

**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:	2024/62/92824/E
Site Address:	125, Oxford Road, Gomersal, Cleckheaton, BD19 4HE
Description:	Alterations to convert one dwelling into two former terrace houses
Recommending Officer:	Faiza Bano

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 24 January 2025

Officer Report.

Reference: 2024/92824

Location: 125, Oxford Road, Gomersal, Cleckheaton, BD19 4HE

Proposal: Alterations to convert one dwelling into two former terrace houses

Site Description.

The proposals relate to the existing dwelling of 125/127 Oxford Road, originally two separate dwellings. At present the property is a two-bedroom dwelling that is currently a combination of two mid-terrace dwellings. The terraces are constructed from stone across the frontage of the site and finished with render to the rear. The site benefits from a small amenity area to the front and a modest amenity area to the rear. The site boundary across the front is formed by a small stone-built wall and the mature trees and close board fencing along the rear.

Description of Proposal.

The application seeks the alterations to convert one dwelling into two former one bedroom terrace houses.

Permission is not required for any internal alterations to the existing building and therefore, the only matters for consideration are the following external alterations:

- Sealed doorway along the front elevation of 125 Oxford Road to be opened and reinstated
- Sealed doorway along the rear elevation of 127 Oxford Road to be opened and reinstated
- Four newly positioned window to be installed (along the rear elevation of 125 & 127)
 - o Fire escape windows in bedrooms upstairs

Dwelling 125: Total floorspace of approximately 26.1m².

Ground floor: open plan kitchen and lounge

First floor: 1 bedroom, 1 bathroom,

Dwelling 127: Total floorspace of approximately 27.7m².

Ground floor: open plan kitchen and lounge

First floor: 1 bedroom, 1 bathroom,

There are no proposed alterations to the existing access routes.

The existing parking arrangements would be retained.

Negotiations

None received.

History of Negotiations.

No negotiations took place, and no amended plans were sought or submitted.

Relevant Planning History.

None.

Representations.

The application was advertised by neighbour letters, which expired on 20th December 2024.

No representations were received.

Meltham Town Council – no comments received.

Consultation Responses.

As a result of the above publicity, two representations have been received. One representation was received by the applicant in response to the neighbour representation.

Neighbour Representation - The ground floor plan of house number 127 incorrectly shows a WC and an access gate to the garden of house number 129, which does not exist. Access to the rear of properties 125 and 127 was created in the 1960s by removing part of property 123. These properties were later combined into one larger property. While converting them back into two dwellings is acceptable, access to the private garden of 129 should not be allowed. Any necessary access for 127 should be through the garden of 125. Legal consultation supports this position. Additionally, the building marked as a WC is actually a coal store, part of 129 Oxford Road, with access from its garden.

Applicant comment – The applicant wishes to comment on claims made by the neighbours at 129 Oxford Road regarding a shared passageway. The passageway between houses 125/127 and 129 is intended for shared access from Oxford Road for all houses from 113 to 127 in the terrace. The deeds for house 129, available at the Land Registry, do not support the neighbours' claim that the passageway is for their exclusive use. The applicant suggests that if the neighbours have different documents, they should share them.

The recent opening of a separate passageway between 123 and 125/127 does not negate the use of the original passageway unless stated in the deeds, which it does not. Legal rights of way over land and passageways cannot be easily revoked by building a wall.

Photos show the passageway open with an access gate on 23/10/23 and blocked with steel girders and railway sleepers on 30/10/23, obstructing legal access. This blockage occurred during the sale of house 125/127, possibly to prevent the new owner from realising the passage was blocked.

Additionally, the neighbours at 129 claim an outside toilet, shown in the deeds to be within the boundary of 127, as their property. This observation, while unlikely to affect planning permission, is noted for the record. Attempts to discuss this with the neighbours have been unsuccessful.

Policy/Legislation.

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

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map and within an area identified by the Coal Authority as being at high risk of ground movement as a result of former mining activity.

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.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP11 – Housing Mix and Affordable Housing
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP30 – Biodiversity & Geodiversity
- LP51 – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- Housebuilders 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 December 2023, together with Circulars, Parliamentary 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 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed and beautiful places
- 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
 - 1) Impact on visual amenity
 - 1) Impact on residential amenity
 - 2) Impact on highway safety
 - 3) Other matters
 - 4) Conclusion

1) Principle of Development

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of Policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections of this report.

NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The site is not allocated for development on the Kirklees Local Plan Policies map. Policy LP2 of the Kirklees Local Plan states that:

“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”

The application proposes to subdivide an existing dwelling. The impacts of this intensified use will be assessed under the Local Plan policies, the Housebuilders Design Guide SPD, and the NPPF.

The December 2024 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making *“Where there are no relevant development plan policies, or the policies which are most important for determining the application are outof-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

The Council’s inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal.

Policy LP7 of the Kirklees Local Plan states encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

The proposed change of converting one dwelling into two is acceptable. The fenestration of the dwelling for the most part remains as existing and be reverted to the original state. The replacement window openings are also deemed acceptable, as they resemble the design and form of those on the original property.

Policy LP11 requires a suitable mix of housing types to meet local needs. Since the proposal is to convert one dwelling into two one-bedroom terrace houses, it contributes to the housing mix by providing smaller, more affordable units

This quantum of development is acceptable in principle. The dimensions of sustainable development will be considered throughout the proposal.

1) Impact on Visual Amenity

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby paragraph 131 provides a principal consideration concerning design which states: *“The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 135 of the NPPF is of relevance, 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’*

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...”*

Paragraph 129 of the NPPF states that design guides, such as the Council's Housebuilders Design Guide SPD, carries weight in decision-making and is a material planning consideration.

Principle 2 of the Housebuilders Design Guide SPD sets out that new residential development proposals will be expected to respect and enhance the local character of the area.

In terms of visual amenity to the host building, the proposed development would reinstate the previous pattern of development. The external alteration would include:

- opening up and reinstating the doorway along the front elevation of 125 Oxford Road,
- opening up and reinstating the doorway along the rear elevation of 127 Oxford Road
- Four newly positioned window to be installed (along the rear elevation of 125 & 127), including fire escape windows in bedrooms upstairs

This would have the positive effect of re-introducing the previous net development density within the locality and appear in keeping with the local character of the area. This would comply with the aforementioned policies. In turn, the proposal is considered to comply with Policy LP24 of the Kirklees Local Plan, Chapter 12 in the NPPF and Principles within the Housebuilders Design Guide SPD.

2) Impact on Residential Amenity

Section B and C of LP24 states that alterations to existing buildings should: “...*maintain appropriate distances between buildings*” and “...*minimise impact on residential amenity of future and neighbouring occupiers.*”

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

The change of use from one dwelling into two is not considered to have any additional impacts to any neighbouring properties. In turn, meaning the new use is not likely to give rise to a significant increase in noise pollution.

Occupants must have sufficient space within their homes to be able to carry out day to day activities, and where homes are accessible and adaptable they are able to meet the changing needs of occupants over time. The government’s Nationally Described Space Standards deals with internal space within new dwellings across all tenures. The standards listed below set out minimum requirements for internal gross floor area.

National described space standards require the following gross internal floor area for a single storey dwelling:

- 1 Bedroom, 2-person dwelling set over 2 storeys - 58 square metres

No space standard is stated for a 1 Bedroom, 1 person dwelling over 2 storeys.

In respect to the amenity of future occupiers of the proposed dwellings, the gross floorspace would appropriately comply with the Nationally Described Space Standards.

The submitted floor plans demonstrate that each habitable room would be served by a window.

With regard to Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

It is considered that an appropriate extent of outdoor amenity space would be retained to serve two dwellings.

The proposals are not considered to result in any adverse impacts upon the residential amenity of any surrounding neighbouring occupants and are considered to provide an acceptable standard of living for both properties, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 130 (f) of the National Planning Policy Framework.

3) Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan 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 Principle 10 and 12 of the Housebuilders Design Guide SPD seek to ensure sustainable transport modes are supported and acceptable levels of off-street parking are accommodated. The policy background advises that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

NPPF Chapter 9 requires the Council to consider the potential impacts of development on transport networks, and encourages walking, cycling and public transport use. Paragraph 115 of the NPPF provides guidance on the matter stating that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

There are no proposed alterations to the existing access routes.

The application seeks approval to convert one dwelling into two former dwellings. The current property as stands has two bedrooms. The proposed

two dwellings will have a total of 1 bedroom each. The alteration will not significantly impact existing on street parking.

There are bin storage arrangements for both dwellings to the front and rear of the property.

It is considered that the proposal would be acceptable in highway safety terms, reasonably satisfying the requirements of Policies LP21, LP22 and LP24 of the Kirklees Local Plan and of the Highway Design Guide SPD (2019) in this regard.

4) Other Matters

Climate Change:

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

The proposal is a change of use with minimal external alterations. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards. A Climate Change Statement was submitted with the application.

The proposed development is therefore considered to comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Biodiversity Net Gain

The application form states that the development subject to the de minimis exemption, would be exempt from providing Biodiversity Net Gain. At this stage, Officers are only able to assess this on the basis of submitted information. Should the proposal be considered not exempt by reason of not being this or other relevant categories for the scale of the development then an appropriate condition, supported by a BNG metric submitted for the approval of the LPA, would be required to ensure on-site BNGs would last for at least 30 years to meet the requirements of this legislation.

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

5) Representations

The application was advertised by neighbour letters, which expired on the 20th of December 2024.

In response to publicity, 2 representations were received. One representation was received by the applicant in response to the neighbour representation.

The concerns raised within these representations are set out below, accompanied with an officer response:

Neighbour Representation - The ground floor plan of house number 127 incorrectly shows a WC and an access gate to the garden of house number 129, which does not exist. Access to the rear of properties 125 and 127 was created in the 1960s by removing part of property 123. These properties were later combined into one larger property. While converting them back into two dwellings is acceptable, access to the private garden of 129 should not be allowed. Any necessary access for 127 should be through the garden of 125. Legal consultation supports this position. Additionally, the building marked as a WC is actually a coal store, part of 129 Oxford Road, with access from its garden.

Officer's Response – whilst the floor plan shows a WC, it is noted that this application only refers to the external and internal alterations of the dwelling. The proposal does not impact any outbuilding.

Regarding access, this is considered a civil matter.

Applicant comment - The applicant wishes to comment on claims made by the neighbours at 129 Oxford Road regarding a shared passageway. The passageway between houses 125/127 and 129 is intended for shared access from Oxford Road for all houses from 113 to 127 in the terrace. The deeds for house 129, available at the Land Registry, do not support the neighbours' claim that the passageway is for their exclusive use. The applicant suggests that if the neighbours have different documents, they should share them.

The recent opening of a separate passageway between 123 and 125/127 does not negate the use of the original passageway unless stated in the deeds, which it does not. Legal rights of way over land and passageways cannot be easily revoked by building a wall.

Photos show the passageway open with an access gate on 23/10/23 and blocked with steel girders and railway sleepers on 30/10/23, obstructing legal access. This blockage occurred during the sale of house 125/127, possibly to prevent the new owner from realising the passage was blocked.

Additionally, the neighbours at 129 claim an outside toilet, shown in the deeds to be within the boundary of 127, as their property. This observation, while unlikely to affect planning permission, is noted for the record. Attempts to discuss this with the neighbours have been unsuccessful.

Officer has noted this comment.

6) Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.

It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: **Approve**

Decision Authorisation:	Delegated Powers
Application Number:	2024/92824
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.

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, the Housebuilders Design Guide SPD and the aims of the National Planning Policy Framework.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior

to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays
 08.00 and 13.00hours, Saturdays
 With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and

Transportation Services can control noise from construction sites by serving a

notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Proposed Elevations	Proposed Rear		14-Nov-2024
Proposed Elevations	Proposed Ground Floor		14-Nov-2024
Proposed Elevations	Proposed First Floor		14-Nov-2024
Proposed Elevations	Proposed Front		14-Nov-2024
Existing Floor Plans	Existing First Floor		14-Nov-2024
Existing Elevations	Existing Rear		14-Nov-2024
Existing Floor Plans	Existing Ground Floor		14-Nov-2024
Existing Elevations	Existing Front		14-Nov-2024
Location Plan	Location Plan		14-Nov-2024
General	web version Planning Statement		14-Nov-2024
General	Climate Change Statement		14-Nov-2024
General	Supporting Information		14-Nov-2024

	Letter		
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. As the submitted plans were considered to be acceptable, no changes were sought.

Report Dated:

16/01/2025