

**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:	2025/62/90164/E
Site Address:	894-896, Bradford Road, Birkenshaw, BD11 2BE
Description:	Change of use from residential dwelling (Class C3) and adjoining hot food takeaway (Sui Generis) to day nursery (Class E) with single storey extensions and alterations to vehicular access
Recommending Officer:	Nina Sayers

DECISION – Full Conditional Permission

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 19-Aug-2025

Officer Report

Site Description

The application site relates to a corner plot in Birkenshaw, bounded by Bradford Road to the west and Moorside Avenue to the north. The site comprises a detached, two-storey residential dwelling, a detached single storey garage and a single storey detached unit which currently serves a hot food takeaway. There is a driveway and access to the existing dwelling in the north-eastern corner and in the south-western corner of the plot is a garden area. There is an access and parking to the existing takeaway from the west off Bradford Road.

The site is unallocated within the Kirklees Local Plan.

Description of Proposal

The application is seeking planning permission for the change of use from a residential dwelling (Class C3) and adjoining hot food takeaway (Sui Generis) to a day nursery (Class E) with single storey extensions and alterations to vehicular access.

The scheme proposes to convert the existing dwelling into a toddler's room at ground floor and pre-school room at first floor. There would be separate accesses from the front elevation. The takeaway would be converted into a kitchen and the garage would be converted into a baby room.

A drop off and pickup area is proposed to the rear of the site, accessed off Moorside Avenue. Staff parking would be proposed to the front of the site off Bradford Road.

Extensions

The proposal would include a single storey extension to the front of the toddler's room serving a lobby. It would project 1.8m from the front elevation and would be 6m wide, set in from the side elevations. It would have a hipped roof design with a gable feature with a total roof height of 3.5m.

The proposal would include a lean-to, infill extension between the toddler's room the kitchen.

The baby room would also be extended. The scheme proposes a single storey, flat roof extension which would project a total of 5m out the western side elevation. The extension would cover a floor area of 21.7m² and would serve a staff room and WC. The garage door would be replaced with a door and a large window.

History of negotiations

Officers sought additional information regarding the proposed outdoor play area. The description was also amended to include reference to the proposed extensions. This was not readvertised as the proposed plans remain as

advertised and no comments were received regarding the proposed extensions.

Further revisions were made to amend the design of the front extension and to remove the drop-off/pick-up area to the front as discussed in the highway safety section of this report. This was not re-advertised, as it changed the works back to as existing and is therefore not considered to prejudice any interested parties.

Relevant Planning History

No relevant planning history.

Representations

The site was advertised by neighbour notification letter and on the website. Publicity expired on 7th March 2025. One representation was received, and the following comments were received:

- Concerns that the signage and decoration will be bright, big and multicoloured, preferring them to be subtle.

The signage and decoration isn't being assessed under the current application and is not a material planning consideration so no further comments will be made.

Consultation Responses

KC Highways Development Management – no objections

KC Environmental Health – no objections subject to conditions

Mining Remediation Authority – no objections

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 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 application site is unallocated and currently serves a residential dwelling and a hot-food takeaway. The site is in a residential area and does not fall under any of the town centre boundaries. It is therefore considered that in the broadest form, the principle of converting these buildings to a nurse's office is acceptable.

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...”

Extensions

The scheme proposes a single storey extension to the front of the building which would project 1.8m out the front elevation. An extension of this scale is considered acceptable however officer had initial concerns that the proposed pitched roof design, and lack of detailing, would cause harm to the visual amenity of the building. Officers requested the roof design was amended to reflect the existing hipped roof to retain some of the architectural detailing as well as an additional opening in the front elevation in the interest of visual

amenity. Amended plans were sought and received to address this concern and the revised scheme is considered acceptable from a visual amenity perspective.

The proposed lean-to extension which would infill the gap between the two existing buildings would be in keeping with the existing building in terms of design and materials and is considered to not cause any significant harm to visual amenity.

The flat roofed side extension, whilst not visually attractive in terms of design, would mirror the existing flat roofed garage and would be set behind the existing single-storey element of the proposal so would not be in a prominent position. The proposal is therefore considered to not cause any significant harm to visual amenity over and above the existing arrangements on site.

It is therefore considered that the proposal would not cause significant harm to the visual amenity of the surrounding area. The proposal is therefore considered to be in accordance Policy LP24 of the Kirklees Local Plan 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.

The proposed change of use would result in a use which is likely to cause additional noise which could cause harm to the amenity of neighbouring occupiers. The applicant has submitted a Noise Impact Assessment (NIA) which considers the commercial operational aspects of the proposed development taking into consideration potential sources of operation noise including young children playing outdoors, vehicular drop off and pick up by parents and carers.

A baseline environmental noise survey has been undertaken from a single measurement position and a summary of the findings is given. KC Environmental Health (EH) have reviewed the submitted NIA and it is accepted that there is no approved methodology for the assessment of sound impact from children playing/outdoor education and that the sound type would fall outside the scope of BS4142 but agree that it should meet with the West Yorkshire Combined Authorities planning noise guidance document. Library data has been used to assess the impact of the development and this is accepted.

The applicant has submitted a planning statement which details that babies would be going for walks in prams and in the minibus sometimes with 20min outdoor play in the morning and afternoon. The toddlers would have 30min outdoor play in the morning and afternoon. The pre-school children will be visiting a local forest school most days. It is also noted that the proposed play area is to the front of the property so the building would be located between the play area and any neighbouring properties.

The submitted NIA details a number of noise mitigation measures which includes restricted opening hours, restricted outdoor play and acoustic barriers. It states there will be some acoustic benefit to ensuring the fencing is installed without gaps to best support the control of noise from the site. The report concludes however that “the development is likely to correspond with no observed adverse effect level” and as such no mitigation is required. Officers would however recommend that, in the event that planning permission be approved, a condition is attached requiring the fence to be erected and to ensure this is repaired/ installed to ensure there are no gaps. Similarly, the hours of use would be restricted to mitigate the impact on the neighbouring occupiers.

The proposed extensions are all relatively modest in terms of scale and would not protrude towards the neighbouring properties. There are no openings in the side elevation of which would front the extension to the outbuilding and therefore no significant harm is considered to be caused to the amenity of the occupants of 1A Moorlands Road or any of the other neighbouring properties as a result of the proposed extensions.

Taking this into consideration, along with the lack of objections regarding noise, subject to conditions the proposed change of use is considered to not cause significant harm to the amenity of neighbouring occupiers. The scheme therefore complies 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 proposed change of use replaces the existing residential dwelling and adjacent hot food takeaway to a day nursery for 44 children and 12 staff. Bradford Road is a classified highway (A651). It's a two-way single carriageway and in and around the site frontage has central carriageway hatching which provides a right turn lane for access into Moorside Avenue.

The central carriageway markings continue along the majority of the A651 through Birkenshaw providing right turn facilities for several junctions.

The scheme initially proposed a widened access and drop off area off Bradford Road (A651) as well as staff parking to utilising the existing access off Moorside Avenue. KC Development Management (HDM) raised concerns regarding the proposed, in particular the drop-off/pick-up area and concerns regarding queuing traffic on Bradford Road. They also had concerns that there was not sufficient parking provision for staff and the minibus.

Following discussion with the applicant, amended plans were received which removed the pick-up/drop-off area, leaving the area to the front of the property as existing. Officers considered that given there is sufficient on street parking available on Bradford Road, this would cause less harm to Highway Safety than the initial proposal. An enlarged pick-up/drop-off area has been included off Moorside Avenue which is considered acceptable as most users will stop on Bradford Road.

KC Highways Development Management (HDM) have been consulted on the amended proposal and their comments are summarised below.

The approved vehicle parking areas will need to be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas).

It is the applicant's responsibility to ensure any changes to the access within the adopted highway fronting the property, to provide a dropped kerb, will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges).

It is therefore considered that, subject to conditions, the development would not result in significant harm to highway safety, thus complying with LP21 of the Kirklees Local Plan and 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.

Within the applicant's application form they have stated that the development is exempt from providing BNG as it falls under the de minimis exemption. It is noted that some hedgerow would be removed to the northern boundary of the

site however this would be 5m of hedgerow and therefore officers have no reason to disagree with applicant regarding the exemption.

Land Contamination

The application site falls within the defined Development High Risk Area for coal mining however no Coal Mining Risk Assessment (CMRA) was submitted. The Mining Remediation Authority (Coal Authority) were consulted on the proposal and whilst a CMRA does not accompany the planning application, when considering the nature of the proposals the Mining Remediation Authority does not consider that a CMRA would be proportionate in this particular instance and do not object to this planning application. No conditions were recommended however an informative was recommended to be included in their response which would be attached to any decision notice. The site is not located on potentially contaminated land. Given the nature of development is limited to extensions within the constraints of existing development and taking the consultation response from The Mining Remediation Authority into consideration, full land contamination conditions are not considered necessary however a condition would be attached to the permission in the event of unexpected land contamination.

6. Representations

One representation was received, and the following comments were made:

- Concerns that the signage and decoration will be bright, big and multicoloured, preferring them to be subtle

Signage and decoration are not proposed under the current application and is not a material planning consideration so no further comments will be made. The applicant is advised to look into whether an advertisement consent would be required with a advisory note being recommended to be attached in the event that planning permission be approved.

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

Decision Authorisation - Delegated Powers

Application Number: 2025/90164

Officer Recommendation: Approve

Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP21, LP24, LP30, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 9, 12, 13 and 15 of the National Planning Policy Framework.

3. The external walls and roofing materials of the extensions hereby approved shall in all respects match those used in the construction of the existing building.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. Before the development is brought into use, details of an acoustic barrier as recommended in the hereby approved Noise Impact Assessment – '1701153 Rev.1' shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- A plan showing the location of the barrier
- The minimum height of the barrier relative to the adjacent ground level
- The construction specification of the barrier including the barrier support structure, the barrier material, the minimum barrier thickness, the minimum density of the barrier material and the details where the barrier meets the ground.

The use hereby approved shall not commence until the construction of the acoustic barrier has been completed and the barrier shall be retained thereafter.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. The premises shall not be open for business, including deliveries to or dispatches from the premises, outside the hours of 0730hrs and 1800hrs Monday to Friday. No activities shall take place on Saturdays, Sundays or Bank Holidays.

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the

Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

NOTE: Any advertisement/signage has not been dealt with under the determination of this planning application. Separate Advertisement Consent is likely to be required for the display of advertisements in line with the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#) (as amended).

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalid

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00hours, Saturdays.
- With no working Sundays or Public Holidays.

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	PP-13710861v1		22/01/2025
Existing Plans	4616.E.1		22/01/2025
Existing Elevations	4616.E.2		22/01/2025
Proposed Elevations	4616.P.2	B	22/07/2025
Proposed Site Plan and Floor Plans	4616.P.1	C	22/07/2025
Supporting Planning Statement	TP2024	Jan 25	20/02/2025
Noise Impact Assessment	1701103-RP-NIA-0001	1	22/01/2025
Transport Statement	2381	January 2025	22/01/2025

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 2024 and otherwise actively engaged with the applicant in dealing with the application.

Officers sought additional information regarding the proposed outdoor play. The description was also amended to include reference to the proposed extensions. This was not readvertised as the proposed plans remain as advertised and no comments were received regarding the proposed extensions.

Further revisions were made to amend the design of the front extension and to remove the drop-off/pick-up area to the front as discussed in the highway safety section of this report. This was not re-advertised, and it changed the works back to as existing and is therefore not considered to cause any additional harm to any interested parties.

Report Dated: 13/08/2025