

**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:	2024/62/92830/E
Site Address:	Castle House, Oxford Road, Gomersal, Cleckheaton, BD19 4HW
Description:	Change of use and alterations to convert existing building into two residential dwellings with associated private gardens and parking
Recommending Officer:	Nina Sayers

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: 20-DEC-2024

Officer Report

Site Description

The site relates to a plot of land currently serving a vacant dwelling with an associated store/workshop and outbuildings. The dwelling is set within a generous plot of land and has a long access road adjoining Oxford Road. The existing dwelling is a detached, two-storey stone structure with a single storey lean to extension on the northern side and a flat roofed extension to the south-east. The store/workshop is two-storey, detached, stone structure with significant single storey, flat roofed extensions to the northern and eastern side. It is located west of the dwelling. There is also a cluster of flat roofed outbuildings to the south of the dwelling.

Description of Proposal

The application is seeking planning permission to change the of use of, and alterations to, the existing outbuilding to convert it into two residential dwellings with associated private gardens and parking.

The proposal would retain the shell and footprint of the existing structure however the single storey extensions would be removed. There would be additional openings installed in all elevations and internal reconfiguration to serve two, three-bedroom dwellings. There would be an enclosed garden for plot 1 proposed to the north-east and a similar sized garden for plot 2 to the south-east. The dwellings would utilise the existing access off Oxford Road.

History of negotiations/amendments received

Pre-application advice was sought and provided prior to submission of the application. Additional information was requested and provided regarding highway details.

Relevant Planning History

No relevant planning permission.

Representations

No representations received.

Consultation responses

KC Highways Development Management: No objections.

KC Environmental Health: No objections subject to condition.

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 27th February 2019).

The site is allocated as Green Belt land within the Kirklees Local Plan Proposals Map.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 9** – Supporting skilled and flexible communities and workforce
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 53** – Contaminated and unstable land
- **LP 59** – Brownfield sites in the Green Belt

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2024, 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.

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations:

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).

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) Conclusion

1 – Principle of development:

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

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The 2023 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 out-of-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. The judgement in this case is set out in the officer’s assessment.

It is noted that this site is within the Green Belt. Irrespective of the Councils position on the five-year supply of deliverable housing sites, the National Planning Policy Framework at paragraph 11 is clear that in the event a Council cannot demonstrate a five-year supply of deliverable housing sites, the council should grant permission “unless the application of policies that protect areas or assets of particular importance provides a clear reason for

refusing the development proposed". Footnote 7 at paragraph 11di) states that the protected areas include land designated as Green Belt. Although the council are not able to demonstrate a five-year supply of housing, the tilted balance would not be engaged for this proposal.

Therefore, the principle of developing in the Green Belt must be assessed in order to determine whether the principle of development is acceptable. The proposal will also be assessed against all other material considerations.

Green Belt

The application site is within the Green Belt as located on the Kirklees Local Plan. Chapter 13 of the NPPF requires Local Planning Authorities to regard the construction of new buildings in the Green Belt as inappropriate development. Paragraph 154 outlines that certain forms of development are not inappropriate in the Green Belt. This includes sub-paragraph g)

"limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt."

The proposal would change the use of the existing outbuilding; however, the shell and footprint would not be extended. The scheme would also include the demolition of the surrounding extensions. Therefore, the proposal would have no greater impact on the openness of the green belt over and above the existing. Therefore, the principle of changing the use of the outbuilding to residential dwellings is acceptable.

The scheme would include the introduction of hardstanding and boundary walls which would be considered development for the purposes of assessing against Green Belt policy and therefore must be assessed against paragraph 154 of the NPPF.

LP59 of the Kirklees Local Plan outlines:

"Proposals for infilling within existing brownfield sites or for their partial or complete redevelopment will normally be acceptable, provided that:

- a) in the case of infilling, the gap is small and is located between existing built form on a brownfield site;*
- a) in the case of partial or complete redevelopment the extent of the existing footprint is not exceeded; and*
- b) redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for."*

In the supporting text for LP59, paragraph 19.33 of the Kirklees Local Plan states:

“The redevelopment of the site, either in the same use or for a new use, may be acceptable provided that the redevelopment is designed so as not to have any more impact on the openness of the Green Belt than the existing built form”

The proposed development is within the historic curtilage of Castle House and therefore would be considered redevelopment of previously developed land as defined by the NPPF Glossary. It is also noted that the area to be developed is already covered in hardstanding and the land to the north-east of the building, which would serve as a garden for plot 1 currently serves a single story extension. The stone boundary wall to the southern boundary of the site would remain. It is therefore considered that subject to details of the boundary treatment being secured by condition, the proposal would not cause any additional harm to the openness of the green belt. As the scheme is all within the historic curtilage of Castle House, it would not result in encroachment into the green belt. The scheme would therefore comply with paragraph 154 of the NPPF and LP59 of the Kirklees Local Plan.

It is therefore considered that the proposed development would not constitute inappropriate development in the green belt, nor would it contradict any of the purposes of the green belt. The scheme would not cause harm to the openness the green belt, over and above the existing arrangement on site. The scheme would therefore comply with policy LP59 of the Kirklees Local Plan and the aims of Chapter 13 of the National Planning Policy Framework.

2 – Impact on Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) 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...”*

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design. Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: “*New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

The proposed dwellings would be built within the shell and footprint of the existing outbuilding. The existing single storey extensions, which are dated and of poor construction, would be removed and this is welcomed by officers. Additional openings would be added to all elevations of the structure, including large, glazed openings on the ground floor. The proposed openings are considered appropriate for the scale of the building and in keeping with the character of a residential dwelling.

No details of boundary treatment have been provided as part of the proposal. In the event that planning permission is approved, it is recommended that this be secured by condition should approval be recommended. Officers would welcome stone walling to be in keeping with the existing stone boundary wall.

It is therefore considered that the proposed dwelling would not cause significant harm to the visual amenity of the surrounding area. The proposal is therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders Design Guide SPD and Chapters 12 of the National Planning Policy Framework.

3 – Impact on residential amenity

Sections B and C of LP24 state 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, Chapter 12 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.

Principle 6 of the Housebuilder Design Guide SPD states ‘Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.’ The SPD goes on to set out typical minimum separation distances. These are as follows:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;

- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

The proposed dwelling would be within the historic curtilage of Castle House, which is within the ownership of the applicant. There would be a separation of 21m between the proposed dwelling and the existing Castle House and therefore no significant harm is considered to be caused to the amenity of future occupiers.

The proposed dwelling would be set ~72m from the nearest residential dwelling outside the applicant's ownership and therefore far exceeds the recommendations outlined in Principle 6 of the Housebuilder Design Guide SPD.

Amenity of the Future Occupiers

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards (NDSS), these are not currently adopted in the Kirklees Local Plan.”* Further to this, 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.”*

The proposed dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed garden is considered to be a good size for a dwelling of this scale. It is considered the proposed window would have sufficient outlook and natural light for the amenity of future occupants.

Therefore, it is considered the proposed development would not cause significant harm to the residential amenity of the existing or neighbouring occupiers and is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Paragraph 116 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

The application proposes the conversion of an existing outbuilding into two, three-bedroom dwellings. The scheme would utilise the existing access off Oxford Road. The Highways Design Guide SPD states that at least two on-site spaces are required for dwellings with three bedrooms. The submitted site plan shows parking provision for two vehicles adjacent to each dwelling, and additional off-street parking for the existing Castle House which is considered sufficient.

KC Highways Development Management (HDM) were consulted on the proposed development and requested that the applicant demonstrate:

- a passing place on the access road
- swept path of a fire services vehicle
- sightlines of 2.4 x 43m for the access onto Oxford Road

A plan showing highway details was submitted by the applicant to address all of the above. These details were reviewed by KC HDM who raised no objections to the proposed development.

Details of bin collection have been provided adjacent to each dwelling and this is considered appropriate. No details have been provided of a bin collection point. Highways DM noted that this should be located outside the visibility splay.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

The applicant has submitted a Biodiversity Net Gain Metric and Assessment, which details the proposed development would introduce domestic garden spaces and bird and bat boxes which results in a 138.39% uplift in habitat units which far exceeds the required 10%.

Under the legislation, a condition is in place by law. The biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As such, it is not considered necessary for any further condition to be in place upon any grant of permission given the statutory requirements in relation to biodiversity and the fact that the provision of the measures set out in the submitted ecological assessment would meet the requirements of the aforementioned policy.

A document has been submitted which outlines that a bat survey may be required, however this was completed by the agent and not an ecologist. It is noted that the application site does not fall within a bat alert layer and there are no roost records nearby. Whilst the scheme would include some demolition, this would be to the single storey element which has corrugated sheet roofing, and there would be limited work to the roof of the two-storey outbuilding. Taking this into consideration, it is considered unnecessary to request any bat surveys. In the event that planning permission is approved, it is recommended that a footnote is attached to the decision outlining that it is an offence for anyone to intentionally kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. This note shall also outline that it is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether bats are present or not and that if bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

The submitted information is therefore considered acceptable in terms of ecology and would comply with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD.

Contaminated Land

KC Environmental Health (EH) officers were consulted on the proposed scheme. It is noted that they have recommended land contamination conditions. This application is for the change of use of an existing building and introduction of garden space and boundary treatment. The proposed gardens would be within the curtilage of the existing domestic property and therefore is already used as domestic garden. There would be no groundworks for the proposed scheme and therefore officers consider that land contamination conditions are not necessary in this instance.

The site is within a high risk coal mining area, however for the reason outlined above, the development would be exempt from requiring a Coal Mining Risk Assessment and the Mining Remediation Authority were not consulted. The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

Public Right of Way (PROW)

There is a PROW (SPE/101/20) running along the western boundary of the site. The proposed development would not interfere with the operation of the PROW and would therefore not cause harm to the amenity of its users. The scheme therefore complies with LP24 of the Kirklees Local Plan.

Listed Building

There is a Listed Building opposite the access to the application site. There would be no changes to the access under the current application, and the proposed dwellings are set in significantly from the road. Therefore, no harm

is considered to be caused to the historic character over and above the existing development on site.

6 – Representations:

No representations were received.

7 – Conclusion

This application for the change of use and alterations to convert existing building into two residential dwellings with associated private gardens and parking at Castle House, Oxford Road in Gomersal has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Design SPD, the National Planning Policy Framework and other material considerations.

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 proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/92830

Officer Recommendation: Approve

Conditions:

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP7, LP20, LP21, LP22, LP24, LP30, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 13 and 15 of the National Planning Policy Framework.

3. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until full details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.

4. Before the dwelling hereby approved is occupied, details of suitable bin presentation and collection points from the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interest of highway safety and waste management and to accord with LP24 of the Kirklees Local Plan.

NOTE: Bats are a European species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally 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 bats are present or not.

If bats are discovered on site, development shall cease and the applicant is advised to contact Natural England for advice.

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 work may be carried out.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	2377-D-20-199		04/10/2024
Existing Site Plan	2377-D-20-101		04/10/2024
Proposed Site Plan	2377-D-20-102		04/10/2024
Existing GA Elevations	2377-D-20-105		04/10/2024
Existing GA Plans	2377-D-20-103		04/10/2024
Proposed GA Elevations	2377-D-20-106		04/10/2024
Proposed GA Plans	2377-D-20-104		04/10/2024
Existing BNG Site Plan	2377-D-20-110		04/10/2024
Proposed BNG Site Plan	2377-D-20-111		04/10/2024
Ecology Enhancement Plan	2377-D-20-112		04/10/2024
Highway Details	2377-D-20-112		06/12/2024
Design and Access Statement		September 2024	04/10/2024
Supporting Statement		September 2024	04/10/2024
BNG Metric			04/10/2024

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 Planning Authority has, 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. Additional information was requested and provided regarding highway details.

Report Dated: 18/12/2024