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:	**2025/62/90089/W**
Site Address:	11b, Back Green, Outlane, Huddersfield, HD3 3YT
Description:	Erection of single storey side extension with first floor in roof space, erection of dormer windows and alterations to garage/flat to form one dwelling including associated parking areas, creation of associated amenity spaces and works
Recommending Officer:	Joanna Rednall

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.

John Holmes

AUTHORISED OFFICER

Date: 25th March 2025

The Site

The application site relates to a detached garage constructed from stone with a slate pitched roof. There is a parking area to the west of the site and a variety of dwellings surrounding the site. To the south, west and east mature trees line the field boundary, with open land and the M62 motorway beyond. There are Grade II Listed buildings approximately 10 metres north of the application site.

The site is partially within the Green Belt, specifically the section to the south of the building. The southern elevation of no.11b is upon the green belt boundary (as identified within the Kirklees Local Plan). Aerial photographs of the site from 2018 and from 2021 demonstrate that at some point within that timeframe (18 – 21) land to the south of the site has been hard surfaced and soft landscaping including trees appear to have been removed to facilitate this.

The Proposal

The applicant is seeking planning permission for erection of single storey side extension with first floor in roof space, erection of dormer windows and alterations to garage/flat to form one dwelling including associated parking areas, creation of associated amenity spaces and works.

Single storey side extension with first floor in roof space

The side extension is proposed to the south-east elevation of 11b, Back Green and would be finished in stone with a slate pitched roof. The approximate measurements of this extension are as follows:

- 4.8 metres in width
- 5.5 metres in depth
- 3.5 metre eave height
- 5.8 metre ridge height

An opening is proposed on the front/south-west facing elevation, along with a roof light on both the front and rear roof slopes.

Internally, this extension serves a lounge at ground level and a bedroom above.

Dormers

Two dormers are proposed to the front/south-west facing elevation. These would be identical in size and the approximate measurements are as follows:

- 2.4 metres in width
- 2.8 metres in depth
- 1 metre eave height
- 2 metre ridge height

Internally, these dormers serve a bedroom.

Alterations to garage/flat to form one dwelling including associated parking areas, creation of associated amenity spaces and works.

One of the garage doors would be removed to the front/south-west facing elevation and would be replaced with a window and door. Internally, the smaller garage to the north of the building would be retained and the larger garage would be re-configured to provide a utility, kitchen/dining, and wc.

The existing parking spaces at the front will be retained, with amenity spaces surrounding the building.

The development would result in the total number of bedrooms on site being increased from 1 to 3.

History of Negotiations

No amendments have been sought in the processing of this application as it was considered significant amendments would be needed to overcome the harm of the development.

Planning History

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

2000/90927 - RE-USE, EXTENSION AND ADAPTATION OF TWO FORMER DWELLINGS AND BARN TO FORM 3 NO. DWELLINGS WITH FORMATION OF DRIVE, PARKING SPACES AND GARDEN AREAS (MODIFIED PROPOSAL)
CONDITIONAL FULL PERMISSION

2000/92696 – ERECTION OF BLOCK OF 3 GARAGES

CONDITIONAL FULL PERMISSION

This consent relates to the building the subject of this application. It is noted that the plans for this demonstrate that soft landscaping is to the land to the immediate south of the site, showing a line of trees upon the plans. It appears this soft landscaping has remained in place from 2002 – 2018 with its removal and the laying of hard standing taking place between 2018 and 2021.

2008/90350 - CHANGE OF USE, EXTENSION AND ALTERATIONS TO CONVERT EXISTING GARAGES TO DWELLING
REFUSED

2008/92994 - Change of use, extension and alterations to convert existing garages to dwelling and construction of acoustic earth mound and screen fence
REFUSED

It is noted that in response to an enforcement complaint (ref: COMP/21/0068) it was established that the current use of the site was lawful by virtue of the passage of time in respect of the change of use of the building to residential use.

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 a site notice and a press notice.
Final publicity date expired: 14th March 2025
3 letters (which includes hand-written letters, e-mails and on-line representations) of representation have been received. These are summarised as follows:-

Letters of objection

- Increase in traffic and parking
- Reduce greenery in the area
- Impact upon privacy
- The dormers would reduce the level of sunlight to nearby houses
- The extension will change the character of the area
- The garage has been illegally converted into a dwelling
- Lots of the green land has been paved over prior to this application

- Resultant noise from the development
- Condition of the access is poor
- Increase in built form reduces land / foliage to mitigate motorway noise
- Drainage issues associated with the access through improvement works have reduced surface water drainage to fields.
- Residential amenity affected for properties 1 – 7
- Previous refusals at the site, subsequent conversion of the garage took place anyway

Consultations

The following consultations have been undertaken:

KC Environmental Health: no objections subject to conditions.

KC Highways Development Management: no response received

Notwithstanding the fact no response to consultation has been received from the Highways Team it is considered the LPA is still able to determine 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).

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
LP35 Historic Environment
LP57 The extension, alteration or replacement of existing buildings

LP58 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) 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: -

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
Chapter16 – 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.

There are listed buildings sited approximately 10 metres north of the application site and the majority of the works are confined to the south and west facing elevations of 11b. Given the distance and the nature of the developments proposed, which would be confined to the boundaries of the site only.

It is not considered that, when taking account of the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to ‘have special regard to the

desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses the development would affect their setting in this case given the extent of the works proposed.

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Impact upon visual amenity
2. Impact upon residential amenity
3. Impact upon highway safety
4. Other matters
5. Representations
6. Conclusion

1 – Principle of development:

The site is designated green belt on the Kirklees Local Plan. 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'

Policy LP58 of the Kirklees Local Plan states that: *"proposals to change the use of land in the Green Belt to a domestic garden will not normally be permitted. 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*
> *b. the means of enclosure is appropriate to its setting and is of a high quality of materials and design."*

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.

The application seeks permission for erection of single storey side extension with first floor in roof space, erection of dormer windows and alterations to garage/flat to form one dwelling including associated parking areas, creation of associated amenity spaces and works. The submitted location plan details the ownership of the site to extend around the dwelling and land further south, and it is considered that not all of the land within the red line boundary constitutes the curtilage of the 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.

When reviewing aerial imagery of the site, the land south of 11b appears to have been soft landscaping and woodland in 2002, 2006, 2009, 2012 and 2018 and appears to have been hard-surfaced by 2021 and would therefore not constitute the residential curtilage associated with 11b, Back Green. Having regard to the physical layout of the site the extent of the curtilage could not reasonably be argued to be greater than that of the garden area to the north and east and the small hardstanding area to the front. Whilst ownership of the larger site is noted, this does not automatically mean that all

land in ownership of the applicant which is around a dwelling would necessarily form the curtilage of the dwelling. The proposed development would therefore result in a material change of use of land designated Green Belt and would conflict with the purpose of the Green Belt set out in paragraph 143c of the NPPF.

Notwithstanding this, it is considered the LPA is still able to progress and determine this application and make an assessment of the planning merits of the scheme, including that of the change of use of the land.

The material change of use of land is identified at paragraph 154(h) as an other form of development that may be an appropriate exception provided they preserve its openness and do not conflict with the purposes of including land within it.

Principle of development – conclusion

The submitted planning statement details that the area has 'always been hardstanding' although no timeframe is provided in terms of when it specifically became hard standing. The statement goes on to set out that boundaries have altered over time and that the proposal would constitute a 38% increase in terms of the volume of the existing building. Screening is referenced to within the statement as well as the fact matching materials would be utilised.

The content of the submitted statement is noted, however it is clear that the land upon which the proposal would be sited does not lawfully constitute garden land and it is not considered that there are any compelling reasons set out, or which exist more generally, that would constitute very special circumstances that outweigh the harm of the development which arises from the encroachment of urban development into the Green Belt as a result of the development proposal.

As set out at policy LP58, change of use of land to domestic garden will not normally be permitted other than where it can be shown that very special circumstances exist that would warrant allowing the proposal.

In this case the proposal would see encroachment into the Green Belt conflicting with one of the purposes of including land within the Green Belt, the extent of the encroachment goes beyond the established building line whereby built form of residential properties is up to the Green Belt boundary rather than within it.

The encroachment of built form as a result of hardstanding areas and extensions proposed as part of this application has a harmful impact eroding the openness of the Green Belt through the introduction of urban features in a part of the site which was previously free from development and contributed to the wider openness of this part of the Green Belt. The proposal is therefore considered to have a visually harmful impact in this regard in relation to the openness of the Green Belt and is also considered to have a harmful impact by reason of inappropriateness given it relates to inappropriate development within the Green Belt.

The proposal is considered to constitute inappropriate development in the Green Belt which would adversely impact on both the visual and spatial aspects of openness of the Green Belt and for which no very special circumstances are considered to exist. It is therefore concluded the development would be contrary to policies contained within Chapter 13 of the NPPF as the development would encroach into the countryside and extend the residential curtilage contrary to paragraph 143c. The proposal is therefore considered to be contrary to policy LP2 which seeks to ensure all development proposals build on the strengths, opportunities and help address challenges identified in the Local Plan.

The principle of development is therefore considered to be unacceptable in this case.

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.

Notwithstanding the conclusion of the development insofar as whether it constitutes a disproportionate addition (in terms of an assessment of the

development within the Green Belt) an assessment of other elements of the visual impact is undertaken as follows.

Single storey side extension with first floor in roof space

Section 5.3 of the Council's SPD provides guidance on side extensions. Paragraph 5.15 sets out *"Side extensions should be located and designed to minimise the impact on the local character of the area. The design should reflect the design of the original building in terms of roof style, pitch materials and detailing."*

The proposed side extension projects 4.8 metres from the side of 11b, with a depth of 5.5 metres. The extension features a pitched roof, set lower than the host building, and would be finished with materials that match the original structure. The roof design mirrors that of the existing building, and officers consider the extension's design would harmonize well with the existing form and linear alignment of the building. The extension is set back from the original building line, and its relatively modest scale ensures it remains subservient to the original structure. The proposed fenestration will be residential in style, consistent with both the host building and surrounding development. The first floor would be served by two rooflights, one to the front and one to the rear. These would be in keeping with existing openings on 11b and are considered to appropriately harmonise with the application building.

However, despite the above considerations, officers consider the principle of the side extension would be unacceptable in this case. This is because the development as a whole would constitute inappropriate development in the Green Belt in terms of extending the residential curtilage and encroachment into the countryside, contrary to the aims of paragraph 143c of the NPPF.

Dormers

Section 5.4 of the Council's SPD relates to dormer windows and roof extensions.

Paragraph 5.24 sets out *"Roofs are a prominent and visible element of the street scene. Unsympathetic roof extensions and dormer windows can have a significant effect on the visual appearance of both the individual building and street scene. Poorly designed roof extensions and dormer windows can make a building appear top-heavy, cluttered and asymmetrical."*

Paragraph 5.25 details dormer windows should reflect the character of the area, the surrounding buildings and the age, appearance and materials of the existing house. Ideally, dormers should be located to the rear of a house and

should be as small as possible with a substantial area of the original roof retained.

Paragraph 5.27 provides the following guidance:

5.27 Dormer windows should:

- *relate to the appearance of the house and existing roof;*
- *be designed in style and materials similar to the appearance of the existing house and roof;*
- *not dominate the roof or project above the ridge of the house;*
- *be set below the ridgeline of the existing roof and within the roof plane; and*
- *be aligned with existing dormer windows on neighbouring properties in the same roof plane where relevant.*

Twin dormers are proposed to the front elevation of 11b, Back Green. The dormers are measure 2.4 metres in width, 2.8 metres in depth, 1 metre in eave height, and 2 metres in ridge height. The dormers are designed with pitched roofs to match the existing roof form of 11b, Back Green and are modest in scale, ensuring that the majority of the front roof slope remains intact and to avoid over-dominating the front elevation of 11b, Back Green. They are set above the eaves and do not project above the ridge of 11b, and their modest scale prevents the proposed dormers from overwhelming the front roof slope or creating an unbalanced, top-heavy appearance. The dormers are aligned with the existing ground floor openings and would appear consistent with its overall design of 11b. Should the application be recommended for approval, it would be necessary to impose a condition requiring the dormers to be constructed using materials that match the existing roof.

Alterations to garage/flat to form one dwelling including associated parking areas, creation of associated amenity spaces and works.

The submitted site layout plan indicates that an area of hardstanding will be retained at the front of 11b, with amenity spaces surrounding the dwelling. The amenity space will remain unchanged, and while one parking space will be removed, one garage will be retained. These alterations are relatively modest and would not negatively impact the visual amenity of 11b, Back Green, or the wider amenity of Back Green.

It is therefore considered that in terms of visual amenity, the proposed would comply with Policy LP24 of the Kirklees Local Plan, the adopted House

Extensions and Alterations SPD, and policies within chapter 12 of the National Planning Policy Framework.

It is considered that the visual impact of the development in terms of the use of the materials and being designed to be of a style / design which is in keeping with the host property is acceptable having regard to the aforementioned policies. Notwithstanding this conclusion, it is considered that this does not overcome the harm identified by virtue of the change of use of the land and the subsequent encroachment which results from such a change of use as set out in the 'Principle' section of this report.

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 designs 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 properties potentially affected by the proposed development are those which directly neighbour the site, these being:

<u>11 and 11A, Back Green – located opposite the application site.</u>

In terms of overlooking, the development would introduce new dormer openings facing 11A, where no openings currently exist. These dormer windows would serve habitable rooms (bedrooms). According to the Council's SPD, to maintain a reasonable level of privacy for the occupiers of both dwellings, a minimum separation distance of 12 metres is recommended between windows of habitable rooms and non-habitable rooms, and at least 21 metres between facing windows of habitable rooms. It has been assessed that a separation distance of approximately 25 metres will be maintained between these neighbours and 11B, in line with the SPD's recommendations, therefore due to the separation distance, the development is considered to have an acceptable impact on the privacy of the occupiers of 11A and 11.

In terms of overbearing and overshadowing, while the overall height of 11b would not increase, the proposal would introduce additional built form to the side of the building. However, due to the ~25 metre separation distance and existing screening provided by hedges and trees, the development is not expected to create an overly oppressive appearance or cause significant overshadowing. Therefore, the proposal is not considered to have a detrimental impact on the amenity of occupiers of 11A and 11.

7, 5, 3 and 1 Back Green – located north of the application site

As the extension is confined to the south and west facing elevations of 11b, it has been assessed there would be no significant impacts of overshadowing, overbearing or overlooking as a result of this element of the development. The proposed extension is located to the south-facing elevation and would be screened by the main body of 11b, and the proposed dormers would not face these neighbours. Due to these reasons, the proposal is not considered to have a detrimental impact on the amenity of occupiers at No.'s 7, 5, 3 and 1 Back Green.

Whilst the proposal would see a number of dormer structures to the roof, these are set in from the side, down from the ridge and back from the eaves of the existing building. The subsequent increase in built form is not considered to be of a scale and size which would significantly impact upon these occupiers as a result of overshadowing / overbearing impact. No openings, other than a door at ground floor level, would be in place facing these properties to the north as a result of the proposed development.

It is therefore considered the impact upon the amenity of these occupiers would not be significant.

7A, Back Green – located to the rear of 11b

The dwellings are separated by approximately 17 metres, with a boundary fence in place, and the submitted plans also indicate that no openings are proposed on the rear elevation. Although 11b is situated at a higher ground level than 7A, 7A is a two-storey dwelling. Therefore due to the existing separation distance and the existing boundary treatment, it is concluded that the development would not cause undue harm to the amenity of the occupiers of 7A as a result of overshadowing or overbearing impact.

With regard to overlooking, two roof lights would be in place, which would serve a landing and a bedroom, given the orientation of the properties and in relation to these openings which are within the roof slope it is considered overlooking as a result would not be significant in this case in relation to this property.

It is therefore considered that in terms of residential amenity, the proposed would comply with Policy LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the adopted House Extensions and Alterations SPD, 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 development would increase the domestic use of 11b, Back Green, increasing the total number of bedrooms from 1 to 3. According to KDP 15 of the Council's SPD, dwellings with 2-3 bedrooms are required to provide a minimum of 2 off-street parking spaces. While one of the existing garages will be removed to accommodate the proposed works, one garage will remain to serve the dwelling. Additionally, 11b benefits from a parking area at the front of the property, which is currently appears to be used for parking associated with 11b. This area would remain unchanged by the proposal and is considered sufficient to accommodate the increase in bedrooms. The area is already hard-surfaced, and there are no obstacles to its continued use for parking.

It is also noted that there is sufficient space within the established residential curtilage to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

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, principle 15 of the Council's Street Design Guide and chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Ecology

Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest, and therefore considered unlikely that the proposals would have an impact on the bat population. An informative would be provided however, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward.

It is noted that There is a legislative requirement for Biodiversity Net Gain introduced in April 2024 for developments of this type / scale. Rules are present for developments where degradation (removal of habitat) takes place prior to the application. Given the retrospective nature of the development regard is given to section 73A of the Town and Country Planning Act 1990 (as amended) and also paragraph 002 Reference ID: 74-002-20240214 of the NPPG. It is clear that degradation of the site has had to take place to enable the development, although it is also clear the site was the subject of development prior to the introduction of BNG requirement in 2024 and the unauthorised development that would have required a BNG assessment was largely completed by 2021. The informative note in relation to BNG is not, therefore, recommended to be included in this case.

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.

Land Quality

With regard to land quality, paragraphs 187, 196 and 197 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are considered to be relevant.

The Council's Environmental Health Team recommend inclusion of a condition in the event unexpected contamination is encountered during construction of the development. In the event of any approval such a condition is recommended to be included and subject to condition the proposal is considered acceptable in this regard.

Noise

Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this case the relevant possible increases could relate to noise, light & odour emissions.

The Council's Environmental Health Team have recommended that any grant of permission be subject to condition relating to noise in regard to occupiers of the proposed development. On the basis of the inclusion of such a condition the impact of the proposal upon occupiers of the proposal is not considered to be significant in this regard.

In terms of noise as a result of the proposed development, either the construction or operational phase of the proposal would result in levels of noise arising which it is considered it would be unreasonable of the LPA to control or refuse permission on such a basis. During the construction phase noise would be short lived and potentially controlled (if undertaken at a nuisance level) by separate legislation. Whilst construction working times are suggested by the Environmental Health Team as a condition it is considered

appropriate that they be included as an informative in the event of any grant of permission.

Turning to noise as a result of occupants of the proposal, given the existing use the increase in occupants of the dwelling is not considered to be a reason for which the LPA could reasonably refuse permission in this case.

6 – Representations:

- Increase in traffic and parking
  Officer response: The impact upon highways and parking has been considered under section 4 of the 'Assessment' section of this report.

- Reduce greenery in the area
  Officer response: The impact upon visual amenity and openness has been considered under sections 1 of the 'Assessment' section of this report

- Impact upon privacy
- The dormers would reduce the level of sunlight to near houses
  Officer response: The impact upon residential amenity has been considered under section 3 of the 'Assessment' section of this report

- The extension will change the character of the area
  Officer response: The impact upon visual amenity the character of the area has been considered under section 2 of the 'Assessment' section of this report.

- The garage has been illegally converted into a dwelling
- Lots of the green land has been paved over prior to this application
  Officer response: This is addressed in the 'Planning History' section and section 1 of the 'Assessment' section of this report.

- Resultant noise from the development
  Officer response: This is addressed in section 5 of the 'Assessment' section of this report.

- Condition of the access is poor
  Officer response: This is addressed in section 4 of the 'Assessment' section of this report. It is considered it would be unreasonable of the LPA to refuse permission on the basis of maintaining the access given the development would serve an existing dwelling.

- Increase in built form reduces land / foliage to mitigate motorway noise
  Officer response: Noise resulting from the development is addressed in section 5 of the 'Assessment' section of this report.

- Drainage issues associated with the access through improvement works have reduced surface water drainage to fields.
  Officer response: It is considered this is a matter to which little weight can be afforded in this case given the scale of the development proposal. Any alterations which increase surface water drainage from one land owners property to another would be a civil matter between the relevant land owners in this case.

- Residential amenity affected for properties 1 – 7
  Officer response: This is addressed in section 3 of the 'Assessment' section of this report.

- Previous refusals at the site, subsequent conversion of the garage took place anyway
  Officer Response: This is addressed in the 'Planning History' section of this report.

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 not constitute sustainable development and is therefore recommended for refusal.

Recommendation **Refuse**

Decision Authorisation - Delegated Powers

Application Number: 2025/90089

Officer Recommendation: Approve

Reason:

1. By virtue of its siting, design, size and scale, the development constitutes inappropriate development in the Green Belt by definition. Further harm would be caused to the visual and spatial openness of the Green Belt by the development which would lead to the encroachment of development into the countryside. No very special circumstances have been demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policies LP57 & LP58 of the Kirklees Local Plan and policies contained within Chapter 13 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location Plan	-	-	21/01/2025
Block Plan	-	-	15/01/2025
Existing Plans & Elevations	2145-24-001	-	15/01/2025
Proposed Plans & Elevations	2145-24-002	-	15/01/2025
Climate Change Statement	-	-	15/01/2025
Application form	-	-	21/01/2025
Statement	-	-	29/01/2025

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 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments have been sought in the processing of this application as it was considered the principle of the development was unacceptable.

Report Dated: 19/03/2025

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