

**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>2025/60/91219/E</b>
Site Address:	Land Off, Coal Pit Lane, Lower Cumberworth, Huddersfield, HD8 8PL
Description:	Outline application for erection of residential development (one dwelling)
Recommending Officer:	Elenya Jackson

**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: 10-Nov-2025**

## **Officer Report – 2025/60/91219/E**

Land Off, Coal Pit Lane, Lower Cumberworth, Huddersfield, HD8 8PL

### **Site Description**

The application site is circa 0.10 Hectares located on the southern side of coal pit lane. The site is currently undeveloped but is accessible via a break in trees/vegetation. To the south of the site is a small wind turbine.

To the east of the site is a vacant stone building; however, due to the large amount of vegetation between the properties, the sites are not read in the same context.

The west, south and north of the site is undeveloped and is read in the landscape as open fields.

The application site falls within the following planning designations and constraints:

- Green Belt
- Development High Risk Area Coal
- A Historic landfill site
- A twite buffer layer

### **Description of Proposal**

#### *The Scheme*

The applicant is seeking outline planning permission, the application would be for all matters (access, layout, scale, appearance & landscaping) being reserved. The proposal is to establish the principle of development for one dwelling on the site. The proposed access would be from coal pit lane.

#### *Supporting Information*

In addition to the submitted plans the following documents have been submitted to support the application to support the application:

- Coal Mining Risk Assessment (ref: THB 3616)

### **History of Negotiations and Amendments Received**

When the application was received, officers requested an arboricultural report, a preliminary ecological appraisal and a phase one contaminated land report as the site is in a former landfill site.

The provision however these details have not been forthcoming and the application is progressed on the basis of the detail as submitted.

## Relevant Planning History

On site:

88/00834: Extraction of pipe clay, landscaping. Granted Conditionally.

2003/90396: RESTORATION OF QUARRY BY INERT LANDFILL. Conditional full permission.

2010/92657: Non material amendment to permission number 2003/62/90396/E0. Approved.

Adjacent to the site:

Northern Event Structures Ltd, 45, Coal Pit Lane, Lower Cumberworth, Huddersfield, HD8 8PL

2017/91774: Demolition of dwelling and barn and erection of 2 dwellings. Conditional full permission.

2024/92910: Demolition of dwelling and barn and erection of two dwellings with associated external alterations. Refused for the following reasons:

*1. The applicant has failed to demonstrate, through submission of a Phase 1 Preliminary Risk Assessment Report and a Phase II Intrusive Site Investigation Report that the impact of contaminated land has been adequately investigated and that the site could be made viable for safe occupation. The proposal is therefore contrary to Policy LP53 of the Kirklees Local Plan and Paragraph nos. 196 and 197 of the National Planning Policy Framework*

*2. The applicant has failed to demonstrate, through submission of a Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment or Validation Statement, whether protected species would be affected by the development, and whether Biodiversity Net Gain is a consideration in the assessment of the application, contrary to Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*

*3. The applicant has failed to demonstrate, through submission of a Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan and schedule of works that the proposed development would not have a detrimental impact upon the trees on and adjacent the site. The proposal is therefore contrary to Policies LP24 and LP33 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

## Representations

Consultation for the application has been carried out in accordance with the Council's Development Management Charter 2024 and Article 15 of Town and Country Planning (Development Management Procedure) (England) Order 2015.

The application was publicised by site notice and via the Council's website. The statutory publicity period expired on 29<sup>th</sup> October 2025.

No comments received

## **Consultation Responses**

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Ecology and Biodiversity Team – A Preliminary Ecological Appraisal is required prior to determination.

KC Environmental Health- An informal discussion was held with Environmental Health officers on 6/11/2025. The application site is identified on our GIS system as potentially contaminated land (Our Site Ref 9/23, historic landfill, former brick yard/clay pit). It is also situated in a high risk Coal mining area. Our records indicate that the site is situated adjacent to a former coal pit with other uses at this site listed as solid pipe and scrap refractory. A Phase 1 Preliminary Risk Assessment Report and a Phase II Intrusive Site Investigation Report is required pre-determination.

KC Highways Team – An informal consultation was held with them about this application on 5/11/2025. The application would be required to demonstrate that 2.4m X 215m visibility splays could be provided as the site access would be off of a 60mph road, parking provision would be required to be provided in-line with the Kirklees Highway Design guide, internal turning circles would be required/vehicular tracking and bin storage/presentation points would be required. It may be necessary to demonstrate that emergency vehicles can access the site.

The mining remediation authority – Prior to determination a scheme of intrusive investigations is required, a proposed layout plan is required which identifies the alignment of any buried opencast highwall present within the site and the extent of any mine entry zones of influence, along with the definition of any necessary 'no build' zones over these features a remediation strategy to address land stabilisation is required as well as a signed declaration confirming that the site has been made safe and stable.

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

## **Allocation and Policy**

The site is within the Green Belt as defined within the Kirklees local Plan (Adopted 2019). The site also falls in a Coal Mining high risk area (at higher risk of ground instability) as identified by the Mining Remediation Authority. The site is in proximity to a historic landfill site and identified as potentially being contaminated land. The site falls in an area with a known presence of radon.

The following legislation, policy and guidance is considered relevant to the determination of this application: -

#### *Kirklees Local Plan*

LP1 Achieving Sustainable Development  
LP2 Place Shaping  
LP3 Location of new development  
LP7 Efficient and effective use of land and buildings  
LP11 Housing Mix and Affordable Housing  
LP20 Sustainable travel  
LP21 Highway and Access  
LP22 Parking  
LP24 Design  
LP28 Drainage  
LP30 Biodiversity and Geodiversity  
LP32 Landscape  
LP38 Minerals safeguarding  
LP52 Protection and Improvement of Environmental Quality  
LP53 Contaminated and Unstable land

#### *National Policies and Guidance*

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. In this case the Technical housing standards – nationally described space standard guidance document (dated March 2015) is considered to be of relevance

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 5 Delivering a sufficient supply of homes  
Chapter 9 Promoting sustainable transport  
Chapter 11 Making effective use of land  
Chapter 12 Achieving well-designed places  
Chapter 13 Protecting Green Belt land

- Chapter 14 Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 Conserving and enhancing the natural environment

### *Supplementary Planning Documents / guidance*

Kirklees Highway Design Guide (adopted November 2019)  
Housebuilders Design Guide SPD (adopted June 2021)  
The Biodiversity Net Gain Technical Advice Note (June 2021)

### *Legislation*

The Town & Country Planning Act 1990 (as amended).  
The Planning and Compulsory Purchase Act 2004.  
The Conservation of Habitats and Species Regulations 2017  
Biodiversity Net Gain Technical Advice Note 2021

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

## **Assessment**

### **1 – Principle of Development**

#### *Sustainable 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.

#### Principle of development within the Green Belt

Chapter 13 (Protecting Green Belt Land) of the National Planning Policy Framework (December 2024) sets out at Paragraph 142 that the Government attaches great importance to Green Belt Land. 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. The NPPF goes on to establish that the purposes of the Green Belt are:

- a) to check the unrestricted sprawl of large built-up areas;
- a) to prevent neighbouring towns merging into one another;
- b) to assist in safeguarding the countryside from encroachment;
- c) to preserve the setting and special character of historic towns; and
- d) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 153 states that *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness (footnote 55). Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”*.

Paragraph 155 of the NPPF states that development in the Green Belt should not be regarded as inappropriate where:

- a) The development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- a) There is a demonstrable unmet need for the type of development proposed (footnote 56);
- b) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework (footnote 57); and
- c) Where applicable the development proposed meets the ‘Golden Rules’ requirements set out in paragraphs 156-157

Annex 2 of the NPPF defines Grey Belt as:

*“For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development”*.

To determine whether the land could be considered as Grey Belt, consideration should first be given to where or not the land strongly contributes to purposes (a), (b) or (d) set out in Paragraph 143 of the NPPF (December 2024). If the land does not strongly contribute to these purposes and is considered Grey Belt, then an assessment should follow as to whether development would fundamentally undermine the strategic function of the

remaining Green Belt across the Local Plan Area as whole, as required by Paragraph 155 of the NPPF.

#### Meeting Green Belt Purposes – Land (Paragraph 155a)

Planning Practice Guidance (PPG) published 27 February pertaining to Green Belt, sets out the considerations which inform the judgements on what level of contribution the site/land makes to the Green Belt purposes. In considering the contribution the land makes to the relevant Green Belt purposes the PPG sets out that for Paragraph 143:

- Purpose (a) - This purpose relates to the sprawl of large built-up areas. Villages should not be considered large built-up areas.
- Purpose (b) - This purpose relates to the merging of towns, not villages.
- Purpose (d) - This purpose relates to historic towns, not villages.

The areas with the closest proximity to the site are Skelmanthorpe (village) about 500m north and lower Cumberworth (Hamlet) 400m south-east and housing allocation HS140 740m to the north.

The proposal is for one dwelling and is not in close proximity to any residential settlements; however, it is considered that as the development is a stand alone dwelling and significantly separate from the residential settlements, as such the land does not contribute to Green Belt purpose (a).

The land is substantially separated from neighbouring residential settlements. The PPG confirms that assessment against purpose b specifically relates to the merging of towns and not villages. The parcel of land is small land contributes to maintain separation between the dispersed rural settlements and is a substantial distance from any towns. The land therefore makes a weak contribution to purpose (b)

There are no designated historic towns in the immediate vicinity of the site. Skelmanthorpe has a Conservation Area; however, the site is not visually or physically connected to any settlement that would meet the definition of a historic town for the purposes of (d). As a result, the land does not contribute to purpose (d).

It is therefore considered that the land does not strongly contribute to any of the purposes in Paragraph 143 (a), (b) or (d) of the NPPF, nor do any exclusions under footnote 7 apply.

#### Meeting Green Belt Purposes – Development (Paragraph 155a)

Paragraph 155(a) of the NPPF states that development in the Green Belt may not be regarded as inappropriate where it would utilise 'grey belt' land and development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

The application site lies beyond the built extent of Skelmanthorpe and Lower Cumberworth and is currently in an undeveloped parcel of land which is largely screened by vegetation.

The proposed development would introduce new built form and associated residential infrastructure including access into this parcel, projecting development westward from the established edge and visually breaching the transition between village and open countryside.

The proposal would clearly undermine purpose (c) of the Green Belt set out in Paragraph 143 which seeks to assist in safeguarding the countryside from encroachment. The site is not constrained by strong landscape features or defensible boundaries, and its development would diminish the visual and spatial openness that defines the area. While the proposal is limited to a single dwelling and matters pertaining to access, layout, scale, appearance and landscaping are reserved matters, the siting of a dwelling upon this site would represent an unacceptable extension of urban development and would lead to encroachment of residential development into the Green Belt.

The site does not adjoin a large built-up area, and as such the development would not contribute to sprawl in the context of purpose (a). Although the land lies between Lower Cumberworth and Skelmanthorpe, these are both villages rather than towns and therefore the proposal does not conflict with purpose (b), which relates to merging of towns. The site is not connected to the setting of a historic town, and there would be no conflict with purpose (d).

#### Conclusion on Green Belt Land and Development

The proposal constitutes inappropriate development in the Green Belt. While limited in scale, it would result in encroachment into open countryside, conflicting with Green Belt purpose (c) of Paragraph 143 of the NPPF. The proposal constitutes inappropriate development in the Green Belt. While limited in scale, it would result in encroachment into open countryside, contribution to a form of ribbon development directly conflicting with Green Belt purpose (c) of Paragraph 143 of the NPPF.

Under Paragraph 155(a) of the NPPF, development may be acceptable where it does not fundamentally undermine the purposes of the Green Belt; however, in this instance, the proposal would erode a rural edge, lacking containment, and would undermine the Green Belt's function in this location. It is considered that the siting of the proposal in this setting would fundamentally undermine the purposes of the remaining Green Belt across the area of the plan in this case, on the basis that it would lead to a level of encroachment that has a detrimental impact in relation to this purpose.

#### *Demonstrable Unmet Need and Sustainable Location (Paragraph 155b and 155c)*

The development would not fall within the exception set out in Paragraph 155(a) of the NPPF (2024), as the development would undermine the Green Belts purposes. As such Paragraph 155a is not engaged in full, and sub criterion (b), (c) and (d) are only relevant where the development is first considered to fall within the scope of 'grey belt' under Paragraph 155a.

Notwithstanding this, even if the proposals were regarded as 'grey belt', it is reasonable to note that Kirklees currently has a 3.96-year housing land supply, which falls below the required five-year supply. The 2022 Housing Delivery Test results also indicate under-delivery with only 67% of required housing being delivered. This shortfall is a material consideration and supports the principle of development on Grey Belt land, subject to the applicant demonstrating a specific unmet housing need. Footnote 56 of the NPPF requires evidence that the proposed dwelling would meet an identified need. While there are no details pertaining to the number of bedrooms of the resultant dwelling, the proposal would contribute a dwelling to the local housing supply. Given the evidential five-year supply shortfall, the proposal is considered to amount to a demonstrable unmet housing need.

It is acknowledged that the site has limited access to local transport services and local amenities due to its rural location. Lower Cumberworth is served by a limited public bus service providing routes towards Huddersfield Town Centre with one bus an hour. Local amenities such as shops would likely require vehicular access to surrounding local and district centres. The site is in a moderately sustainable location in terms of access to amenities and it is acknowledged that it would be dependent on private vehicle use, which would not be uncommon in a semi-rural/rural setting.

However, the failure to satisfy 155(a) remains determinative, and the proposal is therefore contrary to Paragraph 155 of the NPPF and constitutes inappropriate development in the Green Belt.

#### *Very Special Circumstances*

No very special circumstances have been advanced by the applicant. In the absence of any such justification and given the identified harm to the Green Belt by reason of inappropriateness and encroachment into the countryside, the proposal remains contrary to paragraphs 153 and 155 of the NPPF.

#### Principle of development – Conclusion

The proposal constitutes inappropriate development in the Green Belt. It would result in encroachment into open countryside. The siting of the proposal would fundamentally undermine the purposes of the remaining Green Belt across the area of the plan in this case and fails to meet the exception criteria set out in Paragraph 155(a) of the NPPF 2024. No very special circumstances have been demonstrated to outweigh this harm. The development is therefore contrary to Chapter 15 of the NPPF.

#### Principle of Housing Development

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

The Council’s inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal which is assessed within the earlier sections of this report pertaining to development within the Green Belt.

Policy LP3 of the Kirklees Local Plan is also of relevance insofar as it requires development to deliver homes in a sustainable way.

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. In this case it is considered the density of development which is provided by the proposal could be considered acceptable given access and other constraint.

## **2 – Visual Amenity and Access**

This section of the report assesses the proposed development in relation to its access arrangements and visual impact, having regard to both national and local planning policy.

As the application seeks outline permission with all matters reserved, matters pertaining to access, layout, scale, appearance and landscaping would be formally assessed at the Reserved Matters stage. An indicative site plan has been submitted to support the application which demonstrates the proposed access arrangement and indicative layout of the development. The submitted plan allows for an initial assessment of whether the site is capable of accommodating a scheme that aligns with the objectives of national and local planning policies.

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development; it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Of key importance, Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape*.

Policy LP21 and LP22 of the Kirklees Local Plan relate to highways, access and parking. Policy LP21 requires development to be accessed effectively and safely by all users. It seeks to ensure proposals do not create or exacerbate highway safety issues, and that they integrate with the existing highway network while supporting sustainable modes of travel.

Policy LP22 sets out the requirement for adequate parking provision in line with the Council's adopted standards, taking into account the type of development, accessibility of the site, and the need to avoid highway obstruction.

Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off-street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

Although landscaping is a reserved matter, Policy LP32 of the Kirklees Local Plan is of relevance. LP32 seeks to ensure that development responds to the landscape character of the area and incorporate appropriate landscape treatment. While full details will be considered at the reserved matters stage, the submitted plans allow for an initial assessment of whether the site is capable of accommodating a scheme that aligns with the objectives of this policy.

### Visual Amenity

The proposed development would introduce a detached dwelling and associated domestic infrastructure into the rural landscape. The site currently forms part of a wider undeveloped field that contributes to the landscape

setting of the area. The dwelling would not be read as part of or as an extension to other development and would be a stand alone dwelling with extending built form into open landscape. The indicative layout shows a centrally positioned dwelling with boundary treatments, hardstanding, and domestic landscaping, none of which are present in the current greenfield context.

The introduction of a built engineered access, and suburban boundary features in this particular location would create an urbanised presence, disconnected from the nearby dwellings which are in closer proximity to lower Cumberworth. The development would lead to an erosion of local landscape character of green fields.

The proposal would result in an element of vegetation clearance which would increase the intrusion of the development into the landscape as existing break in the vegetation is small scale and not well maintained.

It is considered that when compared to the clearance that would take place to facilitate the development and retain acceptable visibility splays, any future planting would take time to establish to a degree that would fully mitigate the visual harm caused by introducing built form in this context and in itself appear less integral to the character of the area.

As such, it is considered that development in principle would fail to respect and enhance the character of its surroundings including the landscape, contrary to Policy LP24 of the Kirklees Local Plan and Paragraph 135 of the National Planning Policy Framework 2024.

#### *Access and Highways Safety*

The application has been submitted in outline with all matters reserved. The proposed access would be taken from Coal Pit Lane, serving a single dwelling positioned adjacent to the highway. No formal response has been received from the Council's Highways Development Management team on the proposal.

An informal consultation was held with this application on 5/11/2025. The application would be required to demonstrate that 2.4m X 215m visibility splays could be provided as the site access would be off of a 60mph road, parking provision would be required to be provided in-line with the Kirklees Highway Design guide, internal turning circles would be required/vehicular tracking and bin storage/presentation points would be required. It may be necessary to demonstrate that emergency vehicles can access the site.

It is considered that a vehicular access would be acceptable on the basis adequate parking, turning and sightlines are demonstrated and this would be able to be revisited and ensured at the reserved matters stage given this application is outline with all matters reserved.

### **3. Impact on Residential Amenity**

Sections 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 130 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.

Principle 6 of the House Builders Design Guide sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. The text supporting this principle states that:

*“For two storey houses typical minimum separation distances are advised:*

- *21 metres between facing windows of habitable rooms at the backs of dwellings;*
- *12 metres between windows of habitable rooms that face onto windows of a non-habitable room;*
- *10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.”*

Principle 17 of the Council’s adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the ‘Nationally Described Space Standards’ document (March 2015).

### *Neighbouring Amenity*

There are no residential properties immediately adjoining the site and therefore it is likely a proposal could be designed which would not have a significant impact on the residential amenity of neighbouring residents.

As the proposal is seeking outline consent, it is not necessary for full demonstration of accordance with NDSS standards / amenity space provision. It is considered that these standards and a level of amenity space commensurate with the dwelling could be achieved at the site.

As such, it is considered that if the development was acceptable in principle, a dwelling could be accommodated on the site without material harm to the amenity of neighbouring properties with respect to daylight/sunlight provisions, overbearingness and overlooking and would be acceptable in

relation to future occupiers in accordance with Policy LP24(b) and (c) of the Kirklees Local Plan and Chapter 12 of the NPPF 2024.

#### **4. Contaminated Land**

Chapter 15 of the NPPF promotes safe and healthy living environments and requires that land contamination and other environmental constraints are considered and mitigated as part of the planning process.

Policies LP51 and LP53 of the Kirklees Local Plan seek to ensure that development does not cause, or results in exposure to, pollution or environmental risks that would be harmful to human health or the environment. These policies require developments to be appropriately assessed and, where necessary, remediate to ensure that sites are suitable for their intended use.

This site has been identified on the Council's mapping system as potentially contaminated land (Our Site Ref 9/23, historic landfill, former brick yard/clay pit). It is also situated in a high risk Coal mining area. The Council's records indicate that the site is situated adjacent to a former coal pit with other uses at this site listed as solid pipe and scrap refractory. The proposed site is 68m away from a site that has had commercial uses for some time, currently predominantly freight storage and distribution. In support of the application a Coalmining risk assessment Investigation by Ashton Bennett (reference THB 3616 ) has been submitted. This report is largely geotechnical in nature which is beyond the remit of Environmental Health.

Due to the nature of the proposed development and the potential contamination at the site and the offsite sources, officers are unable to review or accept this report in isolation. As such, KC Environmental Health require the submission of a Phase 1 Preliminary Risk Assessment Report and a Phase II Intrusive Site Investigation Report before determination. This information was requested at validation stage and not provided, without these reports, officers are unable to support the current application. These reports are required 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. Insufficient information has been provided in this regard.

#### **5. Coal Mining Legacy**

Due to the site being located in a high risk coal area, a Coal mining risk assessment Investigation by Ashton Bennett (reference THB 3616 ) has been provided in support of the application and has been reviewed by The Mining Remediation Authority.

Their comments are that: 'the report concludes that shallow coal mining legacy poses a high risk of ground instability at the site. Accordingly, it goes on to recommend the carrying out of intrusive site investigations, in the form of the drilling of boreholes, in order to investigate ground conditions and the

shallow coal mining situation beneath the site and to inform any necessary remedial measures. With regards to the recorded mine entries, our information would suggest that it is unlikely that the potential zones of influence of these features would extend in the application site, taking into consideration their plotted positions, departure distances and anticipated ground conditions. Nevertheless, the report recommends the undertaking of trial pits along the site boundary to establish whether the mine entries are present on site, the need for any treatment of these features and to inform the layout of the development. The report acknowledges that the site lies in a recorded surface (opencast) mining site and acknowledges that made ground may be encountered on the site. However, it does not provide any assessment of the risk posed by such mining legacy to the proposed development. As mentioned above, differential settlement over / in the vicinity of buried opencast highwalls can result in damage to buildings and structures. The Coal Authority's Planning & Development Team considers that development should avoid buried highwall features wherever possible'

As a result of this, their comments are that prior to the submission of a reserved matters application for the detailed layout of the development, a scheme of intrusive investigations would be required and other conditions such as, the reserved matters being supported by a proposed layout plan which identifies the alignment of any buried opencast highwall present within the site and the extent of any mine entry zones of influence, along with the definition of any necessary 'no build' zones over these features, a remediation strategy being provided prior to commencement and a signed declaration statement being provided by a suitably competent person prior to first occupation.

As previously discussed, a phase one was requested during the validation of the application, and the details were not forthcoming. As the principle of the application is also unacceptable, the application has been progressed on the basis as submitted. In light of this lack of information it is considered the LPA is unable to make an informed decision in regard to land quality impact.

## **6. Flood and Drainage**

Chapter 14 of the NPPF seeks to direct development away from areas at risk of flooding and ensure that new development does not increase flood risk elsewhere. It also requires that surface water is managed using SuDs where possible and that developments are supported by appropriate drainage infrastructure, taking into account ground conditions and pollution risk.

Policy LP28 of the Kirklees Local Plan reflects these national objectives, requiring all new development to incorporate appropriate foul and surface water drainage arrangements, including SuDs where feasible, and to ensure that any such infrastructure does not increase flood risk or lead to pollution on or off site.

The site is not located within a designated flood zone and is identified via the Environment Agency's flood risk mapping as being at very low risk of surface

water flooding. As such, there is no requirement for a Flood Risk Assessment in this instance.

However, in accordance with Policy LP28 of the Kirklees Local Plan and the objectives of Chapter 14 of the NPPF, new development is still expected to incorporate sustainable drainage measures to ensure that surface water is appropriately managed and does not increase flood risk either on or off site. Had the development been acceptable in principle, a condition would be attached to any permission to ensure parking areas are constructed in permeable material and appropriately drained in accordance with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

## **7. Biodiversity, Ecology & impact upon Tree(s)**

### Ecology

There are trees and hedgerows on the site, and directly adjacent to the site. There are priority habitats (grassland and woodland), as well as a GCN survey returns, and ponds within 1km of the site. Therefore, KC Ecology have confirmed that further information is required prior to decision. Several records for protected and priority species and habitats are present within 1km of the site. As such, a Preliminary Ecological Appraisal is required prior to determination to assess the site habitats, the likely presence of protected and/or priority species, and the value of site habitats to protected and/or priority species.

This was requested during the validation of the application; however, as the principle of the application has been considered unacceptable, the application has been progressed.

### Biodiversity net gain

Regarding Biodiversity Net Gain (BNG), no BNG has been submitted with the application.

Officers note that the applicant has declared the scheme exempt from BNG requirements on the basis that it is a self-build development. While Schedule 7A of the Town and Country Planning Act 1990 (as inserted by the Environment Act 2021) makes provision for self-build and custom-build exemptions, such exemptions are not automatic and require formal confirmation in accordance with Regulation 8 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024. This includes evidence that the proposed development meets the definition of Self-build and Custom Build under Section 1(A1) of the Self-build and Custom Housebuilding Act 2015 and will be occupied by the person commission its construction.

It is considered that on the basis the proposal is a self build as set out in the submission documents, there would not be a requirement for BNG as set out in the aforementioned regulations. However it is considered that a level of ecological enhancement would be required to be provided to ensure

compliance with policies LP30 and Principle 9 of the SPD. Subject submission of a preliminary ecological appraisal which includes biodiversity net gain measures to be undertaken it is considered the proposal could potentially be acceptable in this regard and meet the requirements of the aforementioned policies. In the absence of this information being submitted the LPA is unable to make an informed decision in this regard.

### Trees

No Arboricultural report has been submitted as part of this application. KC Trees have confirmed that a tree survey should be undertaken by an arboriculturist to record information about the trees on and adjacent to a site relating to their condition and their retention value. In addition, an Arboricultural Impact Assessment. Which should incorporate a realistic assessment of the probable impact of any proposed development on the trees and vice versa. To include but not limited to; assessments of the factors set out in section 5 of BS 5837; plan overlaying the proposals with tree constraints including shade patterns; evaluation of impact of proposed losses and necessary pruning.

Submission of a tree survey and an AIA was requested at validation stage and not provided, for this reason, the tree survey should be completed and made available to designers prior to and/or independently of any specific proposals for development. A tree survey should be regarded as an important part of the evidence base underpinning the design and access statement. As such, the proposal conflicts with adopted Kirklees Local Plan Policy 33 and 24 i). On this basis, there is a requirement from an Arboricultural perspective the requested documents be provided. Having regard to the response of the KC Trees team it is considered there is a lack of information submitted to allow the LPA to make an informed decision in this regard.

## **8. 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.

Policy LP24(d) of the Kirklees Local Plan requires developments to promote sustainable design and construction by minimizing resource use and carbon emissions, and by incorporating measures that reduce the environmental impact of buildings, including energy and water efficiency.

Policy LP26 further supports this by encouraging development that contributes to climate change and adaptation through layout, design, orientation, and use of low-carbon technologies.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The application is submitted in outline with all matters reserved. These elements typically inform how a proposal responds to climate change through energy efficiency, low carbon design and resilience measures.

While it is accepted that these details would be more appropriately considered at reserved matters stage, the applicant has not provided a Climate Change Statement or set out any overarching sustainability principles to demonstrate how climate mitigation and adaptation have been considered at this early stage. Should development be considered acceptable in principle, any reserved matters submission would need to secure appropriate carbon reduction measures in line with the Kirklees Climate Change Guidance and the Council's declared climate emergency. This would also be expected in order to comply with the aims of Chapter 14 of the NPPF, Policies LP24(d) and LP26 of the Kirklees Local Plan.

## **9. Other Matters**

None.

## **10. Representations**

No comments received.

## **11. 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 constitutes inappropriate development in the Green Belt, as it would not fall within the exceptions set out in Paragraphs 154 or 155 of the National Planning Policy Framework 2024 and no very special circumstances have been demonstrated. The scheme would result in encroachment into open countryside, undermining the Green Belt purposes. In addition, by introducing built form into an undeveloped and visual open parcel of land, the proposal would result in significant harm to visual amenity

and landscape character. In addition insufficient information has been submitted in relation to land quality, ecology and trees.

**Recommendation**

**REFUSE**

**Decision Authorisation: Delegated Powers**

**Application Number: 2025/91219**

**Officer Recommendation: REFUSE**

**Reasons for Refusal**

1. The proposed development constitutes inappropriate development in the Green Belt, as it does not fall within any of the exceptions set out in Paragraph 154 and 155 of the National Planning Policy Framework (2024). The proposal would represent an urban intrusion which would disrupt the rural character of the area and would undermine the Green Belt's function in this location. The siting of the proposal would fundamentally undermine the purposes of the remaining Green Belt across the area of the plan in this case due to resultant encroachment into open countryside, thereby undermining the purpose of including land within the Green Belt to assist in safeguarding the countryside from encroachment set out in Paragraph 143(c). No very special circumstances have been demonstrated that would clearly outweigh the harm to the Green Belt and any other harm, and the development is therefore contrary to policies contained within Chapter 13 of the National Planning Policy Framework.
2. The proposed development, by reason of the siting and the introduction of built form into an undeveloped parcel of land, would result in undue harm to the open and rural character of the area. The proposal would fail to conserve and enhance the visual amenity and landscape character of the area, contrary to Policy LP24 and Chapter 12 of the National Planning Policy Framework 2024.
3. The applicant has failed to demonstrate, through submission of a Phase 1 Preliminary Risk Assessment Report and a Phase II Intrusive Site Investigation Report that the impact of contaminated land has been adequately investigated and that the site could be made viable for safe occupation. The proposal is therefore contrary to Policy LP53 of the Kirklees Local Plan and Paragraph nos. 196 and 197 of the National Planning Policy Framework
4. The applicant has failed to demonstrate, through submission of a Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment or Validation Statement, whether protected species would be affected by the development, and whether Biodiversity Net Gain is a consideration in the assessment of the application, contrary to Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. The applicant has failed to demonstrate, through submission of a Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan and schedule of works that the proposed development would not have a detrimental impact upon the trees on and adjacent the site. The proposal is therefore contrary to Policies LP24 and LP33 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Plans and specifications schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan		-	5/09/2025
Proposed Site Plan	02	-	5/09/2025
Coal Mining Risk Assessment		-	5/09/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2024 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. Given the fundamental policy conflict with national Green Belt policy and the resulting harm to the landscape character and visual amenity, the application was not considered capable of being made acceptable through negotiation or amendment. As such, the Local Planning Authority did not seek to engage further with the applicant, as doing so would not have overcome the principal reasons for refusal.