

**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:	2024/62/91664/W
Site Address:	26, Greenhill Bank Road, New Mill, Holmfirth, HD9 1ER
Description:	Change of use of land to residential curtilage and erection of part single and part two storey side extension including associated alterations
Recommending Officer:	John Holmes

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: 18-NOV-2024

Officer Report – 2024/91664

Site Description

The application site relates to an existing dwelling which is located in an isolated enclave of a few dwellings within a rural area between New Mill and Totties. There is open land to the north, east and south of the site. A number of dwellings, four in total, are located to the west and north-west of the site.

A public right of way runs to the south west of the site up the main access track, which is single width, and climbs a steep gradient from Greenhill Bank Road in a north and north-west direction.

The site incorporates an area of garden land to the south east (front) of the dwelling. An area of open land is to the north of the site which does not appear to form part of the residential curtilage. The garden land associated with the dwelling is demarked by fencing / walls which enclose an area of land to the south east of the property to the front of the principal elevation.

Beyond the eastern boundary of the garden, close to the boundary of the site with Greenhill Bank Road and around 42m from the front elevation of the dwelling is a disused and overgrown single storey prefabricated garage (approximate size of 5.5m x 3.5m).

Description of Proposal

The Scheme

The application is seeking planning permission for the change of use of land to residential curtilage and erection of part single and part two storey side extension including associated alterations

The land (adjacent to the north east elevation) which is the subject of this application to form part of the curtilage of the dwelling is 56m²

The proposed extension would see an additional 180m³ in terms of the built form additional volume which is proposed.

Supporting Information

In addition to the submitted plans the following documents have been submitted to support the application

- Biodiversity Net Gain Assessment dated 16th September 2024
- Planning Statement
- Climate Change Statement

The content of these documents is set out and discussed in more depth in the assessment section of this report.

Relevant Planning History

The following planning history is considered to be relevant in this case:-

2021/93965 – Erection of two storey side extension and associated external alterations, detached garage, formation of vehicular access including passing place and terracing to garden – **Refused** 29th March 2022 for the following reasons:

1. By virtue of their design, size and scale the extensions to the dwelling constitute disproportionate additions to the original dwelling which would no longer be the dominant element in appearance. This is inappropriate development in the Green Belt by definition. Further harm would be caused to the visual and spatial openness of the Green Belt by developing land that is currently open and, in part, the encroachment of development into the countryside (side extension). No very special circumstances have been demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policy LP57 of the Kirklees Local Plan and policies contained within Chapter 13 of the National Planning Policy Framework.

2. The detached garage to front of the dwelling, due to its separation to the host dwelling, is considered to constitute a new building in the Green Belt, rather than an extension to the dwelling. The building is regarded as inappropriate development in the Green Belt by definition as it does not fall into any of the exceptions set out in paragraph 149 of the National Planning Policy Framework. Further harm would be caused to the visual and spatial openness of the Green Belt by developing land that is currently open and by the associated hardstanding required for the garage. No very special circumstances have been demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policies contained within Chapter 13 of the National Planning Policy Framework.

3. The design of the proposed extensions, including the use of green oak detailing and significant areas of glazing, size, scale and siting, would be neither subservient to the host dwelling nor harmonise with the existing dwelling or the wider character and appearance of the area contrary to Policies LP24 and LP57 of the Kirklees Local Plan, paragraph 5.20 (side extension) and principle 2 of the Council's adopted House Extensions and Alterations SPD, Policy 2 of the Holme Valley Neighbourhood Development Plan and policies contained within Chapter 12 of the National Planning Policy Framework.

4. As a result of its size, scale, siting and design the proposed detached garage and associated hardstanding would form an overly prominent and

incongruous feature within the front garden of the host property that would be detrimental to the character and appearance of the original dwelling and the wider locality. To allow the development would be contrary to Policy LP24a of the Kirklees Local Plan, paragraph 5.6 and principle 1 of the Council's adopted House Extensions and Alterations SPD, Policy 2 of the Holme Valley Neighbourhood Development Plan and policies contained within Chapter 12 of the National Planning Policy Framework.

Reasons 2 and 4, relating to a detached garage, are not considered to be relevant and are afforded minimal weight as considerations that a material to the determination of this case.

Where relevant, reasons 1 and 3 are referenced to in the 'Assessment' section of this report and whether the proposal the subject of this application has overcome these reasons.

2022/92498 – Certificate of lawfulness for proposed demolition of existing shed building and erection of single storey side extension, front porch, rear dormers, single storey shed, and single storey outbuilding to include store, home gym, and swimming pool – **Split decision**, on the following basis:

The proposed single storey side enlargement and proposed outbuildings are, on the balance of probability and based upon the information submitted, considered to be sited outside the residential curtilage of the dwellinghouse and therefore cannot benefit from a general planning permission under the provisions of Article 3(1) and Part 1, Classes A & E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposed roof enlargements and porch benefit from a general planning permission granted by virtue of Article 3(1) and Classes B & D of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions as stated in paragraph B.2 of the same Order.

2022/92713 – Erection of single storey extension to front and two dormers to rear – Conditional Full Permission granted 13th February 2023

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application has been publicised as affecting a public right of way on the Council's website, by neighbor notification, site notice and by press advertisement. The expiry date of the publicity period was the 28th October 2024.

Letters of Objection

One letter of objection has been received, raising the following summarised concerns:

- Each application submission appears to be inaccurate
- The application sets out work has not started yet it has been ongoing for 6 months
- There is no parking for 6 cars provided at the site
- The extent of parking goes against climate change agenda
- A bat survey should be undertaken as bats are roosting in the locality
- The site has been vacant since its purchase
- Increasing insulation as a reason for development does not appear to be common
- The contractor has been allowed to dispose of trade waste from other sites at this property, burning all sorts of plastic and toxic waste on a regular basis, this has been reported.
- Climate change statement has been made following the burning on site
- The hawthorn hedge, planted in 1937, which borders the green belt and curtilage and which supported a variety of birds was cut down starting on the 15th May 2024 peak nesting time, which destroyed all nests within it, this is a wildlife crime, reported as such.
- Removing vegetation means the house is visible for miles around now and looks totally out of keeping within the greenbelt area.
- The litter connected to this build has been appalling, a skip placed at the bottom of the lane has been allowed to overflow into Greenhill Bank Road, all sorts of plastic bags and other rubbish.
- No regard for the environment, wildlife or neighbours during this development so far
- There are significant foundations which have been dug to the side of the house in the green belt, well outside the curtilage.
- Boundary walls have been removed so the curtilage is not defined
- No objection to the side extension in this proposal and increasing the curtilage to allow this but would ask the rest of the green belt is protected, also that the parking is restricted to two spaces.

Following review of this representation, the agent for the planning application has stated the following, summarised, rebuttal:

- *Contend the proposals do respect the greenbelt and that the existing parking provision is more than adequate for the proposed extended property*
- *legal right of access is in place and the site benefits from a substantial parking area that respects the access rights of others*
- *No works have taken place that relate to the proposed extension (current planning application. Works at site have been those for which permission is not required.*
- *The parking provision is a benefit in terms of access arrangements for the property, which appears to provide 6 spaces.*
- *Vacancy of the building is not relevant to the consideration of this application*
- *The building will be insulated to current standards improving the current situation*
- *Not aware of fires taking place on the site.*
- *Not aware of a hawthorne hedge being present on site*
- *When on site it was clear care was taken to ensure the skip was in place such that it did not allow litter to be blown out from it.*
- *Biodiversity gain would be possible as a result of the development, dry stone walls have been replaced in a sympathetic manner.*

Letters of Support

- Holme Valley Parish Council have stated they support the proposed development.

Letters of Comment

- None

Consultation Responses

- None

Allocation and Policy

The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The site is located within the Green Belt and a Biodiversity Opportunity Zone (ref: - valley slopes) within the adopted Kirklees Local Plan.

The site is designated as lying within a Coal Authority Standing Advice Area and an area with a known presence of Radon.

The site is also within an area subject to the Holme Valley Neighbourhood Development Plan and in particular the River Holme Wooded Valley landscape character area (ref:- LCA7).

Local guidance and policy is provided by the Kirklees Local Plan (adopted February 2019) as such the following policy, guidance and legislation is considered relevant to the determination of this application:-

Kirklees Local Plan

LP1 Achieving Sustainable Development
LP2 Place Shaping
LP21 Highway Safety
LP22 Parking Provision
LP24 Design
LP30 Biodiversity and Geodiversity
LP57 The extension, alteration or replacement of existing buildings
LP58 Garden Extensions

Holme Valley Neighbourhood Development Plan

Landscape Character Area 7: River Holme Wood Valley

Key landscape characteristic of the area are

- Glimpsed views towards the wider landscape through gaps between built form.
- Views across the wooded valley floor from elevated vantage points such as from Christ Church New Mill and Holy Trinity Church Hepworth.
- Stone boundary walls are common features.
- A network of Public Rights of Way (PRoW) crosses the landscape including a section of the Barnsley Boundary Walk, the Kirklees Way and the Holme Valley Circular Walk.

Key built characteristic of the area are

- Settlements characterised by a close association between built form and landscape.

- Industrial heritage features such as weirs and mill buildings.
- Mounds and hollows, which are the remains of shallow tunnels created for coal mining, as well as piles of shale material and the remains of plateways (flat stones laid across fields to assist with vehicle movement), are also found across the moorland and fields.

The following policies of this plan are considered relevant:-

- Policy 1 – Protecting and Enhancing the Landscape Character of the Holme

Valley

- Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley

and Promoting High Quality Design.

- Policy 12: Promoting Sustainability - All development is expected to be designed to contribute to the following elements of sustainability

Adopted Supplementary Planning Documents

House Extensions and Alterations SPD (June 2021)
Kirklees Highway Design Guide (November 2019)

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 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. Considered to be of relevance to the consideration of this application are policies within the following chapters:

-

- Chapter 2 – Achieving sustainable development
- 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
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

The Conservation of Habitats and Species Regulations 2017

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Impact upon the character and appearance of the area (including impact upon historic environment)
2. Impact upon residential amenity
3. Impact upon highway safety
4. Climate Change
5. Impact upon Ecology
6. Impact upon Land Stability
7. Representations
8. Conclusion

1 – Principle of development:

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 chapter 2 of the National Planning Policy Framework.

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”.

These policies, in the context of the Green Belt allocation of the site, are considered within the ‘Principle of development – conclusion’ section of this report.

Green Belt – Policy

Policy LP57 of the Kirklees Local Plan relates to the extension, alteration or replacement of existing buildings, specifically stating the following: -

'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'*

Policy LP58 of the Kirklees Local Plan relates to Garden Extensions, stating the following:

'Proposals to change the use of land in the Green Belt to a domestic garden will not normally be permitted. Where it can be shown that very special circumstances exist that would warrant allowing the proposal, consideration will need to be given to the following;

- a. the degree, location and orientation of the enclosure, which should cause least harm to the openness of the Green Belt; and that*
- b. the means of enclosure is appropriate to its setting and is of a high quality of materials and design.*

Permitted development rights for structures such as garages, sheds, greenhouses or other ancillary or incidental buildings or structures may be removed if it is considered that they would subsequently result in an unacceptable intrusion of urban character into their Green Belt setting.'

Section 13 ('Protecting Green Belt Land') of the National Planning Policy Framework is relevant and in particular the following paragraphs: -

Paragraph 137. *'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.'*

Paragraph 138 specifies the five purposes of including land within the Green Belt, which are:-

'to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character

of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.'

Paragraph 145 'local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.'

Paragraph 147. 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'

Paragraph 148. 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'

Paragraph 149. 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:...(includes)

- 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 the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- and*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
– not have a greater impact on the openness of the Green Belt than the existing development;*

Paragraph 150. 'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include:...

...e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);

Whether the development constitutes inappropriate development in the Green Belt

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the exceptions set out in paragraph 149 and 150.

Within paragraph 149 the exception listed at part c) is for 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.

When the total volume of the previous additions (105m³) and those proposed as part of this application (180m³) are compared against that of the original dwelling (528m³). There would be an additional bulk and massing of built form resulting from the proposal, increasing that of the original dwelling by 285m³ (53%).

It is considered the key issue in relation to this case is whether the proposal would go beyond the extent of the established curtilage of the site. And whether the change of use of the land to residential curtilage with associated built form extensions would be acceptable.

The previous application (ref: 2021/93965) was refused, in part, on the basis that harm would be caused to the visual and spatial openness of the Green Belt by developing land that is currently open and, in part, the encroachment of development into the countryside (side extension). This assessment was on the basis that the development of the side extension was on land outside of the curtilage of the dwelling. This is relevant in the consideration of this case given the proposal which is the subject of this application is on the same area of land.

The previous refusal was followed up by an application for a certificate of lawfulness which, amongst other things, included a single storey side extension on the land the subject of this application for a part single and part two storey side extension. In the assessment of the application for certificate of lawfulness, it was concluded the land did not constitute residential curtilage.

The submitted planning statement, which accompanies this application, sets out that in relation to the change of use of the land to residential curtilage, they are willing to enter into a legal agreement to agree to not construct the extant permissions already in place for the property.

It is considered that the proposal would have a significant impact upon openness given the increase in built form associated with the dwelling and the fact it would encroach into currently open land. It is considered the proposal would have a harmful impact upon both the spatial and visual aspects of the openness of the Green Belt. The two-storey extension to side is considered to lead to encroachment of built form into the visual countryside contrary to one of the purposes of including land within the Green Belt.

The submission sets out that the applicant is willing to enter into a S106 agreement to restrict permitted development rights and to essentially revoke the extant permission at site.

Whilst such an agreement would, to some extent, reduce the level of built form that would arise were the proposed development to be permitted the key

issue(s) as set out in the reasons for refusal for application 2021/93965 are not considered to be overcome by said agreement.

Namely, in this case, the development requires the change of use of land which is not residential curtilage to accommodate it and would see further sprawl of built form within the Green Belt.

The application site is clearly identified as being land which forms part of the open countryside, a permitted development fall back has not been able to be established in relation to development of this part of the site. This is considered to weigh significantly against the proposal.

It is considered that in this case very special circumstances would be required to be demonstrated in the instance of any grant of permission. The applicant has set out the size / scale of the development proposal although it is considered this is not the sole contributory factor as to whether development is disproportionate. In this case the development is sizeable and would be on land free from development and which would remain so unless it is subject to a successful application for change of use to garden land. As set out in policy LP58 such applications will not normally be permitted and where it can be shown very special circumstances exist the change of use of the land is required, by this policy, to be subject to further strict controls in terms of built form(s) upon the land.

The factors set out by the applicants' agent are noted although they are not considered to amount to factor(s) which either singularly or cumulatively can be considered to amount to very special circumstances which clearly outweigh the harm of the development within the Green Belt.

It is therefore considered that, for the reasons set out in this section of the report, reason no.1 of refusal 2021/93965 has not been overcome by the proposed development insofar as it relates to the extension to side.

In the absence of very special circumstances which clearly outweigh the harm of the development within the Green Belt, the principle of development is not considered to be acceptable in this case. Refusal on the basis the development would lead to encroachment, having a detrimental impact upon openness and thus be considered a disproportionate addition is recommended.

2 – Impact on character and appearance of the area

Policy LP24 (Design) of the Council's adopted Local Plan sets out 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 and minimise impact on residential amenity of future and neighbouring occupiers. Paragraph 130 of the NPPF is also of relevance to the consideration of this application in particular the following parts:-

'b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping

c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'

Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Specifically Key design principle 1 sets out: -

'Extensions and alterations to residential properties should be in keeping with the appearance scale design and local character of the area and the street scene.'

With key design principle 2 stating: -

'Extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and detail.'

paragraph 5.20 that sets out that two storey side extensions should adhere to the following:-

- *not take up all or most of the space to the side of a house;*
- *maintain a 1 metre gap to the side boundary to ensure the building is not too close to a neighbouring property; and*
- *be set back at least 500mm from the front wall of the house.*

Part (d) of policy LP57 sets out that the design and materials of development should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

Policy 1 of the Holme Valley Neighbourhood Plan HVNP sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA), in this case River Holme Wooded Valley landscape character area (re:- LCA7).

The River Holme Wooded Valley character area sets out that the key landscape characteristics are views across the valley floor from elevated

vantage points, stone boundary walls are comment and glimpsed viewed toward the wider landscape are possible between the built form. In terms of relevant built form characteristics the character area details that settlements are characterised by a close association between built form and landscape.

Policy 2 of the HVNP states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

Reason no.3 of refused application (ref: 2021/93965) set out that the design of the proposed extensions, including the use of green oak detailing and significant areas of glazing, size, scale and siting, would be neither subservient to the host dwelling nor harmonise with the existing dwelling or the wider character and appearance of the area.

Notwithstanding the conclusion of the development insofar as whether it constitutes a disproportionate addition (in terms of an assessment of the development within the Green Belt) an assessment of other elements of the visual impact is undertaken as follows.

The previously refused sought a wider extension with an increased use of glazing / timber which protruded forward of the host dwelling. The scheme the subject of this proposal has reduced the extent of the projection to the side and is set back from the front elevation with a ridge height below that of the host property. The predominant design and materials are in keeping with the host property with design features of the host property replicated.

It is considered that the visual impact of the development in terms of the use of the materials and being designed to be of a style / design which is in keeping with the host property is acceptable having regard to the aforementioned policies.

Notwithstanding this conclusion, it is considered that this does not overcome the harm identified by virtue of the change of use of the land and the subsequent encroachment which results from such a change of use as set out in the 'Principle' section of this report.

3. Impact on Residential Amenity

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5, 6 and 7 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, significantly reduce amenity space, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

Paragraphs 5.8 and 5.9 (detailed within section 2 of this report) are also of relevance.

Policy 2 of the HVNP sets out that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings and prevent or reduce pollution as a result of noise, odour, light and other causes.

The proposal would not significantly reduce amenity space to the extent that it would be perceived to be over development in regard to principle 7 of the House Extensions and Alterations SPD.

In terms of overlooking, the openings in the two storey side extension would be to the front and side which face open land. Roof lights are proposed to the rear roof slope which would face towards the property to the north / west of the site, however it is considered these a predominantly for the purpose of providing light and given the angle they would be sited at, as well as the height in relation to the internal floor level it is not considered they would lead to a significant level of overlooking.

Given the distance of the proposal from neighbouring occupiers, and fact the property to the north / west of the dwelling (no.34) that would be closest to the development is off set from the existing dwelling, it is considered the impact to no.34 would not be significant in terms of forming an oppressive structure or in terms of leading to unacceptable levels of overshadowing. This conclusion is drawn as there are no habitable openings within the side of no.34.

It is therefore considered that in terms of residential amenity alone, the proposed development would comply with Policy LP24 of the Kirklees Local Plan, Principles 3, 4, 5, 6 and 7 of the adopted House Extensions and Alterations SPD, Policy 2 of the Home Valley Neighbourhood Plan and advice within Chapter 12 of the National Planning Policy Framework.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and policies within 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 and Key Design Principle 15 of the adopted House Extensions & Alterations SPD, which seek to ensure acceptable levels of off street parking are retained, are also considered to be of relevance.

The site has been developed with the creation of vehicle access and parking, it is considered this relates to works which can be carried out under permitted development rights (PD). Given the extent of parking which was provided at the site prior to these pd works was zero, it is considered the impact of the development as a result of parking and access / highway safety is acceptable given the level of parking provision which is able to be provided at site.

The response of third parties is noted, although it is considered refusal on the basis of an over provision of parking could not be substantiated, particularly as such parking areas can be provided under PD rights in any event.

It is therefore considered the development has an acceptable impact in this regard, in accordance with the aforementioned policies.

5. Climate Change

Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals. Within the HVNDP Policy 12 expects new development to contribute towards elements of sustainability.

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.

The extension would be constructed from stone which is a sustainable, recyclable material which would locally sourced. The roof tile would be stone slate which is equally recyclable. The extensive glazing would provide passive solar gain and lessen the use of artificial lighting. Insulation properties of the dwelling would improve as a result of the development. All these factors are in favour of the development in terms of climate change. But these do not constitute circumstances which can be considered very special and outweigh the harm the proposal would have on the Green Belt.

6 – Impact upon Ecology

Policy 13 (Protecting Wildlife and Securing Biodiversity Net Gain) of the HVNDP sets out that development proposals should demonstrate how biodiversity will be protected and enhanced including the local wildlife, ecological networks, designated Local Wildlife Sites and habitats. Policy LP30 of the Local Plan also sets out how biodiversity will be protected and enhanced.

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are 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.

Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is required to provide net gain as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

The application is accompanied by a Biodiversity Net Gain assessment, this sets out with the inclusion of habitat creation within the Off-Site area, result in a biodiversity value of 0.12 HU, representing a net change of +0.02 HU, equating to a +24.3% gain; exceeding the 10% net gain requirement.

It is considered that it is possible to achieve a net gain on site, a biodiversity gain plan as required by condition within Schedule 7A of the town and Country Planning Act 1990 (as amended) would secure this and an informative note drawing this to the applicant's attention would be included upon any grant of permission.

Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest, given the two storey extension would tie into the side elevation of the existing dwelling it is considered unlikely that the proposals would have an impact on the bat population. In the event of any approval, an informative not would be recommended in relation to making the applicant aware that if bats are discovered on site during the works, any works would need to cease and the applicant is advised to contact Natural England for advice on how to move forward.

On the basis of the inclusion of the recommended informative notes, the impact of the development upon ecology is considered to be acceptable and accord with the aforementioned policies.

7 – Impact upon Land Stability

LP53 of the Kirklees Local Plan and paragraphs within Chapter 15 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response.

8 – Representations:

Insofar as they are not addressed within other sections of this report, the representations received in objection to the proposal are addressed as follows:-

- Each application submission appears to be inaccurate

Officer Response: It is considered the submitted detail is acceptable to enable the LPA to determine the submissions and it would be unreasonable of the LPA to consider the submitted details to render the applications invalid.

- The application sets out work has not started yet it has been ongoing for 6 months

Officer Response: It is noted works which fall outside the scope of this application have commenced at the site. This would be a matter to be investigated by the Council's Enforcement Team.

- There is no parking for 6 cars provided at the site
- The extent of parking goes against climate change agenda

Officer Response: This is addressed in section 4 of this report.

- A bat survey should be undertaken as bats are roosting in the locality

Officer Response: This is addressed in section 6 of this report.

- The site has been vacant since its purchase

Officer Response: This is a matter which is not considered to be material to the consideration of this application.

- Increasing insulation as a reason for development does not appear to be common

Officer Response: This noted and taken into account as to whether there are factors present which amount to very special circumstances (within section 1 of this report).

- The contractor has been allowed to dispose of trade waste from other sites at this property, burning all sorts of plastic and toxic waste on a regular basis, this has been reported.

- Climate change statement has been made following the burning on site
- The litter connected to this build has been appalling, a skip placed at the bottom of the lane has been allowed to overflow into Greenhill Bank Road, all sorts of plastic bags and other rubbish.
- No regard for the environment, wildlife or neighbours during this development so far

Officer Response: These are matters which can be afforded little weight as a consideration that is material to the determination of this application given the nature of the proposed development.

- The hawthorn hedge, planted in 1937, which borders the green belt and curtilage and which supported a variety of birds was cut down starting on the 15th May 2024 peak nesting time, which destroyed all nests within it, this is a wildlife crime, reported as such.

Officer Response: The impact of the development upon ecology is set out in section 6 of this report.

- Removing vegetation means the house is visible for miles around now and looks totally out of keeping within the greenbelt area.

Officer Response: The impact of the development in relation to visual impact is set out in sections 1 and 2 of this report.

- There are significant foundations which have been dug to the side of the house in the green belt, well outside the curtilage.

Officer Response: It is considered undertaking works without first gaining planning permission, whilst at risk of planning enforcement action, is not a matter in itself which would justify refusal.

- Boundary walls have been removed so the curtilage is not defined

Officer Response: It is considered unlikely the removal of boundary walls requires planning permission in this case and is not the subject matter of this application in any event.

- No objection to the side extension in this proposal and increasing the curtilage to allow this but would ask the rest of the green belt is protected, also that the parking is restricted to two spaces.

Officer Response: This application is assessed against the merits of the scheme as submitted.

9 – 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.

The development is considered to be unacceptable in principle constituting inappropriate development which would cause harm to the openness of the Green Belt.

The development would be contrary to Policies in the adopted Kirklees Local Plan. Furthermore, the application of policies in the NPPF that protect areas of particular importance provide a clear reason for refusing the development proposed.

Recommendation

Refuse

Decision Authorisation: Delegated Powers

Application Number: 2024/91664

Officer Recommendation: Refuse

Reason:

1. By virtue of its siting, design, size and scale the development constitutes inappropriate development in the Green Belt by definition. Further harm would be caused to the visual and spatial openness of the Green Belt by developing land that is currently open and would lead to the encroachment of development into the countryside and would lead to a disproportionate addition to the original dwelling which would no longer be the dominant element in appearance. No very special circumstances have been demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policies LP57 & LP58 of the Kirklees Local Plan and policies contained within Chapter 13 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Date Received
Location Plan	24/1003/01	25 th June 2024
Existing Block Plan	24/1003/02	25 th June 2024
Proposed Block Plan	24/1003/05	25 th June 2024

Plan Type	Reference	Date Received
Existing Floor Plans and Elevation Plans	24/1003/03	25 th June 2024
Proposed Floor Plans and Elevation Plans	24/1003/04	25 th June 2024
Application Form		23 rd September 2024
Biodiversity net gain assessment dated 16 th September 2024		23 rd September 2024
Planning Statement	24/1003	23 rd September 2024
Climate Change Statement		25 th June 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. No amendments were sought as it was considered that the principle of development is unacceptable, and no amendment within the scope of the development proposal could overcome the reason for refusal.

Report Dated:

6th November
- - -

Coal – low