

**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>2024/62/92222/E</b>
Site Address:	59, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3PL
Description:	Change of use of public land to rear to private garden use
Recommending Officer:	Elenya Jackson

**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: 22-OCT-2024**

## **OFFICER REPORT**

### **Site Description**

59, Heckmondwike Road, Dewsbury Moor is a two storey mid terrace dwelling which is set back from the street scene by a front garden.

The site benefits from a private rear garden and dwellings within the locality are reasonably uniform in terms of scale and design with several benefiting from extensions.

The site is within a high risk coal area.

The proposal relates to a piece of land to the west of the application property. The site comprises a small area of land which is enclosed by neighbouring dwellings.

The land can be accessed from the south of the site via a footpath at the end of the terraced row. The land cannot currently be accessed via the private amenity space of no.52 due to fenestration enclosing it.

### **Description of Proposal**

The application seeks planning permission for change of use of a small area of land to the east of the property, approximately 20m<sup>2</sup>.

### **Relevant Planning History**

N/A

### **Representations**

The application was initially advertised by neighbour notification letters, which expired on 3/9/2024

No comments received.

### **Consultation Responses**

No formal consultation deemed necessary .

### **Negotiations**

N/A

### **Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the

Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map.

On 12<sup>th</sup> 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.

### **Kirklees Local Plan Policies**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design
- **LP22**- Parking
- **LP33**- Trees
- **LP53**- Contaminated and unstable land

Kirklees Council adopted supplementary planning guidance on house extensions on 29<sup>th</sup> June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene.

### **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, and 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 12 – Achieving well-designed and beautiful places

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Negotiations
- 7) Conditions
- 8) Conclusion

#### 1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

In terms of the change of use of an area of vacant land to the rear of the property to a residential use, Policy LP24 of the KLP is relevant, in conjunction with the House Extension SPD and Chapter 12 of the NPPF, regarding design and the impact upon the character and appearance of an area. In this case, the principle of development could be considered acceptable, but this is subject to other material considerations, including impacts upon visual and residential amenity, as well as highway safety.

#### 2 –Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 of the NPPF 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 host property is located on a residential estate with properties of a similar age and style although there have been some alterations within the street scene. The site does not form part of Urban Green Space and is a vacant piece of land.

Open space adjoining residential dwellings is not characteristic of the area and is only specific to this section of development. The neighbouring dwelling to the south has already extended their garden in a similar manner.

The change of use of the land would maintain the character of the area as a result of the proposal and may result in an improvement in visual terms.

Officers have clarified with the applicant if a fence would be erected to enclose the land and it has been confirmed that no enclosures would be erected. The site is not overly prominent within the area and therefore its alteration to a residential garden would not cause significant harm. It is therefore considered that the proposal would not significantly harm the visual amenities of the locality, in accordance with Policy LP24 of the Local Plan and Chapter 12 of the NPPF.

### 3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Given the nature of the proposal it is considered that it would not unduly impact upon any neighbouring properties in terms of loss of light, overshadowing or the creation of an overbearing effect. Given that the site is within a residential area, it is considered that the change of use of this land for residential purposes would not result in materially different levels of noise experienced by neighbouring properties.

Having considered the above factors, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding

neighbouring occupants, thereby complying with Policies LP24(b) and LP52 of the KLP as well as Chapters 12 and 15 of the NPPF.

#### 4 – Impact on highway safety:

The proposed development would not result in an intensification in the domestic use of the dwelling that would require the provision of additional parking. Furthermore, the provision of additional domestic garden would not affect the existing bin storage and collection arrangements at the site.

When taking this into consideration, it is considered that the proposal would not represent additional harm in terms of highway safety complying with Policies LP21 and LP22 of the KLP and Chapter 9 of the NPPF .

#### 5– Other matters:

##### *Carbon Budget*

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.

Due to the limited nature of its change of use, it is not considered that specific mitigation measures are required to facilitate this development.

##### *Biodiversity*

Whilst it is acknowledged that the site is located within an identified bat alert area, the nature of the proposals is such that it is unlikely it would have an impact on the bat population. It is considered that the change of use would unlikely harm other protected species.

Whilst the change of use would likely result in the loss of shrubbery on the site, these shrubs are considered to be of relatively low ecological potential. However, in the event that planning permission is approved, an informative is recommended, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward

#### 6 – Representations:

N/A

7 – Negotiations:

Clarification was requested as to whether a means of enclosure would be erected on site.

8 – 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.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is, therefore, recommended for approval.

**Recommendation**

**REFUSE**

**Decision Authorisation - Delegated Powers**

**Application Number: 2024/92074**

**Officer Recommendation:** Approve

**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.

2. 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 LP1, LP2, LP21, LP22, LP24, LP51 and LP52 of the Kirklees Local Plan and Policies within Chapters 2, 4, 9, 12, 14 and 15 of the National Planning Policy Framework.

**FOOTNOTE:** The site is located within the Kirklees Bat Alert Layer and there is an increased potential for roosting bats. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan			27/08/2024

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 considered the application on review and checked if a means of enclosure was to be constructed.