Report

Site Description

Building off, Slaithwaite Gate, Scapegoat Hill, Huddersfield, HD7 4NS

The application relates to a small parcel of land to the West of no. 12 Slaithwaite Gate, Scapegoat Hill. The building which stood on the site appeared to be in a tired state, however, it has been noted that works have been undertaken to stabilise and re-build this structure. Access is proposed to the north-east of the site, whereby clearance work has been undertaken and hard surfacing has been laid. This would allow the site to adjoin onto Slaithwaite Gate, a classified C Road (C560). It is pertinent to note that the work conducted at the site does not benefit from planning permission.

The site is situated within the Green Belt on the Kirklees Local Plan, with open fields to the West and South, along with existing residential properties to the east, south-east and north-west. The changes in topography within the area, also means that the site is within an elevated position in relation to the highway.

The application site is not located within a Conservation Area or in close proximity to any Listed Buildings.

Description of Proposal

The application seeks, to some degree retrospective planning permission, for the demolition of existing storage building and erection of new storage building. The building would measure:

- 15.4m in length
- 5.8m in width
- 3.6m in height

The building would be externally faced in timber boarding on a timber frame with profiled steel sheeting and solar panels to the roof. Internally there would be block walls and also blockwork columns to support the roof at either end of the building.

No details are provided within this submission to outline what the building would be used for should planning permission be granted, other than as a B8 use for storage or distribution.

The submitted application form states that there would be no employees at the site, although the agent has confirmed via email that there will be one single person coming and going from the site but that as it is not for a commercial use, they would not consider this to result in an employee. Two vehicle parking spaces are to be 'retained' as part of this proposal. However, the hard surfacing was recently introduced without the benefit of planning permission.

History of negotiations/amendments received

Additional information was sought following receipt of Highways Officers comments.

Relevant Planning History

2023/90497 – Demolition of existing storage building and erection of new storage building. Refused 5th April 2023. Appeal dismissed 9th January 2024. The conclusion of the above appeal includes:

'I have found that the proposal would not be inappropriate development in the Green Belt. However, I have found that there would be unacceptable harm caused to highway safety. This is a matter of overriding concern and to this extent there would be conflict with the development plan when considered as a whole'.

2022/92145 – Demolition of existing storage building and erection of new storage building. Refused 21st November 2022. This application was refused as:

"1. The application site is located within the designated Green Belt, whereby as set out in the National Planning Policy Framework (NPPF), most development, subject to certain exceptions, is regarded as inappropriate. Policies LP57 and LP59 Kirklees Local Plan and Paragraph 149 (d) and (g) of the National Planning Policy Framework outline exceptions where the replacement of buildings and development of Brownfield sites could be appropriate. However, the replacement building is not within the same use as the existing building, nor is the site Brownfield land, thereby failing to accord with the above policies. The proposed development would therefore constitute inappropriate development in the Green Belt. Furthermore, the development would cause significant harm to the openness of the Green Belt and visual amenities of the Green Belt through introducing a new urbanising track (hardstanding) and domestic appearing building in the open countryside, and through the intensification of the site. There would also be conflict with one of the purposes of including land within Green Belts. There are no very special circumstances to clearly outweigh the harm to the Green Belt caused by reason of inappropriateness and other harm. The proposal is therefore contrary to Policies LP24, LP57 and LP59 of the Kirklees Local Plan and Chapters 12 and 13 of the National Planning Policy Framework.

2. The proposed use of the site for commercial operations would lead to new and increased vehicular activity at the site, with limited space being provided for vehicles to turn and manoeuvre so as to exit the site in a forward gear onto a classified road, or park off of the classified highway. In addition, it is also unclear whether the access onto the classified road is substandard in both geometric and vision terms. It is therefore considered that the increased traffic movements generated as product of this proposal, would unacceptably increase the risk to the safety of highway users, especially in the immediate

vicinity of the access (including pedestrians). This harm is further compounded due to the lack of footways along this part of Slaithwaite Gate. The proposal is therefore contrary to Policies LP21 and LP22 of the Kirklees Local Plan, the Council's adopted Highways Design Guide SPD and Chapter 9 of the National Planning Policy Framework".

2004/91696 – Demolition of existing building and outline application for erection of 1 dwelling. Refused 28th May 2004. This application was refused as:

"(1) The site lies within an area which has received approval as Green Belt within which it is intended that new development be severely restricted. The proposal would injuriously affect the rural character of the surrounding countryside and such development is neither appropriate to the Green Belt nor are there any special reasons why it should be permitted in this case.

(2) The access is not acceptable as it has not been shown that visibility, access, gradient and internal turning facilities are adequate and to accord with Policy T10 of the Unitary Development Plan".

94/94044 – Erection of detached dwelling. Refused 31st January 1995.

Planning Enforcement

COMP/22/0094 – Alleged unauthorised outbuilding/construction. Pending consideration.

Representations

Final publicity date expires:

Neighbour Letters – Expired 29th October 2024.

1 objection has been received; comments are summarised below.

- Concerns in respect of loss of privacy of neighbouring properties.

Officer note: *Noted. Residential amenity is discussed in more detail within the residential amenity section of this report.*

- Concerns in regard to a potential security risk to neighbouring properties from any persons working at the unit or undertaking deliveries.

Officer note: *Noted. However, the Council's Designing Out Crime Officers have not raised any comments/objections on the application and therefore there is considered to be minimal risk of this arising from the proposals.*

- Concerns in respect of noise, light pollution and disturbance from the unit on neighbouring residents and wildlife.

Officer note: *Noted. The Council's Environmental Health Officers have been consulted on the proposals, their comments can be found under the consultation responses and residential amenity sections of this report. Impacts on wildlife is also discussed in more detail within the biodiversity section of this report.*

- No information has been provided in respect of the proposed opening hours of use for the site.

Officer note: *Noted. The Council's Environmental Health Officers have been consulted on the proposals, their comments can be found under the consultation responses and residential amenity sections of this report.*

- Concerns in respect of access, sightlines and manoeuvrability within the site for vehicles.

Officer note: *Noted. The Council's Highways team have been consulted on the proposals, their comments can be found under the consultation responses and highway safety sections of this report.*

- This new application has not addressed any of the issues raised in the objections against the previous 2 applications submitted by the same landowner.

Officer note: *Noted.*

- This area of Scapegoat Hill is purely residential and there are no other commercial buildings in this part of the village. Allowing such a venture would set a precedent to potentially allow future developers to ruin what is a beautiful and safe family-orientated area within Kirklees.

Officer note: *Noted.*

- The current application has simply just changed the aesthetics of the previously proposed storage building (2023/90936) to one with a building that is slightly less industrial looking. However, the proposed use of the land has the same intention of introducing a commercial unit into this area of Scapegoat Hill.

Officer note: *Noted.*

- Previous commercial and residential building applications on this plot of land have been rightly rejected, the reasonings of these previous rejections are relevant today.

Officer note: *Noted.*

Officer note: We are currently undertaking the legal statutory publicity requirements as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, details of which are outlined above.

Consultation Responses

KC Highways Development Management – Comments received 6th November 2024. Highway Officers do not support the scheme as submitted as the submission does not provide a revised layout showing the gradient of the access road to ensure that the gradient of the access road meets the requirements of the Kirklees Highway Design Guide SPD, a swept path analysis to show that a Kirklees fire service vehicle can both access and turn within the site, in the case of an emergency, details of waste storage and collection, with the location of a waste collection presentation point being clearly marked on a drawing, and a revised layout showing that any gates to the site are set back.

Officer note: *Following receipt of the above comments, the applicant's agent sought to submit further information via email on the 14th November 2024. This email outlines that the access has been used, safely, for many years at the current gradient and it is not changing, the levels on site mean such a large turning circle would require excessive work to the landscape; the access is within hose distance. Furthermore, no waste will be created as the use is very low key with a single person using the premises. The applicant's agent has also requested that a condition is imposed in relation to the installation of gates at the site access. Highways Officers have assessed this additional information and note that whilst it would have been preferable to provide turning within the site for a fire appliance, the application is low key, and the building is within 45m from the adjacent highway albeit with a steep gradient. Highway Officers therefore confirm that the application is acceptable subject to conditions in relation to the visibility splay being kept for the lifetime of the development and in relation to the provision of gates at the site access.*

KC Environmental Health – Comments received 7th October 2024. Environmental Health Officers note that they submitted comments dated 06 March 2023 under ref 2023/90497 and these remain as do their recommended conditions and informatives (as amended) which relate to electric vehicle charging points, reporting of unexpected contamination, hours of use and construction site working times.

Parish/Town Council

N/A.

Local Ward Members

None.

Planning Policy Background

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

The application site is located within the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP10** – Supporting the rural economy
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP26** – Renewable Energy
- **LP28** - Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP51** – Protection and Improvement of Local Air Quality
- **LP52** – Protection and Improvement of Environmental Quality
- **LP53** – Contaminated and unstable land
- **LP57** – The extension, alteration, or replacement of existing buildings
- **LP59** – Brownfield sites in the Green Belt

Other Guidance Documents:

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

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20th December 2023, 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed and beautiful places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

Summary of Principal Planning Issues

The following matters are considered in the assessment below -

- 1) Principle of development
- 1) Impact of the proposed development upon visual amenity
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety
- 4) Other matters
- 5) Conclusion

1 - Principle of Development and Visual Amenity:

1.1 – Sustainable Development

Policy LP1 of the Kirklees Local Plan (KLP) and Chapter 2 of the NPPF, 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.

1.2 – Land Allocation (Green Belt)

As outlined above, the application site is located within the Green Belt in the Kirklees Local Plan.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt, with one such purpose being to '*assist in safeguarding the countryside from encroachment*'.

Paragraph 152 of the NPPF states that inappropriate development should not be approved except in 'very special circumstances'. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraphs 154 or 155 of the NPPF.

Paragraph 154 sets out the following exceptions:

- a) buildings for agriculture or forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries, 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;
- c) 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;
- d) the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces;**
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);
- g) limited infilling or the partial/complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), so long as the proposals would not have a greater impact on the openness of the Green Belt than the existing development.**

The definition of previously developed land as set out in the NPPF glossary includes 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 structure.

Paragraph 155 of the NPPF states that certain other forms of development are also not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of a permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

In terms of local policies, policy LP59 of the Local Plan is important to note as this relates to brownfield sites in the Green Belt. This policy states that 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;
- b. in the case of partial or complete redevelopment the extent of the existing footprint is not exceeded; and
- c. redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for.

Policy LP57 of the Kirklees Local Plan relates to the extension, alteration or replacement of existing buildings within the Green Belt. It notes that proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that:

- a. in the case of extensions, the original building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and of other associated buildings will be taken into account. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building;
- b. in the case of replacement buildings, the new building must be in the same use as and not be materially larger than the building it is replacing;
- c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access; and
- d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

Whether the proposal is inappropriate development in the Green Belt

In relation to the above exceptions listed, the proposals seek to demolish an existing building and replace it with a building to be used for storage/distribution (Use Class B8).

Whilst the proposed building would not be materially larger than the building that it is to replace, there are some queries in respect of the existing/previous use of the current building on site. It has been argued by the applicant previously that the building was originally constructed as a kennels in the late 1950s and was then used for personal storage before being used for storage in connection with a building/roofing business until around 2008, and then used by the family for storage for around a further eight years. From that time the building has said to have been used less intensively for storage purposes by the family.

No lawful development certificate to establish the lawful use of the building has been submitted to the Council to clarify this position, and therefore as

outlined within the recent appeal, Appeal Ref: APP/Z4718/W/23/3323209, the Planning Inspector concluded that *'on the balance of probability and on the available evidence before me, it has not been sufficiently proven that the building has been used for B8 storage continuously for 10 years. The appellant has not therefore reasonably made the case that the building has a lawful B8 storage use. As such, I am not satisfied that the proposed building would be in the same use as the one that would be replaced. Consequently, the proposal would not be compliant with the first test of paragraph 154 d) and Policy LP57b'*.

Officers concur with this conclusion.

In respect of LP59 of the Kirklees Local Plan, Officers originally raised concerns in respect of whether the site could be classified as being brownfield land, due to the lack of informal hardstanding at the site, use of the building and state of abandonment of the existing building which has been vacant for a number of years. There were also concerns in relation to the sites elevated position which would be viewed within the wider landscape. Nevertheless, within the recent appeal decision Ref: APP/Z4718/W/23/3323209, the Inspector concluded that they have assessed the proposal on the basis of what has been applied for, which is the demolition of an existing storage building and the erection of a new storage building, and two parking spaces, therefore the reference to hardstanding at the site is not relevant on this occasion. The application form states that no new or altered vehicular or pedestrian access to or from the public highway is proposed and no new public roads would be provided within the site.

The Inspector goes on to mention that no clear evidence is presented to substantiate the use of the building, and that the appellant's evidence contends that the building has ever been used for agricultural purposes. They therefore conclude that the site could be reasonably classed as previously developed land. The building is also not considered to be materially larger than the building that is on the site, it would have the same footprint, and it would be in the same location, and a condition could be imposed to ensure that the proposed parking would be located near to the building. The Inspector did not consider the inclusion of two parking spaces and the associated vehicle movements to not intensify the use of the site to the extent that it would result in a development with a greater impact on openness than the existing development in either spatial or visual terms, notwithstanding its elevated position. The Inspector therefore concluded that the proposal would not meet the requirements of paragraph 154 d) of the Framework and Policy LP57 of the Local Plan, but it would meet the requirements of paragraph 154 g) of the Framework and Policy LP59, and therefore, the proposals would constitute a type of development that is not inappropriate in the Green Belt, and would accord with the requirements of Chapter 13 of the Framework and Policy LP59 of the Local Plan, as summarised above. It would also accord with the design objectives of Chapter 12 of the Framework and Policy LP24a of the Local Plan which requires that development respects and enhances the character of the townscape, heritage assets and landscape amongst other matters.

Taking the above assessment into account, Officers concur with this conclusion and consider that to come to a different conclusion would be unreasonable.

2 - Impact on Visual Amenity

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”.

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.

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...”

The proposed building is to measure approximately 15.4m x 5.8m, with a ridge height of around 3.6m, and is to be of a simple, functional and utilitarian design. The building would be externally faced in timber boarding on a timber frame with profiled steel sheeting and solar panels to the roof. Taking the above into account, it is in officer’s opinion that the proposed materials are considered to be practical and appropriate to the end use and reflect the materials and design of the building which currently exists at the site and is to be replaced.

Taking all of the above into consideration, the proposals are considered to be of a scale, size and design which is appropriate for the proposed end use of the building and is deemed to be sympathetic to the semi-rural context of the surrounding area. The proposals therefore accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3 - Impact on Residential Amenity

Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should:

“Maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers’.

Further to this, paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development. Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

In terms of the built form and given the site's relationship with the nearest residential properties at The Noddle and nos. 8, 10, 12, and 16 Slaithwaite Gate, Officers are satisfied that there would be no material overbearing or overshadowing from the scheme as proposed. In terms of openings, the plans show several windows to be inserted into the front and side elevation, however separation distances in excess of 21m would be provided to all of the above properties and therefore given the above, and the proposed use of the building, Officers are satisfied that there would be no undue loss of privacy on this occasion.

Alongside the above, the proposals show that stores are to be provided within the building, this would undoubtedly intensify the use of the building which appears to have been left vacant for a number of years. As such KC Environmental Health (ENVH) Officers were formally consulted from a noise and disturbance perspective, in line with Policies LP24 and LP52 of the Kirklees Local Plan.

Whilst no significant concerns were raised in terms of the impact on neighbouring amenity, ENVH Officers do request the need for conditions and informative notes to be added to a decision notice in the case of an approval in relation to hours of use and site working times at the site. This is considered to be sufficient to overcome concerns in relation to any potential impacts arising from the proposed storage building on the amenity of nearby sensitive receptors in the future.

Taking into account the above assessment, and subject to the recommended conditions and notes, the proposal is considered to be acceptable from a residential amenity perspective and would accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF.

4 - Impact on Highway Safety:

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

This application is a resubmission of application No. 2023/90497 for the demolition of existing storage building and erection of new storage building at Slaithwaite Gate, Scapegoat Hill, Huddersfield, HD7 4NS. Given the nature of the proposals the Council's Highways Officers have been consulted. Officers did raise initial concerns in respect of the gradient of the access road, requested the submission of a swept path analysis to show that a Kirklees fire service vehicle can both access and turn within the site, in the case of an emergency, details of waste storage and collection, and a revised layout showing that any gates to the site are set back. The applicant's agent did respond to these concerns via email on the 14th November 2024 outlining that the access has been used, safely, for many years at the current gradient and it is not changing. The levels on site mean such a large turning circle would require excessive work to the landscape; and the access is within hose distance. Furthermore, no waste will be created as the use is minimal with a single person using the premises. The applicant's agent has also requested that a condition is imposed in relation to the installation of gates at the site access.

Highways Officers have assessed this additional information and note that whilst it would have been preferable to provide turning within the site for a fire appliance, the application is minimal in relation to traffic movement, and the building is within 45m from the adjacent highway albeit with a steep gradient. Highway Officers therefore confirm that the application is acceptable subject to conditions in relation to the visibility splay being kept for the lifetime of the development and in relation to the provision of gates at the site access.

As such, subject to conditions, it is concluded that the scheme would not represent any additional harm in terms of highway safety and would therefore comply with Local Planning Policies LP21 and LP22 and Chapter 9 of the National Planning Policy Framework.

5 - Other Matters:

Biodiversity

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

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Whilst the proposal relates to the demolition of a building, as the site is not situated within a bat alert layer and given its construction, it is considered unlikely to accommodate roosting bats.

A 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 2nd April 2024 (for minor and other applications) 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.

Within the submitted application forms the applicant states that the proposals would be exempt from Biodiversity Net Gain (BNG) conditions as the building measures 90m² and falls under the temporary exemption for non-major developments (small sites exemptions). However, Officers note that this exemption was only valid until April 2024 and therefore no longer applies. Nevertheless, the applicant has provided a Biodiversity Accounting Assessment Report, The Statutory Biodiversity Metric and a Condition Sheet.

These documents show that the proposed development will result in a net loss of -0.11 habitat biodiversity units, which is equivalent to a net loss of 100%. In addition, the proposed development has not satisfied the trading rules as a deficit of -0.03 for medium distinctiveness heathland and shrub – mixed shrub and a deficit of -0.09 for low distinctiveness sparsely vegetated land. JCA Ltd (author of the Biodiversity Accounting Assessment Report) state that the applicant will be required to undertake one or a combination of the below recommendations to achieve an overall biodiversity net gain in habitat biodiversity units whilst meeting the Trading Rules:

- Incorporate onsite habitat creation/enhancement to compensate for the loss of medium distinctiveness habitat to achieve a minimum of 10% net gain whilst satisfying the Trading Rules. This can be achieved by incorporating **0.12** habitat units of medium distinctiveness heathland and shrub – mixed shrub, or **0.12** habitat units of any higher distinctiveness habitat.
- If onsite habitat creation/enhancement is not possible, then offsite habitat creation/enhancement will be required. This can be achieved by the purchase of additional land designated as a compensatory biodiversity offset site to compensate for the loss of **0.12** habitat units for medium distinctiveness heathland and shrub – mixed shrub and satisfy the Trading Rules.
- If neither onsite offsite compensation is possible, statutory biodiversity credits will need to be purchased as a last resort. Guidance can be found at <https://www.gov.uk/guidance/statutory-biodiversity-credits>.

Under the legislation, a condition is in place by law. The biodiversity gain condition has its own separate statutory basis, as a planning condition under

paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As such, it is not considered necessary nor reasonable for any further condition to be in place upon any grant of permission given the statutory requirements in relation to biodiversity. However, an informative note will be included to highlight this requirement to the applicant

Contaminated Land

With regard to land quality, Chapter 15 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

KC Environmental Health have been formally consulted as part of this application and have identified the site as being potentially contaminated land due to its proximity to an historic quarry (Site 31/8). Therefore, in the case of an approval, a condition regarding the finding of unexpected land contamination should be attached to the decision notice. This is to comply with Policy LP53 of the Kirklees Local Plan.

Drainage

Policies LP27 and LP28 of the Kirklees Local Plan, as well as Chapter 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul/surface water drainage and flooding risk.

No detailed information has been provided in regard to the proposals providing an adequate system of foul water drainage which will be required by building regulations. The Council's Environmental Health Officers wish to remind the applicant of the requirement to ensure a sufficient system is in place for the numbers of site users and to protect the amenity of nearby sensitive receptors and any nearby watercourses. They recommend that specialist advice be sought for the design and installation of a small sewage treatment system which should meet the relevant standards. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any discharge from a wastewater treatment system is likely to require a consent from the Environment Agency who may need to be consulted on the application.

This above information is to accord with Policies LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF. It is considered that this matter could be conditioned

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.

Furthermore, Local Plan Policy LP26 refers to renewable and low carbon energy and states that:

'renewable and low carbon energy proposals (excluding wind) will be supported and planning permission granted where the following criteria are met:

- a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;*
- b. the proposal would not have either individually or cumulatively an unacceptable impact on protected species, designated sites of importance for biodiversity or heritage assets;*
- c. the statutory protection of any area would not be compromised by the development;*
- d. any noise, odour, traffic or other impact of development is mitigated so as not to cause unacceptable detriment to local amenity;*
- e. any significant adverse effects of the proposal are mitigated by wider environmental, social and economic benefits.*

In this case the applicant has submitted a Climate Change Statement in support of the application. This statement outlines that the applicant will:

- Insulate the building in any areas necessary;
- On site materials will be re-used where possible;
- Planting is to be carried out;
- Solar panels are to be installed to the building.

Taking the above into account, the proposed development is therefore considered to comply with Policy LP26 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

There are no other matters for consideration.

6 - Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that,

subject to conditions, the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2024/90936

Officer Recommendation: Approve with conditions.

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

1. The development hereby permitted shall be carried out in 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, to preserve the openness of the Green Belt and to accord with Policies LP1, LP2, LP3, LP7, LP10, LP21, LP22, LP24, LP26, LP28, LP30, LP32, LP51, LP52, LP53, LP57 and LP59 of the Kirklees Local Plan and Chapters 2, 4, 6, 9, 11, 12, 13, 14 and 15 of the National Planning Policy Framework.

2. Before the electrical system is installed, a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 16A (3.5kW) for at least 10% of non-residential parking spaces
- For developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) Fast (7-23kW) or Rapid (43kW+) charging points will be more appropriate. If Fast or Rapid charging points are proposed together with restrictions on the times that vehicles are allowed to be parked

at these points, then a lower number of charging points may be acceptable.

The agreed dedicated facilities for charging electric vehicles are to be installed, maintained and retained thereafter.

Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of policies LP20, LP24 and LP47 of the Kirklees Local Plan, Chapters 2, 9 and 15 of the National Planning Policy Framework and the West Yorkshire Low Emission Strategy (WYLES).

3. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission 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.

4. The site shall be developed with separate systems of drainage for foul and surface water on and offsite, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. There shall be no pump stations used for the discharge of foul and surface water from the site.
Reason: This pre-commencement condition is necessary to ensure that all site drainage measures are agreed at an appropriate stage of the development process to prevent and manage flooding and drainage issues at the development site, in accordance with Policies LP27 and LP28 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.

5. The premises, shall not be open for business including deliveries to or dispatches from the premises, outside the hours of:

- 0730hrs and 1830hrs Monday to Friday and
- 0800hrs to 1300hrs Saturdays.

No activities shall take place on Sundays or Bank Holidays

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) any gates or barriers for or over a vehicular access or egress shall be set back 5m from the edge of the adopted highway and shall be hung as to only open inwards. So long as such gates or barriers are in position, they shall be retained to only open inwards.

Reason: In the interests of highway safety and to avoid the need for vehicles to wait in the highway. This is to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

7. Sight lines (2.4m x 43.0m visibility splays along Slaithwaite Gate) as indicated upon approved drawing no. PRGN-2301-HGN-DR-CH-0001 'Preliminary Access Proposal' shall be retained, unobstructed, for the lifetime of the development.

Reason: In the interests of access and highway safety to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

NOTE: Construction Working Times -

No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours Saturdays

With no construction related noise audible beyond the site boundary on Sundays or Bank/Public Holidays.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act

1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE: Contaminated Land -

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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: Electric Vehicle Charging Points -

A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof. The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity. The installation must comply with all applicable electrical requirements in force at the time of installation.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Planning Drawing.	P01	C	29 th April 2024
Preliminary Access Proposal	0001	-	24 th September 2024
Supporting Information	-	-	3 rd April 2024
Climate Change Statement – Supporting	-	-	18 th April 2024

Information			
Biodiversity Accounting Assessment Report – Supporting Information	22192/RW	-	
The Statutory Biodiversity Metric – Supporting Information	-	Version 1	18 th September 2024
Statutory Biodiversity Metric Condition Assessments – Supporting Information	-	-	18 th September 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 Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Additional information was sought following on from receipt of Highways Officers comments.

INFORMATIVE NOTE – Biodiversity Net Gain:

Based on the information available, this permission is considered to be one which requires the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not ‘major development’ (within the meaning of [article 2\(1\) of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)) where:

- i) the application for planning permission was made before 2 April 2024;
- i) planning permission is granted which has effect before 2 April 2024; or
- ii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- i) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.4 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- i) is carried out on a site which has an area no larger than 0.5 hectares; and

- ii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high-speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- i) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the

conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Report Dated:

15th November 2024.