

**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:	2025/62/91419/E
Site Address:	former Commercial Hotel, 125, Wellington Street, Batley, WF17 5TH
Description:	Erection of commercial unit (vehicle software diagnostics centre) with 3 flats above
Recommending Officer:	Nina Sayers

DECISION - REFUSE

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 11 September 2025

Officer Report

Site Description

Former Commercial Hotel, 125 Wellington Street, Batley, WF17 5TH

The application relates to a vacant plot of land on the junction of Wellington Street and Dark Lane in Batley. The site used to serve a public house and associated parking. The area surrounding the site is predominantly residential with a small number of commercial units dispersed between the residential dwellings.

Description of Proposal

The applicant is seeking permission for the erection of a commercial unit (vehicle software diagnostics centre) with 3 flats above.

The proposed building would be located along the eastern part of the site, oriented west with parking along the western boundary. The building would be 26m x 12.5m, flat roofed building with a roof height of 6.7m. It would have three large garage style doors on the ground floor with 3, 2-bedroom residential flats above, each with a doorway and opening which front a terraced access on the front elevation. Openings are also proposed to the rear at first floor level.

History of Negotiations

As the proposed development would require significant revisions to render it acceptable, and as there are two extant permissions on the site which are considered acceptable, no amendments were sought in this instance.

Relevant Planning History

2024/92495 - Erection of commercial unit for vehicle software diagnostics centre. Conditional full permission.

2022/92199 - Change of use of waste land to car sales forecourt and erection of sales office and valet store. Conditional full permission.

2020/90221 - Discharge of condition 12 (demolition) of previous permission 2019/91326 for demolition of former public house and erection of 10 apartments. Approved

2019/91326 - Demolition of former public house and erection of 10 apartments. Section 106 full permission.

2018/91475 – Demolition of former public house and erection of 10 apartments INVALID

Consultations

Below is a summary of the consultation responses received:

KC Highways Development Management – No objections subject to condition

Representations

The application was advertised via site notice. Final publicity expired on 7th August 2025. 3 representations were received, in support of the application. Their comments are summarised below and will be addressed by officers in section 6 of this report.

- Excellent development of a brownfield site
- Offer jobs to local communities
- Much needed business for the area
- Ultra low noise business
- Parking provided
- Development will be good for the area

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 unallocated on the Kirklees Local Plan (2019).

Kirklees Local Plan (KLP):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 21 – Highway safety and access
- LP 22 – Parking
- LP 28 – Drainage
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land

Supplementary Planning Documents (SPD):

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. They are now being considered in the assessment of planning applications, with full weight attached. 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.

- Highways Design Guide SPD
- Housebuilders Design Guide SPD

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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- 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
- 6) Conclusion

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy 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”.

In this case, the application site is unallocated within an area which is a mix of residential and commercial use. There are 2 extant permissions on the site for the change of use of waste land to car sales forecourt and erection of sales office and valet store under application 2022/92199 and the erection of a commercial unit for vehicle software diagnostics centre under application 2024/92495. The site also historically served a public house. Therefore, the principle of a commercial use on this site has already been established.

A commercial use would represent a more effective use of land than the current, derelict site, contributing positively to the local economic growth through creation of three, full-time equivalent employment opportunities. With these factors in mind, officers are satisfied that the proposal accords with chapters 6 and 9 and 11 of the NPPF. The site is in an existing residential area and therefore the principle of residential development in this location is also considered acceptable.

The principle of re-using/ re-developing the land could be considered favourably, so long as it contributes to the improvement of the environment and ensures safe and healthy living conditions of the neighbouring residents.

As such, in the broadest form, the development of this site is considered acceptable in accordance with Local Plan Policies LP1 and LP2. However, the development must now be assessed against all material considerations.

2. Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places). 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.”

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...” Chapter 12 of the NPPF supports this.

The area surrounding the site is predominantly residential, however there is a large commercial unit to the north of the site and some further to the south. It is also noted that there are two extant permissions for commercial uses on the site and the site was a commercial public house prior to demolition. In terms of visual appearance, the site is currently derelict and as such bringing it back into use would be beneficial in terms of visual amenity by tidying up the site, subject to the design being appropriate.

The building proposed covers a large footprint and would be located in a prominent location on the corner of the Wellington Street and Dark Lane. The existing development surrounding the site is characterised by two-storey pitched and hipped roofed buildings. The scheme proposes a flat roofed building with terraced access, which would not be in keeping with the existing development. The combination of the scale, design and location is considered to be an incongruous addition which would not sympathetically integrate into the street scene.

Whilst officer support bringing this vacant site into commercial use, which would bring employment and business to the area, there are 2 extant permissions for commercial uses on this site which are not considered to cause significant harm to visual amenity and therefore would be preferred to the proposed scheme.

The applicant proposes Yorkshire Stone and composite cladding. There is no composite cladding on the buildings surrounding the site which are predominantly finished in stone and therefore the use of composite cladding would be considered incongruous within the street scene. Should this application be approved, officers would be recommending the walls are finished in Yorkshire Stone, to be in keeping with the existing development surrounding the site.

Having taken the above into account, the scale, massing and location of the proposed development is considered to cause significant harm to the visual

amenity of the street scene, failing to comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and the aims of chapter 12 of the National Planning Policy Framework.

3. Impact on Residential Amenity

Local Plan Policy LP24 states that proposal should 'minimise impact on residential amenity of future and neighbouring occupiers'. Further to this, Chapter 12 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 Kirklees Housebuilders Design Guide SPD states 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 SPD also provides advised separation distances for two storey dwellings:

- 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.

Whilst this SPD primarily refers to the erection of new dwellings, the separation distances can still be used as an appropriate measure for distances to a residential unit.

The application site is set directly adjacent to three dwellings, 127, 133 and 135 Wellington Street. Nos. 6 and 9 Dark Lane are also located within the southern part of the application site. There are openings in the side elevation of 127 and 133 Wellington Street which face directly onto the site. The front elevation of the proposed building, which serves openings to the residential flats and a terrace for access, would be located ~14.5m from the side elevation of nos. 127 and 133. Officers therefore have concerns that the proposed development would result in overlooking to the occupants of 127 and 133 Wellington Street.

The proposed building would be located 7.4m from the front elevation of no.6 and 9 Dark Lane. Due to the triangular shape of this building, the primary openings are in the northern elevation which fronts the site. Officers have concerns that the proposed building would cause overshadowing and overbearing harm on the occupants of no.9. As the proposed building would be directly north of no.6 and 9, no significant overshadowing harm is considered to occur. The proposed side elevation however would have an overbearing impact and would not meet the recommended separation distance. It is noted that the building is in a similar location to that approved under application 2024/92495 however, the approved building had a pitched

roof design which significantly reduced the vertical massing of the building and removed the vertical emphasis away from Dark Lane.

No.135 Wellington Street has a blank gable adjacent to the application site and as such no overlooking or overbearing harm is considered to be caused to the amenity of the occupants.

Impact on future occupants

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The scheme proposes three, two-bedroom flats at first floor level. The units would all have an internal floor area of 63.9m². The proposed dwellings would fail to meet the minimum recommendations as set out within the NDSS for a two-bedroom, two-person, single storey dwelling (70m²). The proposed dwellings also have no amenity space. It is considered the proposed windows would have sufficient outlook and natural light for the amenity of future occupants. Notwithstanding this, it is considered that the proposed unit would fail to provide adequate floor space for future occupants, thus failing to comply with LP24(b) of the Kirklees Local Plan and paragraph 135(f) of the NPPF.

Noise

Officers also have concerns regarding the additional noise caused by the proposed development and the impact this would have on residential amenity of the neighbouring and future occupants. Should approval be recommended, a condition for a Noise Impact Assessment should be included in the decision notice. This would need to be provided prior to construction work commencing as it may impact on the construction methods. A condition would also be required for adequate insulation on the party walls between the commercial and residential units to mitigate any noise pollution caused by the proposed commercial unit.

The agent has confirmed the hours of use are 09:00 to 17:00 hours weekdays and 09:00 to 14:00 on Saturdays. Due to proximity to neighbouring properties, the hours of use would be restricted by condition to protect the amenity of nearby sensitive receptors.

Taking the above into consideration, the proposed development is considered to have a harmful overbearing impact on the occupants on nos.6 and 9 Dark Lane, and the future occupants of the proposed residential units at the detriment of residential amenity the health and wellbeing of the occupiers. Failing to comply with LP24(b) of the Kirklees Local Plan and paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policy LP21 states that 'All proposals shall:

a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...

e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;'

This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPDs. KC Highways Development Management have also been consulted as part of this application.

The application site is located on a corner plot on the junction of Wellington Street (C524) and Dark Lane. There are existing waiting restrictions to both sides of the full Dark Lane and Wellington Street frontages to the site.

The proposals show a new commercial unit with residential use above with 10 off-street parking spaces. Access is via Wellington Street and Dark Lane and cycle and bin storage are provided adjacent to the highway.

KC Highways Development Management (HDM) were consulted on the proposal and object on the basis that the proposal is for a garage with potentially 6 bays with 3 two bedroomed flats above. There is not enough parking and it's on a junction (Wellington Street and Dark Lane). They would normally require 2 spaces per bay plus staff parking for the garage and further parking for the residential units.

It is noted that application 2024/92495 proposed the same number of parking spaces for a 6 bay commercial unit however no residential use was proposed under the previous application. It is also noted that the parking area was significantly larger under the 2024 application. It is therefore considered that whilst the previous application's parking provision was considered acceptable, on balance, the further intensification of use of the site could not be supported by officers as there would not be sufficient parking proposed.

As such, the proposed development is considered to not provide sufficient off-street parking provision and therefore would cause harm to the efficiency and safety of the highway. The proposed development fails to comply with LP21, LP22 and LP24 of the Kirklees Local Plan and paragraph 116 of the NPPF as well as the aims of the Highways Design Guide SPD.

5. Other Matters

Drainage

The application is for a change of use to an existing hard surfaced area. If the application was to be approved, a condition would be sought for appropriate surface water drainage to be installed as per Local Plan Policy LP24 and LP30.

Contaminated land

The site of the proposed development is not on land identified as potentially contaminated; however, it is located close to land identified as potentially contaminated. As such it is recommend a condition is added in regard to unexpected contamination to protect the workforce and future users of the site.

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.

A metric has been provided and this has been reviewed by KC Ecology. The metric submitted is not a legal version as macros have been disabled, and the spreadsheet mentions that settings have been changed. All tabs that are expected to be seen in a legal report do not appear in the one provided. KC Ecology requested a legal version of the metric was provided and this was made publicly available to view by the applicant. Officers did not seek a correct BNG metric in this instance due to the significant visual and residential amenity concerns, however the applicant's agent has been made aware of Officer concerns with the application.

As submitted the proposal does not meet the mandatory requirements of the Environment Act 2021 and therefore fails to comply with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD.

6. Representations

The application was advertised via site notice. Final publicity expired on 7th August 2025. 3 representations were received, in support of the application. Their comments are summarised and addressed by officers below.

- Excellent development of a brownfield site
- Offer jobs to local communities
- Development will be good for the area
- Much needed business for the area

Officers have assessed the principle of a commercial/residential unit in this area in the principle of development section of this report.

- Parking provided

Officers are aware that parking would be provided and an assessment of the impact on highway safety has been included in the highway safety section of this report.

- Ultra low noise business

Officers disagree that a vehicle software diagnostics centre would be a 'ultra low noise business'. Therefore, they recommend noise assessments to determine this.

7. Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan, National Planning Policy Framework and other material considerations. It is considered that the development would cause significant harm to visual and residential amenity as well as failing to provide mandatory BNG calculations. It is considered the harm caused by the development would not be outweighed by any benefits of the proposal.

Recommendation: Refusal

Decision Authorisation - Delegated Powers

Application Number: 2025/91419

Officer Recommendation: Refusal

Reasons for refusal:

1. The proposed building, by virtue of siting, scale and design, would result in an incongruous development which would not sympathetically integrate into the street scene, to the detriment of visual amenity. The proposal therefore fails to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
2. The proposed development by virtue of height and design, would result in an overbearing and oppressive impact on the occupants of 6 and 9 Dark Lane, to the detriment of the residential amenity of the occupiers. In addition, the proposed residential flats would fail to provide adequate floor space for the future occupiers. The scheme therefore fails to ensure a high standard of amenity to existing and future occupants, contrary to Policy LP24(b) of the Kirklees Local Plan, paragraph 135(f) of the National Planning Policy Framework and principle 16 of the Housebuilders Design Guide SPD.
3. The incorrect version of the Biodiversity Net Gain Metric has been submitted. Given the insufficient information provided regarding Biodiversity Net Gain, the impact on biodiversity cannot be suitably assessed. The submission of a correct and accurate Biodiversity Net Gain metric is a statutory requirement under the Environment Act 2021. It has not been demonstrated that the development will provide the require 10% Biodiversity Net Gain. Given the omission of an acceptable Biodiversity Net Gain Metric, the proposal is, thus, contrary to Policy LP30 of the Kirklees Local Plan, the Environment Act 2021, Chapter 15 of the National Planning Policy Framework and guidance within the National Planning Policy Guidance.
4. The proposed development would not provide sufficient off-street parking provision for the proposed commercial and residential use and

therefore would result in harm to the efficiency and safety of the highway network. The proposed development therefore fails to comply with LP21, LP22 and LP24 of the Kirklees Local Plan and paragraph 116 of the NPPF as well as the aims of the Highways Design Guide SPD.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Site Location Plan	PP-13371753v1		23/06/2025
Proposed Block Plan	2543-1		23/06/2025
Proposed Plans and Elevations	2543-2		23/06/2025
Preliminary Ecological Appraisal & Biodiversity Accounting Assessment	EC/24/1150	November 2024	23/06/2025
Pre and Post development Habitat Plan			23/06/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

As the proposed development would require significant revisions to render it acceptable, and as there are two extant permissions on the site which are considered acceptable, no amendments were sought in this instance.

Report Dated: 27/08/2025

