

**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>2024/62/91244/W</b>
Site Address:	Carters Barn, Hollins Lane, Slaithwaite, Huddersfield, HD7 5JE
Description:	Part change of use of dwelling to convert bedroom into gymnasium to facilitate personal training sessions
Recommending Officer:	Tom Hunt

**DECISION – CONDITIONAL FULL PERMISSION**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

John Holmes

***AUTHORISED OFFICER***

**Date:** 7<sup>th</sup> August 2024

## **Officer Report**

### **Site Description**

2024/91244 – Carters Barn, Hollins Lane, Slaithwaite, Huddersfield, HD7 5JE

The application site relates to Carters Barn, Hollins Lane is a detached residential property. It is constructed from natural stone with a tiled roof and benefits from a projecting dual pitched gable to the rear.

Currently pedestrian and vehicular access can be taken from the site, along Hollins Lane, an unadopted access track that also forms public footpath COL/125/10. The site has five existing off street car parking spaces. The property benefits from a detached 'roof-less' outbuilding to the North East in which appears to be original. Land levels fall within the site and the wider area from the East to the West.

The site is located within a small cluster of dwellings, as it is situated within the Green Belt on the Kirklees Local Plan.

### **Description of Proposal**

Part change of use of dwelling to convert bedroom into gymnasium to facilitate personal training sessions

The proposal seeks to use a first floor bedroom as gym to deliver private 1:1 personal trainer sessions on a part time basis between Monday to Friday 08:15-20:00 and Saturday 08:15-14:00. On average, 10-12 clients visit the property on Tuesday to Saturdays only with occasionally an evening appointment. This would be Use Class **E(d)** Indoor sport, recreation or **fitness**.

Clients park to the side of the barn and enter the gym via an external separate entrance door at the side of the property.

No external alterations are proposed. Access to the property and layout of existing parking would not change.

The application form states that this use was in effect from 08/03/2021 but the agent states that this was from June 2022.

**Officer note:** Plans indicate a previously permitted access route bypassing Carters Farm (application ref. 2021/92403.)

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

The Case Officer received an additional statement from the agent following representations.

### **Relevant Planning History**

- 95/91933 Re-use of existing barn and extension to form dwelling.  
*Conditional Full Permission.*
- 97/93269 Erection of conservatory and landfilling excavated ground.  
*Conditional Full Permission.*
- 99/91175 Reuse, extension and adaptation of existing barn to form dwelling and change of use and alterations to existing outbuilding for ancillary domestic use.  
*Conditional Full Permission.*  
**Officer note:** Permitted Development Rights are removed:
- on erection of buildings and extensions and
  - limiting the garage to be for garaging private motor vehicles or for uses ancillary to the enjoyment of the dwellinghouse only.
- 2021/92403 Erection of detached double garage.  
*Conditional Full Permission.*  
**Officer note:** the proposal included a garage with new access driveway. This does not appear to have been built yet however it is still extant until 08 October 2024. It is noted that the garage or driveway have not had any restrictive conditions placed.

*Enforcement History:*

- COMP/23/0526 Alleged change of use (dwelling) to commercial gymnasium (Use Class E).  
Referred to make a planning application.

**Representations**

We are currently undertaking 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, site notice and press publicity which had a final expiry date of 12/07/2024.

One representation have been received Objecting to the scheme; a summary of the comments received is set out below:

- Loss of privacy and nuisance due to shared access used by clients.
- Gym is used by other trainers with an increased number of visitors.
- Frequency of visitors is higher than that set out in the application.
- No stated limit to the levels of activity for the future.
- A bookkeeping business is run from home and client visits for this are not stated.
- Clients visiting regularly overlap compounding traffic issues.

**Officer note:** This is assessed within the Residential Amenity section of the report.

- Hollins Lane is a single-track road and clients make use of a garden space so that others can pass. Occasionally clients do not pass due to inexperience and unfamiliarity with the route which causes issues for traffic.
- There is poor intervisibility between highway users.

**Officer note:** This is assessed within the Highway Safety section of the report.

- Planning notices have not been posted.

**Officer note:** Site notices have been posted at the mouth of Hollins Lane and at the entry point of the pedestrian link of the PROW into the driveway. This was in accordance with statutory requirements.

- The private driveway's retaining wall is being damaged by the volume of traffic as well as the weight.

**Officer note:** This is not an adopted highway so any damage to property handled via legal routes of redress. The Highway Structures Officer was consulted and on review agreed that they had no comments.

- A concrete slab was installed, circa the start of business operations, so external alterations have been made.

**Officer note:** This is assessed within the Green Belt section of the report for avoidance of doubt.

- Any business related effluent passes through a shared septic tank designed for domestic use only.

**Officer note:** Associated drainage is considered to be at a scale whereby it would be unreasonable of the LPA to require details of foul / surface water arrangements to be submitted as part of the application. Any subsequent additional costs associated with private drainage infrastructure is a legal matter between parties involved.

- Plans do not show the access/egress route which impacts on privacy however an additional proposed driveway is shown.

**Officer note:** The plans demonstrate this on the Location Plan.

## **Consultation Responses**

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

- Highway Structures: No comment
- Highways Development Management – Informal response. Support with conditions

Notwithstanding the fact no response has been received from the Highways Development Management Team, it is considered the LPA is still able to assess and determine the proposal.

## **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 within the Green Belt on the Kirklees Local Plan.

## **Kirklees Local Plan (LP):**

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 10 – Supporting the rural economy
- LP 13 – Town centre uses
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design

## **Supplementary Planning Guidance and other considerations**

- Highways Design Guide SPD

## **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 9 – Promoting sustainable transport
- 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

## **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology
- 6) Representations
- 7) Conclusion

### 1 – Principle of development:

#### *1.1 Sustainable Development*

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive 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 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 Green Belt*

The site is within the Green Belt. The NPPF supports certain forms of development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The Kirklees Local Plan does not have specific Green Belt policies on changes of use to a domestic building however other policies apply.

There are two matters to be addressed.

Outside of this application’s purview, but included as part of the third party representation received for avoidance of all doubt, it is confirmed that the installation of a hardsurfaced slab for parking within a previous area for parking which was soft surfaced. This would form an engineering operation within the Green Belt which could be acceptable under paragraph 155b) of the NPPF being within a domestic curtilage and within an existing area of parking. As such, this would not be viewed as contrary to policy to preserve openness and the use of land within it.

Secondly, the partial change of use for one domestic room to be for a domestic style gym facility offering 1:1 personal trainer sessions. This limited change of use would not be regarded as affecting openness or the purposes of including land within the Green Belt and is considered to meet the requirements of paragraph 155e).

To conclude, the proposal would not be deemed as inappropriate development in the Green Belt and would be compliant with the aims of Chapter 13 of the NPPF.

### *1.3 Supporting the rural economy*

Chapter 6 of the NPPF and LP10 of the Kirklees Local Plan support the rural economy by supporting the needs of small enterprises and supporting sustainable home working.

Paragraph 89 of the NPPF states that it is *“important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).”*

The principle of supporting the partial change of use to provide 1:1 personal training sessions to a domestic building within the rural locality is considered to be acceptable however it is still subject to considerations including visual and residential amenity and highway safety to be assessed.

In addition, it is noted that the floor space given over to the gym is to be under 150sqm and so this would not require a sequential test for the purposes of LP13 of the KLP.

## 2 – Impact on visual amenity:

The proposal seeks no external alterations to the property and therefore there is a neutral visual impact to the property. It would therefore be acceptable and accord with Policy LP02 and LP24 of the Local Plan and Chapter 12 of the NPPF.

## 3 – Impact on residential amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should:

*“...provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses.”*

Further to this, Paragraph 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show 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 or have unacceptable impacts on the environment.

The proposal seeks to make use of a first floor domestic sized gym within a domestic property to have a partial change of use limited to the gym for 1:1 training sessions.

The property also contains a bookkeeping business which the agent has confirmed is primarily a desk based/office role which does not require physical visits. Officers concur that the nature of one bookkeeper is unlikely to contribute to a significant material change of use with communication permissible via online and call communication. However it follows that the nature of the personal training sessions would require face to face contact and a higher quantum of visitors for a physical activity contained within the property. This is confirmed within the statement.

The available access is via an existing driveway encircling Carters Farm, a domestic property. It is noted that there is a PROW running alongside the driveway but turning to the south west and curving at a distance away from the dwellinghouses. As such, on balance of probabilities, there is an expected degree of existing privacy to the northwest elevations of both properties as PROW users signposted by footpath signage do not walk in front of those elevations. The area is rural and isolated and as such, Officers concur that there would be a particular sensitivity to noise and nuisance in this setting. The received statement indicates that there was an existing expectation that passersby from the PROW would have intruded equally, however it is not considered likely PROW users would not venture in front of the property to the degree proposed by the change of use and its vehicular movements.

It is clear that at present the users of the 1:1 sessions use the driveway looping around Carters Farm to access Carters Barn. This would contribute towards a visual disturbance with associated amount of vehicular movements ('comings and goings') associated with the use, the types of vehicles visiting to the site as a result of the use, the closing of doors, general auditory noise and general nuisance. In addition, it appears that there would be cumulatively a higher quantum of visitors (10-12 per week) and normal domestic occupants beyond what would be expected of this isolated setting.

While the sources of noise and other impacts may be short-lived, those would have a cumulative effect on sensitive receptors in causing auditory disturbance and nuisance to nearby residents, which would go over and

beyond that expected of the quiet rural character of the site. Officers hold concerns about the impact of such a use upon the living conditions of neighbours as a result of the change of use.

Officers also have regard for the potential for opening hours stated to include an increase of those impacts extending into evenings and to further change the character of the pleasant and quiet rural setting to one whereby Carters Farm have the nuisance of vehicular traffic past their dwellinghouse to Carters Barn during a wide range of opening hours.

The agent confirmed in their additional statement that the sessions are arranged with 15 minutes between clients as this was previously not adhered to and created some disturbance with overlapping visitors. Officers consider that this would be a reasonable adjustment controlling the number of visitors at any one time and could be conditioned as such to ensure residential amenity.

Considering other matters, the 1:1 sessions in isolation would not be expected to excessively increase noise or other nuisances from the building to the neighbour being sited within an existing gym located at the rear of the Barn away from the northwest/front elevation of the closest neighbour. This is notable as the PROW runs behind those properties with an existing impact on privacy, noise and nuisance from PROW users and the bulk and massing of those properties would screen additional auditory outputs from this rear to this more secluded front elevation.

The agent in their statement confirmed that the extant application (2021/92403) will be commenced shortly before its permission period expires. This included a separate driveway to the east/southeast of the Barn which could provide sufficient access and parking for any visiting vehicles and to avoid use of the more private shared area outside the northwest elevation.

Officers consider that, with a condition to require the access to be across the site in the location as already approved by the extant consent, and that it is used by those visitors using the gym this would remove noise and nuisance from sensitive receptors at the northwest elevation of the neighbour which would be screened by the host and to the rear. It is noted that the gym floor plan indicates windows facing away from the neighbour with no side elevation windows to intrude further on the closest neighbour.

In addition conditions restricting the hours of use and the number of visitors is also proposed to ensure the impact of the development is within the remit of that for which consent is being sought and considered as part of this application. For avoidance of doubt, Officers recommend that the use of the gym should be restricted to only the permanent occupants of Carters Barn to operate that facility and to avoid subletting of the proposed use to other personal trainers to limit impacts on residential amenity.

*Other Residential Properties*

It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

#### 4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide is also considered to be of relevance.

Hollins Lane is a single track road shared with other dwellinghouses; the Carters are served by a dedicated shared driveway which encircles both properties of which a limited section is a PROW. It is noted that the variable frequency of visitors may increase overall traffic however the recommended condition to have 15 minutes between pre-arranged appointments should adequately control temporary congestion along this single-track route. Even as it is noted that a passing place is indicated to the southeast of the driveway, this would still not provide satisfactory passing places for Hollins Lane and be of limited mitigatory impact in its own right.

Sufficient parking and turning areas to the north of the host are demonstrated on plans. However Officers recommend a condition to have an access and parking scheme be submitted within 2 months post Decision to ensure that the suitable access as permitted within application 2021/92403 can commence without the need to make another planning application, if it is not substantially started in time, and to ensure residential amenity. The condition would also require measures to be put in place to have this alternate driveway signposted and communicated to clients to be for the use of visitor parking for the Barn. This would adequately resolve concerns raised around intervisibility between highway users and control impacts to the unadopted road. The driveway would not need conditioning to be drained adequately as this is already conditioned as such within application 2021/92403, however for avoidance of doubt, Officers recommend an informative to have the access and parking spaces adequately drained.

Third party representations received raised concerns over individual vehicular users and their varying level of driving experience which would be beyond the control of planning and cannot be considered.

Subject to conditions, this would comply with Policies LP21 and 22 of the Kirklees Local Plan, the KC Highway Design Guide SPD and Chapter 9 of the NPPF

#### 5 – 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 predates 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.

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

#### 6 – Representations:

One representation had been received, this is address earlier within the report.

#### 7 – 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.

Officers are guided to support rural economic enterprises while balancing their impacts under Chapter 6 of the NPPF and LP10 of the Kirklees Local Plan. Subject to the necessary condition to avoid detrimental impacts to the residential amenity of Carters Farm in this quiet rural setting, it is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation**

**Approve**

**Decision Authorisation - Delegated**

**Application Number:** 2024/91244

**Officer Recommendation:** Approve

**Conditions and Reasons**

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 to accord with Policies LP01, LP02, LP13, LP21, LP22 and LP24 of the Kirklees Local Plan, and Policies within Chapters 2, 12 and 14 of the National Planning Policy Framework.

2. Within two months of the date of this decision, a scheme shall be submitted to the Local Planning Authority which details the following: a) access and associated parking to the site to be used by all non resident visitors utilising the gym training facilities; b) surfacing to the access and parking area d) areas dedicated for parking for use of the gym training facilities by visitors; e) a management plan to ensure access by non resident users of the gym training facilities is via that as permitted by part a of this condition and f) signage to ensure access is taken in accordance with that as permitted by parts a and c of this condition. The approved scheme shall be completed within one months of the issuing of the written approval of the scheme by the Local Planning Authority and thereafter retained.

**Reason:** To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise, nuisance or disturbance within a private domestic area, to accord with the Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

3. The use hereby permitted shall be operated on a pre-arranged appointment basis only, with no more than one appointment present/attending at any time and with 15 minutes between each appointment.

**Reason:** To ensure that the proposed use 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 Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. The gym training facilities and services for business use shall not be open to customers outside the hours of:

- Monday to Friday 08:15-20:00 and
- Saturday 08:15-14:00
- And at no time on Sundays or Public Holidays.

**Reason:** To ensure that the proposed use 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 Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. The use of the gym on the submitted floor plan as a gym training facility shall be undertaken solely by permanent residents at Carters Barn, Hollins Lane, Slaithwaite, Huddersfield, HD7 5JE and shall at no time be sold, rented or served to be a separate independent business.

**Reason:** In the interests of highway safety, residential amenity and the viability of local centres to accord with Policies LP13, LP21, LP24 & LP52 of the Kirklees Local Plan and guidance contained within Chapters 7 and 12 of the National Planning Policy Framework.

**FOOTNOTE:** With regard to condition 2, the access and associated parking area shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the parking of vehicles.

**FOOTNOTE:** Public footpath Huddersfield COL/125/10 is adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works.

The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston. The Public Rights Of Way team email address is [publicrightsofway@kirklees.gov.uk](mailto:publicrightsofway@kirklees.gov.uk)

**FOOTNOTE:** Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected and that that the works carried out is lawful.

**FOOTNOTE:** 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.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Plans – Location Plan	-	Unamended	01/05/2024
Proposed Site Plan with Parking Layout	-	Unamended	23/05/2024
Floor Plans	-	Unamended	23/05/2024
Planning Statement	Planning Statement by	Unamended	01/05/2024

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
	Roger Lee Planning Ltd. April 2024.		
Email rec'd from agent	Statement	Unamended	01/08/2024
Climate Change Statement	-	-	23/05/2024

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 Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The Case Officer received an additional statement from the agent following representations, which was reviewed.

**Report Dated:** 02/08/2024