

**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:	2024/62/93456/W
Site Address:	2, Hollin Hall Lane, Scapegoat Hill, Huddersfield, HD7 4PF
Description:	Demolition of existing outbuilding and erection of outbuilding to create dwelling forming annex accommodation associated with 2, Hollin Hall Lane, Scapegoat Hill, Huddersfield, HD7 4PF
Recommending Officer:	Joanna Rednall

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.

John Holmes

AUTHORISED OFFICER

Date: 10th April 2024

The Site

2, Hollin Hall Lane is a two-storey dwelling set back from the highway behind a small garden and gravel driveway running down from the western side of the dwelling and giving access to the rear. It is situated in a rural area with its nearest neighbours being a small cluster of dwellings some 30m to the south. The outbuilding is located approximately 10 metres to the rear/north of the dwelling and due to the steep topography, the outbuilding is situated within the slope of the land at a lower land level to the host dwelling.

The application site is designated Green Belt on the Kirklees Local Plan map.

The Proposal

The applicant is seeking planning permission for demolition of existing outbuilding and erection of outbuilding to create dwelling forming annex accommodation associated with 2, Hollin Hall Lane, Scapegoat Hill, Huddersfield, HD7 4PF.

The existing outbuilding, measuring approximately 13m in width, 6m in depth and 2.5m in height would be demolished and replaced with a new outbuilding measuring approximately 13.2m in width, 5.8m in depth and 2.6m in height. The outbuilding would be finished in render timber cladding with a green flat roof incorporated above.

Internally, the annex serves an open-plan living and dining area, a bedroom and en-suite. To the front is a covered terrace projecting approximately 1.5m from the front elevation and extends the full width of the front elevation.

History of Negotiations

Officers raised concerns with the applicant's agent regarding the extent of the domestic curtilage, as work approved under application no. 2023/90816 had already commenced at the time of the case officer's site visit. In response, the applicant's agent submitted revised plans that reduced the red line boundary, now covering the outbuilding and a small section of the associated land.

Officers also sought existing and proposed section drawings to show the outbuilding in the context of the sloping land.

Planning History

Relevant planning history for this site is summarised as follows:-

2006/93552 ERECTION OF STABLE

Conditional full permission

2020/90019 Erection of extensions and alterations

Conditional full permission

2022/91900 Erection of two storey side extension and detached garage and alterations

Conditional full permission

2023/90816 Demolition of existing building and erection of dwelling with associated external works and erection of detached garage

Conditional full permission

Development granted under permission 2023/90816 is under construction and currently being undertaken on site. For the avoidance of doubt, whilst the description and addresses on the application form makes reference to 2, Hollin Hall Lane, Scapegoat Hill, Huddersfield, HD7 4PF, it is considered that as the dwelling now being constructed (and likely to retain the address) is that permitted by 2023/90816 any reference to no.2 includes reference to the fact it is the dwelling permitted by this consent.

Within discussions with the applicants' agent, it was advised the initially submitted red line boundary reflected the extent of the residential curtilage associated with the host property. Analysis of aerial photographs demonstrates a large residential curtilage associated with the dwelling as initially stood at site. Permission 2023/90816 has a smaller extent of residential curtilage associated with the dwelling approved by that permission.

The building the subject of this application has been in place since at least 2018 being completed at some point between 2012 and 2018. It is in the location of the permission for a stable (2006/93552). The applicants' agent advises this has been used in association with no.2 for residential purposes ancillary / incidental to no.2.

Publicity & Representations

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management

Charter. As such, this application has been publicised via neighbour notification letters.

Final publicity date expired: 7th March 2025

No representations were received as a result of the publicity.

The amended plans were not re-publicised as these did not fundamentally change the development applied for.

Consultations

No statutory consultations were requested for this application.

Allocation & Policies

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 falls within the Green as identified within the plan.

Local guidance and policy is provided by the Kirklees Local Plan (adopted February 2019) as such the following policy, guidance and legislation is considered relevant to the determination of this application:-

Kirklees Local Plan (LP)

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP21 Highway Safety
- LP22 Parking Provision
- LP24 Design
- LP30 Biodiversity
- LP57 The extension, alteration or replacement of existing buildings

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. Considered to be of relevance to the consideration of this application are policies within the following chapters:

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- Chapter 2 – Achieving sustainable development
- Chapter 9 – Promoting sustainable transport
- 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
- Chapter 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

House Extensions and Alterations SPD (June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Assessment

1 – Principle of development:

Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to stating that:

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

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

These policies, in the context of the Green Belt allocation of the site, are considered within the 'Principle of development – conclusion' section of this report.

Green Belt – Policy

Policy LP57 of the Kirklees Local Plan relates to the extension, alteration or replacement of existing buildings, specifically stating the following: -

'Proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that:

- a. in the case of extensions the original building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and of other associated buildings will be taken into account. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building;*
- b. in the case of replacement buildings, the new building must be in the same use as and not be materially larger than the building it is replacing;*
- c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access; and*
- d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting'*

Section 13 ('Protecting Green Belt Land') of the National Planning Policy Framework is relevant and in particular the following paragraphs: -

Paragraph 142: 'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.'

Paragraph 143 specifies the five purposes of including land within the Green Belt, which are:-

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 153 of the NPPF states that inappropriate development in the Green Belt should not be approved except in very special circumstances. Paragraph 153 of the NPPF goes on to note that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF sets out that development in the Green Belt is inappropriate unless certain exceptions apply. Of relevance is considered to be paragraph d which sets out that:

'Development in the Green Belt is inappropriate unless one of the following exceptions applies... the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'

The application seeks permission for demolition of existing outbuilding and erection of outbuilding to create dwelling forming annex accommodation associated with 2, Hollin Hall Lane, Scapegoat Hill, Huddersfield, HD7 4PF. The submitted location plan details the ownership of the site to extend around the dwelling and land further north, and upon a site visit officers noted that development for planning application 2023/90816 had commenced as the existing dwelling had been demolished. The approved plans under 2023/90816 showed a smaller residential curtilage and therefore upon review of this proposal as submitted, officers considered that not all the land within the red line boundary within the initial location and block plans would constitute the residential curtilage of the new dwelling.

The Oxford English dictionary definition of curtilage is 'A small court, yard, garth or piece of ground attached to a dwelling-house, and forming one enclosure with it, or so regarded by the law; the area attached to and containing a dwelling-house and its outbuildings'.

There is case law surrounding the definition of curtilage, which is considered to be relevant to the consideration of this case. Firstly in *Dyer v Dorset CC* [1989] it was held that curtilage constitutes a piece of ground attached to a dwellinghouse and forming one enclosure with it; thereby the area attached to and containing a dwellinghouse and its outbuildings. In the case of *McAlpine v Secretary of State for the Environment* [1995] the judgement that was arrived at in the *Dyer* case was maintained and further concluding that curtilage is constrained to a small area around a building. Finally the Court of Appeal in

Secretary of State for the Environment, Transport, and the Regions v Skerritts of Nottingham [2000] set out that the definition of a curtilage in relation to a building must remain a question of fact and degree in each case.

It is clear then that an intimate association between the curtilage of a dwelling and the dwelling itself needs to exist for it to be defined as curtilage.

Satellite imagery of the site suggests that the existing outbuilding and its associated land became part of the residential curtilage sometime between 2011 and 2015. As a result, it is considered that the outbuilding and associated land have become lawful through the passage of time. During a site visit, officers observed that works approved under application reference 2023/90816 had commenced, and this permission involved a smaller red line boundary around the dwellinghouse. During the course of this application, officers raised these concerns with the applicant's agent regarding the extend of land surrounding 2, Hollin Hall Lane which could be considered the residential curtilage, but officers accept that the commenced permission did not include a condition tying the residential curtilage to the red line boundary approved in 2023/90816.

Notwithstanding this point, the land linking the extent of the curtilage of the dwelling approved by 2023/90816 and the building as stands at site is limited in size and scale and that which can reasonably be described as curtilage to the existing building which has a lawful use in connection with no.2. Therefore, officers consider that the land containing the existing outbuilding and linking to the dwelling permitted by 2023/90816 (on the balance of probabilities) could be considered part of the lawful curtilage of 2, Hollin Hall Lane.

In this case then, it is considered no material change of use of the land is taking place. To ensure that the curtilage is clearly defined and to prevent it from increasing as a result of the development, a condition will be included within the decision notice to restrict the residential curtilage to the area outlined on Location Plan (EX)002 Rev A. In addition the condition in place upon 2023/90816 removing permitted development rights is considered appropriate to include in this case for the same reason it is in place upon 2023/90816.

With regard to paragraph 154 of the NPPF, it is considered that the proposed development constitutes the replacement of a building with the same use and is not materially larger than the structure it replaces. The footprint of the building will remain unchanged, and the footprint will remain at approximately 95 square meters. It is considered the associated land is already residential curtilage and therefore the development would not constitute a change of use.

Consequently, the proposed development would fall under the exemption outlined in paragraph 154d of the NPPF and would not constitute inappropriate development within the Green Belt.

Further to the above and in relation to Policy LP57, given that the proposal would replace a building of the same use (in association with no.2 Hollin Hall Lane) and would not be materially larger than the existing, and no additional hardstanding appears to be proposed, it is not considered that the proposal would cause greater harm to the openness than the existing development. In addition, as will be discussed below in the visual amenity section, the design of the proposal is also considered to be acceptable within this Green Belt setting. The proposal is therefore considered to be in accordance with Policy LP57 of the Kirklees Local Plan.

2 – Impact upon visual amenity

Policy LP24 (Design) of the Council's adopted Local Plan sets out 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, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers. Paragraph 135 of the NPPF is also of relevance to the consideration of this application.

Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Paragraph 5.30 of the House Extensions and Alterations SPD states that outbuildings should normally:

- be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings;
- be set back behind the building line of the original building so that they do not impact on the street scene; and
- preserve a reasonable private amenity space appropriate to the potential number of occupants of the house and follow a general principle that no more than 50% of garden space should be lost.

Demolition of existing outbuilding and erection of outbuilding to create dwelling forming annex accommodation associated with 2, Hollin Hall Lane.

It is considered that the dimensions of the proposed annex building would be viewed as subservient to the host dwelling within the context of the rear amenity space that serves No.2 Hollin Hall Lane. As noted above, the annex would have the same footprint as the existing outbuilding and would be subservient in footprint and scale to the host dwellinghouse. The submitted site sections show the annex would be embedded into the topography of the land and would not form an obtrusive or incongruous addition to the landscape, retaining an appropriate sense of openness around the site with sufficient levels of outdoor amenity space to be retained.

The exterior walls would be in keeping with the design and construction materials of the host dwellinghouse and would also be finished in render timber cladding to match. These materials are specified within the submitted application form, and subject to inclusion of a condition requiring the development is undertaken with the plans / form submitted it is considered the visual impact of the development would be acceptable. This conclusion is drawn on the basis of the impact of the existing building, its materials of construction, and fact the proposal would have a largely similar impact visually in terms of massing.

It is therefore considered that in terms of visual amenity, the proposed would comply with Policy LP24 & LP57 of the Kirklees Local Plan, the adopted House Extensions and Alterations SPD, and advice within the National Planning Policy Framework.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

The House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposal's impact on residential amenity, which state:

- Principle 3 – that: *“extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours”.*
- Principle 4 – that: *“extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook.”*
- Principle 5 – that: *“extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property”.*
- Principle 6 – that: *“extensions and alterations should not unduly reduce the outlook from a neighbouring property.”*

The proposed annex would be situated a significant distance from any neighbouring dwellings, with the closest property being 1, Hollin Hall Lane, some 55m away. Due to this, the proposed development is not considered to cause harm to the residential amenity of any neighbouring dwellings to 2, Hollin Hall Lane.

The building is accessed via the amenity space of no.2 and would rely on shared parking arrangements also. As such it is considered appropriate for the use of the building to be ancillary to no.2 and for this to be secured by an appropriately worded condition.

It is therefore considered that in terms of residential amenity, the proposed would comply with Policy LP24 of the Kirklees Local Plan and advice within Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and policies within chapter 9 of the NPPF 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 Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

The proposed annex would provide an additional bedroom associated with 2 Hollin Hall Lane. The existing parking spaces to the west of the dwelling would be retained, and it is not anticipated that the demolition of the existing outbuilding and the construction of the annex would result in a significant increase in parking demand or cause a notable intensification of parking requirements. As such, the proposed parking arrangements are deemed acceptable.

The proposal does not propose any changes highway access. It is therefore considered that the proposal is acceptable in relation to highway safety on the basis the building is used ancillary to no.2.

It is therefore considered that in terms of access and highway safety / parking the proposed would comply with Policies LP21 and LP22 of the Kirklees Local Plan, and chapter 9 of the National Planning Policy Framework.

5 – 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 pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Considering the modest nature of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. A Climate Change statement has been submitted with this application.

Biodiversity

A 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.

The submitted application form sets out that it is considered the development benefits from being exempt as a result of being a custom / self build. Notwithstanding the submitted form, it is considered the development benefits from the de-minimus exemption as set out by The Biodiversity Gain

Requirements (Exemptions) Regulations 2024 and there is no requirement for BNG to be provided in respect of the aforementioned legislation.

The proposed development is therefore considered to comply with LP30 of the Kirklees Local Plan and Chapter 15 of the NPPF.

6 – Representations:

None received

7 – 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: 2024/93456

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 (as amended).

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

Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP01, LP02, LP21, LP22 & LP24 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 15 of the Council's adopted House Extensions & Alterations Supplementary

Planning Document, and Policies within Chapters 2, 9, 12 and 14 of the
National Planning Policy Framework

3. The development hereby approved shall not be used for any purpose other than as ancillary accommodation in connection with the dwelling approved by virtue of permission 2023/90816 dated 12th July 2023 referred to as 2 Hollin Hall Lane, Scapegoat Hill, HD7 4PF in the submitted application form **Reason:** In the interests of the amenity of the occupiers of the development hereby approved and neighbouring properties and access and highway safety to accord with policies LP21, LP22 and LP24 of the Kirklees Local Plan, the Council's adopted Highway Design Guide and policies contained within chapter 12 of the National Planning Policy Framework.

4. The residential curtilage of the development hereby approved and dwelling approved by virtue of permission 2023/90816 dated 12th July 2023 referred to as 2 Hollin Hall Lane, Scapegoat Hill, HD7 4PF in the submitted application form shall not extend beyond the land outlined in red on the approved location plan (ref: EX002RevA).
Reason: To safeguard the Green Belt in accordance with Policy LP57 of the Kirklees Local Plan and policies within Chapter 13 of the National Planning Policy Framework.

5. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), no extensions or outbuildings falling within Part 1, Class A, B, or E of said Order shall be erected or constructed within the land outlined in red on the approved location plan (ref: EX002RevA).
Reason: To retain adequate planning control over the site in the interests of ensuring that uncontrolled extensions and outbuildings do not give rise to harm to the openness of the Green Belt and to accord with the aims of Policy LP57 of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	(EX)002	A	20/03/2025
Block Plan	(20)002	A	20/03/2025
Existing Outbuilding	(EX)001	-	05/12/2024

Plan Type	Reference	Version	Date Received
Proposed Outbuilding	(20)001	-	05/12/2024
Site Sections	(70)001	-	20/03/2025
Application form	-	-	05/12/2024

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 Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application. Officers raised concerns with the applicant's agent regarding the extent of the domestic curtilage, as work approved under application no. 2023/90816 had already commenced at the time of the case officer's site visit. In response, the applicant's agent submitted revised plans that reduced the red line boundary. Officers also sought existing and proposed section drawings to show the outbuilding in the context of the sloping land.

Report Dated:

09/04/2025

Low coal