

**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:	2024/62/92963/E
Site Address:	Hawthorn House, Haigh Lane, Flockton, Huddersfield, WF4 4BZ
Description:	Use of land as domestic garden
Recommending Officer:	Nicole Helliwell

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: 11 December 2024

Officer Report

Reference No. 2024/62/92963/E

Site Address: Hawthorn House, Haigh Lane, Flockton, Huddersfield, WF4 4BZ

Proposal: Use of land as domestic garden

Site Description

The application relates to a parcel of land located adjacent to Hawthorn House, a two-storey detached property situated in Flockton, Huddersfield. The area is rural and the site is allocated as Green Belt land on the Kirklees Local Plan. The surrounding area comprises residential properties of similar materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The application seeks retrospective planning permission for the change of use of a parcel of land located south-west of Hawthorn House to a domestic garden.

Relevant History

- **2021/93774:** Erection of first floor and front porch extensions and hip to gable roof conversion. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2017/90160:** Erection of detached dwelling (modified proposal). [Planning application details | Kirklees Council](#) - Conditional Full Permission
- **2016/93046:** Erection of detached dwelling. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2016/92897:** Non material amendment on previous planning permission 2015/90003 for demolition of existing buildings and erection of 3 dwellings. [Planning application details | Kirklees Council](#) – Withdrawn
- **2015/92867:** Discharge of conditions 3,4,6 and 10 on previous planning permission 2015/90003 for demolition of existing buildings and erection of 3 dwellings. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Approved
- **2015/90003:** Demolition of existing buildings and erection of 3 dwellings. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **91/05960:** Erection of block of three agricultural glasshouse structures. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **89/00087:** Misc. mixed development consisting of various. [Planning application details | Kirklees Council](#) – Granted Conditionally

Representations

The application was publicised by neighbour notification letters, which expired on 27th November 2024. No representations were received following the statutory publicity.

Parish/Town Council Comments

Kirkburton Parish Council – ‘No comment’

Local Ward Members

Not Applicable.

Consultation Responses

Not Applicable.

Planning Policy Background

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 located within the designated Green Belt on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 7** - Efficient and Effective Use of Land and Building
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** - Biodiversity & Geodiversity
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land
- **LP 58** - Garden Extensions

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 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 13** - Protecting Green Belt Land
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)

Assessment

1. Principle of development

Impact on Green Belt

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 the NPPF. The site is located within the designated Green Belt on the Kirklees Local Plan Proposals Map. As such, Green Belt policies contained within the National Planning Policy Framework (NPPF) and the Kirklees Local Plan (KLP) are relevant.

Policy LP58 of the Kirklees Local Plan refers to garden extensions and states that proposals to change the use of land in the Green Belt to a domestic garden will not normally be permitted. Policy LP58 goes on to state that, '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
- a. the means of enclosure is appropriate to its setting and is of a high quality of materials and design.

With regard to the change of use of land to domestic garden, within the submitted planning statement, the applicant/agent has put forward the following very special circumstances:

- At the time of purchase, the meadow land formed part of the formal garden of Hawthorn House. The site was developed in 2017/2018 with the garden as it is now.

The agent also notes the circumstances relating to the adjacent site, Holly House and notes that the same very circumstances apply. These were:

- The property sits within a ribbon of development and therefore any extension to the garden boundary will not lead to neighbouring towns merging into one another.
- While the garden has a larger area than that originally approved under application 2015/90003, it is suggested that the meadow continues to act as a buffer between the domestic curtilages of the recently constructed residential properties on the former plant nursery site and the older terrace of properties at the junction of Haigh Lane and Common Lane.
- The works were carried out in response to drainage issues on site following construction of the dwellings and the repair of a collapsed septic tank.

In view of the above, in this case, given the nature and context, there are very special circumstances present to warrant a garden extension within the Green Belt. The proposed change of use would be appropriate to the setting and would not impact upon the openness of the Green Belt. The means of enclosure when viewed from Haigh Lane has not been significantly altered and remains as a boundary hedge, such that the internal means of enclosure is not visible. A condition has been imposed to remove permitted development rights for the construction of buildings within this land. Therefore, subject to the conditions imposed, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety.

1. Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan states 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.

The NPPF also 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.”

With regard to the change of use of land to domestic garden, it is considered that any harm caused by changing the use would be neutral and would not have any significant visual impact on the character and appearance of the surrounding area in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

2. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be outlined, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The proposed change of use would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site. Therefore, having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

3. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 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.

The proposal would not materially intensify the use or affect the existing parking arrangements on site. On this basis, it is 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, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.'

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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

Biodiversity

The application form states that the development is retrospective and would be exempt from the requirement for 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 relevant to the determination of this application.

5. Representations

No representations were received following the statutory publicity.

6. Negotiations

No amendments were sought or received during the course of the application.

7. Conclusion

This application for use of land as domestic garden at Hawthorn House has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

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: 2024/92963

Officer Recommendation: Approve

Conditions and Reasons

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP7, LP21, LP22, LP24, LP30, LP52, LP53 and LP58 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Class E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary on the plan titled 'Location Plan' reference no. PP-13486771v1 without prior written consent of the Local Planning Authority.

Reason: So as to preserve the openness of the Green Belt from domestic paraphernalia considered to be inappropriate in such a location and to comply with Policy LP58 of the Kirklees Local Plan and guidance contained within Chapter 13 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: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. 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.

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	Revision	Date Received
Location Plan	PP-13486771v1	-	16/10/2024
Planning Statement	-	-	16/10/2024

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 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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 10.12.24