

**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:	<b>2025/62/90332/E</b>
Site Address:	41, Cemetery Road, Heckmondwike, WF16 9DZ
Description:	Change of use from dwelling (use class C3) to residential care home (use class C2) and proposed ramp to main entrance
Recommending Officer:	Nicole Helliwell

**DECISION – Conditional Full Permission**

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

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 02 April 2025**

## **Officer Report**

**Reference No.** 2025/62/90332/E

**Site Address:** 41, Cemetery Road, Heckmondwike, WF16 9DZ

**Proposal:** Change of use from dwelling (use class C3) to residential care home (use class C2) and proposed ramp to main entrance

## **Site Description**

The site relates to 41 Cemetery Road, a two-storey detached property located in Heckmondwike. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The majority of the surrounding dwellings are faced in red brick and stone and are highly varied in terms of size and architectural styles. The site is not within a conservation area, nor are there any Public Rights of Way (PROW) within close proximity to the site. However, the site is located adjacent to the Holy Spirit Rc Church which is Grade II Listed and 18 Cemetery Road which is curtilage listed.

## **Description of Proposal**

The application seeks planning permission for the change of use from a dwelling (use class C3) to a residential care home (use class C2). An access ramp would be erected to the front of the property as part of the application. The details of the proposal are summarised below:

- The proposed facility will provide long-term residential care and short-term respite care for adults who require assistance with daily living.
- The care home will be staffed 24/7 with a structured staffing schedule to ensure consistent care.
- Although shift patterns may change, the total number of staff at any given time will be three.
- The access ramp would have a width of approximately 1.5m and would have an overall length of approx. 4.8m.
- The ramp would incorporate a 0.9m high handrail and would be constructed from timber decking with pressure-treated timber in a natural light brown finish and a non-slip GRP-coated surface in black.
- The existing steps would be adjusted to allow for the proposed ramp.

## **Relevant Planning History**

**2024/93465:** Certificate of lawfulness for proposed change of use of dwelling to care facility for up to 6 occupants. [Planning application details | Kirklees Council](#) – Cert of Lawful Use Refused

## **Representations**

The application was publicised by site notice and press advertisement, which expired on 20<sup>th</sup> March 2025. Two representations were received following the statutory publicity. The comments made have been summarised below:

- Amazing idea! Not enough places in the area which take on respite, will help clear hospitals out when patients no longer need medical care but need somewhere to go before they go back home.
- Due to having the experience of the low bed situation in hospitals, this service would be ideal for all elderly to continue having the love and care they need.
- Having this elderly residency is just what is needed in this area especially for families that need to put the loved ones into respite care. This enables families to leave their loved ones for a short stay with a peace of mind

### **Parish/Town Council Comments**

Not Applicable.

### **Local Ward Members**

Not Applicable.

### **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

The Coal Authority – No objection

KC Environmental Health – No objection subject to recommended conditions

KC Highways Development Management – No objection

### **Planning Policy Background**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity & Geodiversity

- **LP 49** - Educational and Health Care Needs
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

**In this case, the following SPDs are applicable:**

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

**National Policies and Guidance**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 8** - Promoting Healthy and Safe Communities
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

**Assessment**

**1. Principle of development**

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. 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 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. The Local Plan has no policies specifically relating to care homes. Therefore, there is no presumption against such a use. The principle of the proposal upholds the aims of the NPPF in terms of addressing the needs of groups with specific housing requirements.

In terms of changing the use of the building, Policy LP24 of the Kirklees Local Plan is relevant in conjunction with Chapters 8 and 12 of the NPPF taking into account the character of the area, the amenities of neighbouring properties, highway safety and ensuring the safe operation of the home and community cohesion.

The application site is considered to be within a sustainable location in terms of proximity to transport links including bus stops, education facilities and services.

Therefore, in this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety and other matters that may arise.

### **1. Impact on Visual Amenity and Historic Environment**

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 135(c) of the NPPF sets out that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting. Furthermore, Policy LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Paragraph 210 of the NPPF is also of relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

The proposed access ramp would have a width of approximately 1.5m and would have an overall length of approx. 4.8m. The ramp would incorporate a 0.9m high handrail and would be constructed from timber decking with pressure-treated timber in a natural light brown finish and a non-slip GRP-coated surface in black. Whilst the ramp would be visible from public vantage points along Cemetery Road, the development would be of an appropriate scale and design and would facilitate access to and from the building.

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of either the host building or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework. Furthermore, the proposal would not cause any detrimental harm to the significance of the adjacent Listed Buildings and would comply with Policy LP35 of the Kirklees Local Plan, Chapter 16 of the NPPF and the requirements of Section 66 the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990.

## **2. Impact on Residential Amenity**

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

The submitted plans confirm that no properties located north, south or west of the site would be affected by the proposed works.

### Impact on 43 Cemetery Road

43 Cemetery Road is a two-storey detached property located to the north-east and is situated on higher ground relative to the application site. Due to its siting, the proposed access ramp would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the adjacent neighbouring occupants, over and above the existing arrangements on site.

Having considered the above factors, the proposal is unlikely to result in any detrimental harm upon the residential amenity of any surrounding neighbouring occupants and would comply with Policy LP24 of the Kirklees

Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

### **3. Impact on Highway Safety**

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

This application seeks approval for the change of use from 5-bedroomed dwellinghouse to a 4-care room residential home with a proposed ramp to the main entrance at 41 Cemetery Road, Heckmondwike. As such, KC Highways Development Management have been formally consulted on the proposed scheme. Given the small scale of the proposal, that at least 3 off-street parking spaces are provided and that visiting times will be limited, KC Highways Development Management have no objection to these proposals.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

### **4. Other Matters**

#### Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

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

#### Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

### Contaminated Land

The application concerns the change of use of the current dwellinghouse into a home providing residential respite care. Looking at the submitted information there appears to be minimal external alterations, a ramp to ease access is to be installed but no detailed drawings for this are included. As KC Environmental Health are uncertain whether the new ramp will require groundworks, Officers recommend a condition relating to unexpected contamination

### Coal Mining Legacy

The Mining Remediation Authority's information indicates that the site lies in an area where historic unrecorded coal mining is likely to have taken place at shallow depth.

In addition, the potential zone of influence of an off-site recorded mine entry (CA ref. 421423-012) extends marginally into the south eastern corner of the site. Whilst an untreated or inadequately treated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety, this feature is located away from the proposed development. The Mining Remediation Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support their planning application. However, in this instance, the application is for a change of use to a residential care home and whilst an external ramp is being proposed, this would not require significant groundworks or earthworks. On this basis, it is considered that a Coal Mining Risk Assessment would not be proportionate to the nature of the development proposed and as such, the Mining Remediation Authority do not object to this planning application.

### Biodiversity

The application form states that the development subject to the de minimis exemption, would be exempt from providing Biodiversity Net Gain. At this stage, Officers are only able to assess this on the basis of submitted information. Should the proposal be considered not exempt by reason of not being this or other relevant categories for the scale of the development then an appropriate condition, supported by a BNG metric submitted for the approval of the LPA, would be required to ensure on-site BNGs would last for at least 30 years to meet the requirements of this legislation.

There are no other matters relevant to the determination of this application.

## **5. Representations**

Two representations were received following the statutory publicity. The comments made have been summarised and addressed below:

- Amazing idea! Not enough places in the area which take on respite, will help clear hospitals out when patients no longer need medical care but need somewhere to go before they go back home.
- Due to having the experience of the low bed situation in hospitals, this service would be ideal for all elderly to continue having the love and care they need.
- Having this elderly residency is just what is needed in this area especially for families that need to put the loved ones into respite care. This enables family's to leave their loved ones for a short stay with a piece of mind

The comments made in representations are noted.

## **6. Negotiations**

Amendments were received during the course of the application. However, given that only minor amendments were made to the proposed ramp, Officers did not consider it necessary to readvertise the application.

## **7. Conclusion**

This application for the change of use from a dwelling (use class C3) to a residential care home (use class C2) and proposed ramp to main entrance at 41 Cemetery Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation:            Approve**

### **Decision Authorisation - Delegated Powers**

**Application Number:** 2025/90332

**Officer Recommendation:** Approve

### **Conditions and Reasons**

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, LP21, LP22, LP24, LP30, LP49, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. The access ramp hereby approved shall be constructed from timber decking with pressure-treated timber in a natural light brown finish and a non-slip GPR coated surface in black. The materials of construction shall thereafter be retained for the lifetime of the development.

**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. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works 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. Works 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:** 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 invalidating the permission if the planning condition is a pre commencement condition.

**NOTE:** Please note that any advertisements would require a separate planning permission from the Council and would need to be submitted as a new planning application.

**NOTE:** Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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

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

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

**Plans and specifications schedule: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Location, Site & Ground Floor Plan	1045-ZZ-DR-A-S2-0001-P01	13/02/2025

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Existing Elevations	1045-ZZ-DR-A-S2-0003-P01	13/02/2025
Existing Elevation & 3D View	1045-ZZ-DR-A-S2-0004-P01	13/02/2025
Existing First & Second Floor Plan	1045-ZZ-DR-A-S2-0002-P02	06/03/2025
Proposed Site & Ground Floor Plan	1045-ZZ-DR-A-S2-0011-P02	06/03/2025
Proposed First & Second Floor Plan	1045-ZZ-DR-A-S2-0012-P01	13/02/2025
Proposed Elevations	1045-ZZ-DR-A-S2-0013-P02	06/03/2025
Proposed Elevation & 3D View	1045-ZZ-DR-A-S2-0014-P02	06/03/2025
Planning Statement	1045/PSTA/REV P03	13/02/2025

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 Planning 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. Revised drawings were submitted by the Agent which were considered acceptable.

**Report Dated: 27/03/2025**