

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 59A

DELEGATED DECISION FOR APPLICATION FOR PERMISSION IN PRINCIPLE

Reference no.: 2025/59/92491/W

Site: adj, 287, Cowcliffe Hill Road, Fixby, Huddersfield,
HD2 2NE

Description: Application for permission in principle for erection of
detached dwelling

Case Office: Edward Cheseldine

Decision Reference: 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 08-Oct-2025

Officer Report

2025/92491 - adj, 287, Cowcliffe Hill Road, Fixby, Huddersfield, HD2 2NE

Description Proposal

Application for permission in principle for erection of detached dwelling.

Site Description

The application site is allocated in the Kirklees Local Plan as Urban Green Space. The site is part of an area of dense woodland set adjacent to a building row on Cowcliffe Hill Road. It is currently separated from the road by hedging, it contains an electricity sub-station which is formed of concrete. The site contains mature trees which are protected under TPO 03/97/w1. It is within an area indicated as a bat alert layer on the Council's GIS mapping system.

Description of Proposal

The application is seeking permission in principle for the erection of a detached dwelling. As this application relates to permission in principle, the information provided is limited to a location plan and planning statement.

Amendments/Negotiations

No negotiations were required to be undertaken during the application process as the application is a matter of determining the principle of residential development on the site.

Consultation Responses

None required at this stage. Relevant consultations would be sought at Technical Details Stage if applicable.

Relevant Planning History

None relevant.

Public Representation

The application was advertised by way of a site notice, which expired on 03 October 2025. As a result of the publicity, 5 representations were made. 4 in objection and 1 general comment made. These factors will be assessed throughout the report and are summarised as follows / within the 'representations' section of this report:

- The proposed development is in a woodland area full of mature trees. There is presently great pressure on nearby wooded areas, without regard to conservation, by Thornhill Estates. If this proposal is granted there will be a precedent set whereby other people who own sections of the wood could follow a similar route to develop their plots of woodland. The net result would be an estate of buildings and no wood. There are not many woodlands remaining and this one is a local amenity that is enjoyed by many people in its present state, I feel it would be a tragedy if this was diminished or compromised in any way.
- Restrictive access to our property. Harm to protective species that already habitat in these areas. Such as bats, woodpeckers, Owls and badgers. Protected trees. Negative impact on privacy and noise. Adverse impact on scenery and landscape. Loss of light from new dwelling. Decreasing impact on the value of my property. Negative impact to the public.
- The west border of the planning application straddles a popular local walking route frequented regularly by the public. Measures should ideally be taken in order to ensure that there is minimal impact on the ability of the public to continue to enjoy the space while works are ongoing.
- At present all the trees in the wood are under a protection order. There are a number of protected trees that would become part of the new plot.
- When the Air B& B is in use at number 287 we hear the noise from families. When a house is there permanently it could be worse.
- The whole length of the proposed development site borders our private woodland garden & we would lose our privacy when we are out there if the hedge disappears & it is merely fenced off.
- The installation of another access on Cowcliffe Hill Road would be unsafe and result in an unacceptable impact on highway safety.

Policy & Legislation

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

The site is allocated as Urban Green Space in the Kirklees Local Plan.

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP 24** – Design
- **LP 61** – Urban green space

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, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

1. Permission in Principle Purpose

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. The technical details stage has the effect of granting planning permission.

The scope of Permission in Principle is limited to the following;

- Location
- Land Use
- Amount of Development

Issues relevant to these 'in principle' matters should be considered at the Permission in Principle Stage. Other matters should be considered at the technical consent stage (Local Authorities cannot list the information they require for applications for Permission in Principle in the same way they can for planning permission).

It is not possible for conditions to be attached to a grant of permission in principle, and its terms may only include the site location, the type of development and the amount of development. The LPA can inform the applicants what they expect to see at the technical details stage.

It is not possible to secure a planning obligation at the permission in principle stage.

The LPA may not grant permission in principle for a major development. This means where the number of houses is 10 or more, the floor space created is 1,000sqm or more or the development is carried out on a site having an area of 1 hectare or more. In this case the development is for 1 unit and the site has an area of less than 1 hectare. The resultant floor-space to be created is unknown at this stage but would need to be assessed at the Technical Details Stage.

The LPA may not grant Permission in Principle for Schedule 1 development. This proposal would not be Schedule 1 development.

Local Planning Authorities must not grant permission in principle for development which is likely to affect a Habitats Site (as defined within the NPPF). The site is not in an area classified under European habitat protection or those listed in the NPPF.

2. Principle of Residential 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 assessed.

“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”

In this case, the development site is allocated as Urban Green Space. The area falls under Tree Protection Order TPO 03/97/w1, it includes mature trees and shrubs within and adjacent to the site.

Paragraph 104 of the NPPF & LP61 of the Kirklees Local Plan seeks to protect green spaces. Paragraph 19.45 of the KLP states, in order to safeguard urban green space and avoid further deficiencies in provision, it is important that existing areas of valuable green space are retained and protected from development. Local Plan Policy LP61 states that the loss of open space should not be considered if it makes a significant contribution to visual amenity, landscape, or biodiversity value. Specifically LP61 states the following:

Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space. The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.

As stated earlier, paragraph 104 of the NPPF sets out the approach to assessing development which is proposed upon existing open space, and sets out the same criteria as outlined within LP61.

In this case, the site is allocated as urban green space, it is part of a woodland area which is used for recreational activities. Development would see the land become domestic curtilage and a resultant development with the associated built form / hardstanding's. The site forms an important contribution as Urban Green Space within the local area due to the dense woodland it contains and wildlife habitats it contains.

Qualitatively, the Council in its Open Space Study (2015, revised 2016) assessed the site's value based upon a wide range of considerations including scarcity value, level of

use, meeting the needs of groups of people, visual amenity, and providing specific benefits e.g. structural landscape, ecology, education, social inclusion and health, cultural, heritage, amenity and sense of place.

It is in this context that the sites value as UGS should be considered, and officers consider the site to be of medium to high value.

The site benefits from a mature tree and lush vegetation. The tree group of the wider site makes a clear, positive contribution to visual amenity. The visual value is one of the principal reasons for granting a Tree Preservation Order status, in the interest of public amenity. It is considered that, in its own right, the site provides a high level of visual amenity and is considered to offer significant ecological and habitat value.

In relation to the site's contribution to the wider Urban Green Space allocation, and its role in providing physical separation and relief from urban development, the proposed scheme would result in harm. The introduction of new residential development would extend in front of the line of mature trees that currently form a distinct green edge between the built-up areas of residential development as observed from several public viewpoints.

The loss of this site to development would, diminish the value of the Urban Green Space in qualitative and quantitative terms.

It would harm the value of the open space by introducing a section of domestic curtilage within the land, whilst being to the detriment of its visual contribution of the area and its ecological and habitat value.

Paragraph 19.46 of the Kirklees Local Plan sets out that some open spaces in Kirklees have been designated as urban green space for purposes other than sport and recreation and may not have public access. These include urban green spaces important for their visual amenity, landscape and biodiversity benefits which close to where people live can help promote the health and well-being of local residents and contribute significantly to the quality and local character of the built-up areas in Kirklees. In order to safeguard these sites, development proposals will not be permitted which would be harmful to these qualities or the function of the urban green space.

Policy LP33 of the Kirklees Local Plan calls for the protection from development which directly or indirectly threaten trees or woodlands of significant amenity.

A Tree Preservation Order (TPO 03/97/w1) applies to the group of trees located within the open space that includes the application site. The site itself contains mature trees, and additional trees are situated adjacent to it, which could be adversely affected by the construction of a dwelling. The site forms part of a larger woodland with a cohesive group identity due to the trees' shared location and character. Positioned along Cowcliffe Hill Road this area makes a significant visual contribution to the character of

the locality. The loss of any part of this tree group would therefore have a detrimental impact on the area's visual quality and overall character.

Having regard to policy LP61 and the submitted detail it is clear that the proposal would result in the loss of urban green space. There is no detail submitted as part of the application which meets the requirements of parts a – c of policy LP61 and there are not considered to be other material considerations present which indicate that despite the clear non conformance with this policy, permission should be forthcoming.

It is therefore concluded that the application for a dwelling in this location, would fail to accord with the development plan in terms of a loss of Urban Green Space taking account of the contribution it plays in providing a significant, beneficial, contribution to visual amenity and the landscape.

It is appropriate to consider the Local Planning Authority's overall housing position. 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. The judgement in this case is set out in the earlier assessment of the impact of the development in light of the loss of urban green space. In relation to Paragraph 11 of the NPPF and footnote 7, it is noted that through the application of policies in the NPPF Local Green Space as a protected area.

Policy LP7 of the Kirklees Local Plan states encourages efficient and effective use of land and buildings. The policy goes on to further state that 'proposals:

- a) should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;
- a) should encourage the reuse or adaptation of vacant or underused properties;
- b) should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;
- c) will allow for access to adjoining undeveloped land so it may subsequently be developed'

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

In this case one detached dwelling is proposed for the site. One additional unit would make a small contribution to the Council's overall housing targets. As set out, development would result in the partial loss of Urban Green Space which is a significant contributor to visual amenity, ecological and habitat value. The harm identified would be considered to be greater than the economic, social and environmental benefits provided by the erection of one dwelling.

In summary, the National Planning Policy Framework identifies the dimensions of sustainable development as economic, social and environmental roles. The Local Planning Authority considers the principle of residential development on this site to be contrary to both national and local planning policies. The adverse impacts arising from the proposal, including the partial loss of designated Urban Green Space, harm to visual amenity through the loss of protected trees and shrubs, and the associated reduction in ecological value and habitat, are considered to demonstrably outweigh the limited benefits associated with the creation of a single dwelling. The proposal would therefore be contrary to LP61 of the Kirklees Local Plan and policies within chapter 8 of the National Planning Policy Framework.

3. Other Matters

Contaminated Land

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site. Similarly, the site is located within a historic landfill site. This matter would be dealt with at the Technical Details Stage.

Biodiversity

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.

The applicant is required to provide details of BNG at the Technical Details Stage.

All other matters would be dealt with at the Technical Details stage.

4. Representations

As a result of the publicity, 3 representations were received in total, all of which were objections to development. As the application is for permission in principle, the matters that can be assessed at this stage are limited to location, land use and the amount of development. All other concerns raised in regard to highway safety, access and traffic, pedestrian infrastructure, overlooking, impact on visual amenity, topography of the site, and drainage can only be considered at a technical details consent stage.

- The proposed development is in a woodland area full of mature trees. There is presently great pressure on nearby wooded areas, without regard to conservation.
- There are not many woodlands remaining, and this one is a local amenity that is enjoyed by many people in its present state.
- There would be harm to protected trees.
- Development would result in adverse impact on scenery and landscape.
- At present all the trees in the wood are under a protection order. There are a number of protected trees that would become part of the new plot.

Officer Comment: Insofar as these matters relate to the principle of development they are addressed earlier in this report. Where such concerns relate to the specific design of the development of the land, these would be considered at technical details stage.

- If this proposal is granted there will be a precedent set whereby other people who own sections of the wood could follow a similar route to develop their plots of woodland. The net result would be an estate of buildings and no wood.

Officer Comment: This application is submitted and assessed based on its own merits and concerns relating to the precedent of development cannot be taken into consideration in the assessment of planning application.

- Harm to protective species that already habitat in these areas, such as bats, woodpeckers, owls and badgers.

Officer Comment: Where matters relating to harm to ecology or a loss of habitats is considered to be a matter of principle as per KLP Policy LP61 this is addressed earlier in this report.

- Development would result in a negative impact on privacy and noise.

- The whole length of the proposed development site borders our private woodland garden & we would lose our privacy when we are out there if the hedge disappears & it is merely fenced off.
- When the Air B& B is in use at number 287 we hear the noise from families. When a house is there permanently it could be worse.

Officer comment: Concern relating to a loss of privacy and noise cannot be taken into consideration for the assessment of a permission in principle application. These matters would be taken into consideration at the technical details stage.

- Development would result in a loss of light from new dwelling.

Officer comment: Concern relating to a loss of light cannot be taken into consideration for the assessment of a permission in principle application. These matters would be taken into consideration at the technical details stage.

- The west border of the planning application straddles a popular local walking route frequented regularly by the public. Measures should ideally be taken in order to ensure that there is minimal impact on the ability of the public to continue to enjoy the space while works are ongoing
- Restrictive access to our property.
- The installation of another access on Cowcliffe Hill Road would be unsafe and result in an unacceptable impact on highway safety.

Officer Comment: Concern relating to access & highway safety cannot be taken into consideration for the assessment of a permission in principle application. These matters would be taken into consideration at the technical details stage.

- It would result in a decreasing impact on the value of my property.

Officer Comment: Impact upon property value is not a material consideration in the planning process; therefore minimal weight is afforded to this comment.

5. Conclusion

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. The technical details stage has the effect of granting planning permission.

The scope of this Permission in Principle is limited to the following;

- Location

- Land Use
- Amount of Development

Residential development would lead to a partial loss of Urban Green Space and loss/harm of protect and mature trees and shrubs which are significant contributors of visual amenity, wildlife habitats and ecology and is therefore considered to be contrary to LP61 of the Kirklees Local Plan and Chapters 8 of the NPPF. It is therefore considered that the adverse impacts of granting permission, in this locality would significantly and demonstrably outweigh the limited benefits of the proposal in accordance with the National Planning Policy Framework.

Recommendation: Refuse Permission in Principle

Reason for Refusal

1. The proposed development would result in the partial loss of designated Urban Green Space, causing harm to the visual amenity and character of the area through the removal of protected trees and shrubs that make a positive contribution to the site and its surroundings. The development would also lead to a reduction in ecological value and habitat quality. These adverse impacts are considered to demonstrably outweigh the limited benefits arising from the proposed development of a single dwelling. The proposal is therefore contrary to policies LP61 of the Kirklees Local Plan, as well as the policies contained within Chapter 8 of the National Planning Policy Framework.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location plan	-	-	04 September 2025
Planning statement	-	-	04 September 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 has, 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. No negotiations were required to be undertaken during the application process as the application is a matter of determining the principle of residential development on the site.

