

**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:	2024/62/93401/E
Site Address:	Land at, Leeds Road, Dewsbury, WF12 7QB
Description:	Change of use from vacant land to storage of plant and equipment
Recommending Officer:	Nina Sayers

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.

Emma Thompson

AUTHORISED OFFICER

Date: 30-Jan-25

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Officer Report

Site Description

The application site is hard surfaced with a stone wall along the eastern boundary and timber fencing to the south and western boundaries. Whilst the applicant describes the site as vacant, there are a number of skips on the site and there is fencing to the front which is approximately 2m in height and a container to the northern part of the site. The site has an existing vehicular access from Leeds Road.

The site is unallocated within the Kirklees Local Plan and the wider area is predominantly residential. There is a live enforcement case regarding unauthorised business use on the site.

Description of Proposal

The application is seeking permission for the storage of plant and equipment. Email correspondence from the agent outlines the storage would be for *“things such as forklifts, diggers, scaffold towers, building equipment, etc.”* They go on to explain, *“We will only ever have damaged empty skips at this property when they are no longer usable and are awaiting repair.”*

The design and access statement outlines that the plant and equipment would be stored within 3 metres of the boundary to part of the site with the remainder of the site used to provide turning facilities for vehicles.

History of negotiations

Officers sought additional information regarding the site operations including what plant and equipment would be stored at the site and clarity as to whether the skips would continue to be stored on the site.

Relevant Planning History

2022/91807 Change of use of vacant land to car sales yard. Refused (impact on residential amenity & highways)

Enforcement case:

COMP/23/0594 Unauthorised implementation of refused car sales yard (2022/91807). Ongoing.

Representations

The site was advertised via neighbour notification letter and in the press. Publicity expired on 13th January 2025. Two representations were received in objection to the proposal. Their concerns are summarised below and will be addressed by officers in section 6 of this report:

- Access would be difficult due to the high volume of traffic on Leeds Road
- Large vehicles would cause delays to existing traffic on Leeds Road
- No site notice was put up
- A business is already operating on the site as a waste disposal/skip hire company
- The current users of the site burn rubbish at all times which creates large amounts of smoke
- Heavy goods vehicles are constantly entering and exiting the site which impacts on the traffic and causes danger to road users and pedestrians
- Vehicles are parked outside neighbouring property on double yellow lines and block driveway
- Neighbour owns part of the land and should be allowed constant access to parking space
- Another stipulation for this land is that the water authority have to be allowed access to the underground water supply at all times

It is noted that Cllr Firth also raised concerns regarding the scheme which are summarised below and will be addressed by officers in section 6 of this report:

- Eye sore, particularly large fencing
- Skips are set on fire
- Access and egress is difficult and dangerous
- Current unlawful small waste transfer station

Consultation Responses

KC Highways Development Management – object on highway safety grounds.

KC Environmental Health – no objections subject to conditions.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 unallocated within the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 9** – Supporting skills & flexible workforce
- **LP 21** – Highway Safety
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality

- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. 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. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs (and design guides) are applicable:

- Highways Design Guide
- Biodiversity Net Gain Technical Advice Note

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 12th 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 9** – Promoting Sustainable Transport
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 13** – Protecting Green Belt Land
- **Chapter 15** – Conserving and Enhancing the Natural Environment

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

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 site is unallocated within the Kirklees Local Plan and the proposed development would not be considered a main town centre use. Therefore, in the broadest form, the principle of development is considered acceptable.

Policy LP9 of the Kirklees Local Plan states that the council will work with partners to accelerate growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy.

Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education in training. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants where 3,500 sq. m or more of business or industrial floorspace is proposed. The proposed development would not include any additional floorspace and therefore this threshold is not triggered.

In respect of the above, the principle of development is considered acceptable although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

2. Impact on Visual Amenity

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

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 proposed development is for the storage of plant and equipment “such as forklifts, diggers, scaffold towers, building equipment etc” (email from agent). The application site is located in a predominantly residential area and it is in a prominent location on Leeds Road, adjacent to existing semi-detached residential dwellings. There is also a footpath to the eastern boundary which is at a higher topography than the application site and therefore the site is also visible from the east.

Officers consider that the introduction of plant and equipment used for commercial activity, in a predominantly residential area would be an incongruous addition to the street scene and would detract not enhance the character of the area.

Some boundary treatment to the front of the site may mitigate harm, however it would need to be in keeping with the existing boundary treatment which fronts Leeds Road. It is likely that any appropriate boundary treatment in terms of visual amenity and highway safety (discussed in section 4) would not be sufficient to screen the storage from view, thus not mitigating the significant harm caused. Should approval be recommended, it should be conditioned that details of boundary treatment are secured prior to the development being brought into use.

Whilst officers are aware there is high fencing erected to the front of the site currently, permission for the boundary treatment has not been sought under the current application. For clarity, the existing fencing would not be supported by officers as the design and height of the proposed fencing would not be in keeping with the existing boundary treatment in the street scene and is considered an incongruous addition that detracts from the area.

It is therefore considered that the proposal would cause significant harm to the visual amenity of the surrounding area, failing to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. 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.

No specific details of the proposed plant and equipment to be stored has been provided. Officers have some concerns regarding the height of some of the

plant and equipment which could be stored on the site and the potential for this to cause an overbearing or overshadowing impact on the adjacent 56/58 and 60/62 Crown Flatt Way. Should approval be recommended, officers would recommend a condition limiting the height of the plant/equipment stored to 3m to limit the harm to neighbouring occupiers.

The proposed use of the site would result in large vehicles entering and existing the site. Officers have concerns that the coming and going of delivery vehicles, as well as the movement of equipment within the site would result in additional noise and nuisance to nearby residents. KC Environmental Health (EH) were consulted on the proposed development. They raised concerns about noise affecting the amenity of neighbouring properties and recommended this be controlled through an hours of use condition. Should this application be approved, officers recommend the hours of use should be controlled via condition.

Whilst officers acknowledge that an hours of use condition may help to reduce the impact on residential amenity, it is considered that the additional noise caused by the coming and going of delivery vehicles, as well as the movement of equipment within the site would be detrimental to the amenity of the nearby occupants, particularly those adjacent to the site.

KC EH comments were provided on the basis that no waste transfer or incineration is proposed as part of the scheme. Officers would have significant concerns regarding the impact in terms of noise, odour and other pollutants on the nearby occupants if waste transfer and incineration were to take place on the site. Should this application be approved, officers would also recommend a condition preventing any waste disposal or incineration at the site.

The proposal is considered to result in noise nuisance that could be limited to hours during the day but any associated operations within this time would result in an unacceptable reduction to quality of life and well-being of nearby residential occupants due to noise and activities. Furthermore, due to the restricted site and lack of manoeuvrability for vehicles (discussed below) this will further increase noise and nuisance associated with the site operations.

Therefore, it is considered the proposed development would cause harm to the residential amenity of nearby occupants. The scheme therefore fails to comply with Local Plan Policy LP24(b) 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 Highways Design Guide SPD is also relevant.

The application site is located on the southern side of the A653 Leeds Road. Leeds Road is a heavily trafficked classified road and bus route connecting Dewsbury with the M62 Motorway at Tingley, Leeds and the wider highway network. The proposals show the red line boundary, and the vehicle swept paths for a 7.5 tonne vehicle which requires the bulk of the site to turn and enter and exit the site in a forward gear. A note on the plan say area to remain clear.

KC Highways Development Management (HDM) were consulted on the proposal and raised the following comments:

The vehicle swept paths shown for just a 7.5 tonne vehicle require a large part of the site leaving little space for plant and equipment which suggests that the turning space is unlikely to be kept clear for internal turning. Larger vehicles may also be needed to transport plant and equipment to and from the site. It is therefore considered that insufficient internal vehicle turning is available within the site which could result in vehicles needing to reverse onto or off the Leeds Road which is not considered to be in the best interests of highway safety.

Sight lines from the proposed access onto Leeds Road are poor in both directions. This is also not considered to be in the best interests of highway safety."

KC HDM therefore recommend that these proposals are refused on highway safety grounds.

Officers concur with KC HDM and it is considered that to approve the application, based on the information available to officers, would be detrimental to highway safety. It is therefore considered that, the development would not comply with LP21 of the Kirklees Local Plan or Chapter 9 of the NPPF.

5. Other Matters

Ecology

Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

With regards to Biodiversity Net Gain, the applicant has stated within their application form that the application is exempt under the retrospective planning permission. Officers are of the understanding that the site is currently used for skip storage and the application is for storage of plant and equipment, including the storage of skips. Therefore, based on the information available to officers, the application is considered retrospective only in part. Officers therefore consider the application would in part be exempt from statutory BNG due to being retrospective.

Notwithstanding the conclusion above, the proposal would still need address Policy LP30 of the Local Plan in enhancing biodiversity of the site. Whilst this application fails to do so a positive recommendation could include conditions for this to be addressed to ensure compliance with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD.

Land Contamination

The application site falls within the defined Development Low Risk Area and there would be no groundworks proposed. Therefore, no additional information was required regarding land contamination.

6. Representations

Two representations were received in objection to the proposal as well as concerns raised by a ward councillor. Their concerns are summarised below and addressed by officers:

Highway issues

- Access would be difficult due to the high volume of traffic on Leeds Road
- Large vehicles would cause delays to existing traffic on Leeds Road
- Access and egress is difficult and dangerous
- Heavy goods vehicles are constantly entering and exiting the site which impacts on the traffic and causes danger to road users and pedestrians

Officer response: This is a material planning consideration which has been carefully considered in the highway safety section of this report.

- Vehicles are parked outside neighbouring property on double yellow lines and block driveway

Officer response: This application is not considered to intensify off-street parking and this is not within the scope of the application therefore officers will make no further comment.

Current Site Use

- A business is already operating on the site as a waste disposal/skip hire company
- The current users of the site burn rubbish at all times which creates large amounts of smoke
- Skips are set on fire
- Current unlawful small waste transfer station

Officer response: officers are aware of the current operations on the site however this application is for the storage of plant and equipment and has

been assessed as such. The impact of incineration has been considered under the residential amenity section of this report.

Visual amenity

- Eye sore, particularly large fencing

This is a material planning consideration that has been carefully considered under the visual amenity section of this report.

Other matters

- Neighbour owns part of the land and should be allowed constant access to parking space

Officer response: the granting of planning permission does not override any private rights of ownership and it is the applicants responsibility to ensure they have the legal right to carry out the approved works. Any covenants or legal agreements are not a planning consideration.

- No site notice was put up

Officer response: In line with the requirements of the Development Management Procedure (England) Order 2015 and the Development Management Charter this application was advertised via neighbour notification letter and in the press.

- Another stipulation for this land is that the water authority have to be allowed access to the underground water supply at all time

Officer response: This is not a material planning consideration for a development of this nature.

Conclusion

This application for the storage of plant and equipment at land off Leeds Road in Dewsbury 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.

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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Decision Authorisation - Delegated Powers

Application Number: 2024/93401

Officer Recommendation: Approve

Conditions:

1. The proposed development fails to demonstrate sufficient space and sight lines for the access and egress as well as turning of large vehicles resulting in vehicles reversing onto or off a classified A road to the detriment of highway safety and other road users. The proposal neither ensures the safe and efficient flow of traffic within the development site nor on the surrounding highway network. The scheme would have a detrimental impact upon highway safety and to permit it would be contrary to Policy LP21 of the Kirklees Local Plan and Paragraphs 115 and 116 of the National Planning Policy Framework.

1. The introduction of plant and equipment, in a predominantly residential area, would appear incongruous within the wider street scene and would detract from the character of the area. The scheme would therefore cause harm to visual amenity, contrary to Policy LP24 of the Kirklees Local Plan and Paragraph 131 of the National Planning Policy Framework.

2. The site operations including the coming and goings of delivery vehicles, as well as the movement of industrial equipment and plant within the site would result in additional noise which would be detrimental to the amenity and well being of nearby occupants. The scheme would therefore result in harm to residential amenity, contrary to Policy LP24 of the Kirklees Local Plan and Paragraph 131 of the National Planning Policy Framework.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	24318-D01-A		02/12/2024
Site Plans	24318-D02-A		02/12/2024
Design and Access Statement			02/12/2024

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.

Officers sought additional information regarding what plant and equipment would be stored at the site and clarity as to whether the skips would continue to be stored on the site.

Report Dated: 29/01/2025

