

**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:	2025/62/93033/E
Site Address:	240, Spen Lane, Gomersal, Cleckheaton, BD19 4PJ
Description:	Erection of cattery
Recommending Officer:	Edward Cheseldine

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.

Emma Thompson

AUTHORISED OFFICER

Date: 4-Feb-26

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Officer Report

2025/93033 - 240, Spen Lane, Gomersal, Cleckheaton, BD19 4PJ

Site Description

240 Spen Lane is a detached residential dwelling set in grounds. Access to the site is formed from Spen Lane, which is shared with an agricultural building. The site is in Green Belt land. It is situated within a bat alert layer.

Within the application site, officers observed paladin fencing and a concrete foundation had been constructed. Adjacent to which was a chick coup and fencing.

Proposal Description

The applicant is seeking permission for the erection of an outbuilding that will function as a cattery.

The building will be 3.8m(w) x 4.4m(l) with a roof height of 2.65m. The building will be formed with a timber frame with mesh areas for ventilation. The area of development will be separated from the remaining land parcel by 1.80m paladin fencing in a dark green colour. The footprint of the area is 13.00m x 15.00m. A new gravel access will be formed linking the cattery with an existing access.

Amendments / Negotiations

Amendments were not sought in this case due to issues relating to the principle of development in a Green Belt location.

Public Representations

The application was advertised by a site notice which expired on 12 December 2025. As a result of the publicity, no representations were received.

Relevant Planning History

2003/92825 – Formation of new vehicular access – Permission granted

2006/93317 – Change of use of part of field to domestic garden and erection of garage extension - Permission granted.

2009/92488 – Erection of agricultural shed – Permission granted

Consultation Response

None required.

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 located within the Green Belt on 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
- **LP 10** – Supporting the Rural Economy
- **LP 21** – Highway Safety
- **LP 24** – Design
- **LP 30** – Biodiversity
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated Land and Unstable Land

National Policies and Guidance:

A consultation draft of the National Planning Policy Framework (the Framework) was published on 16 December 2025. As a consultation, the document is at an early stage and subject to change. Accordingly, for the purposes of this application, no weight is given to the current consultation document.

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 6 – Building a strong, competitive economy
- 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

Assessment

- 1) Principle of Development
- 1) Impact on Visual Amenity
- 2) Impact of Residential Amenity
- 3) Impact on Highway Safety
- 4) Environmental Matters
- 5) Other Matters
- 6) Conclusion

Principle of Development

Green Belt

The site is located within land designated as Green Belt on the Kirklees Local Plan Proposals Map. As such, Green Belt policies contained within the National Planning Policy Framework (NPPF) and the Kirklees Local Plan (KLP) are relevant.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt which include to assist in safeguarding the countryside from encroachment.

Paragraph 153 of the NPPF sets out 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. 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 154 of the NPPF sets out that certain forms of development are exceptions to "inappropriate development".

The proposal seeks the erection of a building that will be used as a cattery with dark green paladin fencing erected around its perimeter. It is assumed

the building will serve as a place where people can pay to leave their cats to be cared for while they are away.

In this context, when considering the exemptions under paragraph 154, none of the listed forms of development apply to the proposal. Land adjacent to the site has been used in connection with the keeping of chickens, which may constitute an agricultural use; however, no details have been provided to confirm this. In addition, there is a large agricultural building on the site constructed under permission 2009/92488. The NPPF Glossary states that Previously Developed Land excludes land that is, or was last, occupied by agricultural uses. Furthermore, the cattery represents a private business use of the land and therefore cannot be considered agricultural.

240 Spen Lane has previously benefited from a garden extension permitted under application 2006/93317. The boundary of the established residential garden does not extend to land falling under the application site. It is therefore considered that the establishment curtilage of 240 Spen Lane does not extend to the application site and cannot be considered to be a householder extension or alteration.

In this case, the proposal is not considered to form an extension or alteration to the original dwelling. This conclusion is formed on the basis the proposal falls within land which is outside of the residential curtilage of the dwelling and proposes a business use.

There is case law surrounding the definition of curtilage, which is considered to be relevant to the consideration of this case. Firstly in *Dyer v Dorset CC* [1989] it was held that curtilage constitutes a piece of ground attached to a dwellinghouse and forming one enclosure with it; thereby the area attached to and containing a dwellinghouse and its outbuildings. In the case of *McAlpine v Secretary of State for the Environment* [1995] the judgement that was arrived at in the *Dyer* case was maintained and further concluding that curtilage is constrained to a small area around a building. Finally the Court of Appeal in *Secretary of State for the Environment, Transport, and the Regions v Skerritts of Nottingham* [2000] set out that the definition of a curtilage in relation to a building must remain a question of fact and degree in each case.

Whilst ownership of the larger site is noted, this does not automatically mean that all land in ownership of the applicant which is around a dwelling would necessarily form the curtilage of the dwelling.

It is noted that the applicant has not applied for householder extensions and alterations, therefore the application would pertain a change of use of the land for operations as a business use.

Following on from this, Officers consider there to be no other exemptions listed under paragraph 154 of the NPPF which the development could fall under.

The erection of the building would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land within it.

In this case, development would introduce an enclosed area of 13.00m x 15.00m and a building 3.8m(w) x 4.4m(l) x 2.65m(h) for which no listed exemption applies. A new gravel access will be formed linking the cattery with an existing access. In spatial terms this will result in a greater coverage of development across the site harming an essential characteristic of Green Belt is openness and permanence. Development would constitute a change of use to a include a private business use within the land which is enclosed by fencing.

For these reasons, the development has a greater impact on the openness and permanence of the Green Belt. The development does not meet the exceptions listed in paragraph 154 of the National Planning Policy Framework, it would therefore be inappropriate development in the Green Belt.

As outlined in Paragraph 153 of the National Planning Policy Framework (NPPF), inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 also states that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt.

In this case, no very special circumstances have been put forward by the applicant. Therefore, it is considered that very special circumstances that would outweigh the harm to the Green Belt do not exist.

Whilst there may be some economic benefits these are extremely limited and do not provide sufficient justification for development that is inappropriate. The starting point remains paragraph 153 of the NPPF, which established that inappropriate development is by definition harmful and should not be approved except in very special circumstances. Very limited weight can be afforded to economic benefits and are not considered to constitute very special circumstances.

Impact on Visual Amenity

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.

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'*.

Notwithstanding the assessment of appearance in relation to the Green Belt, the building, perimeter fencing and access track would be constructed

adjacent to an enclosure currently used for the keeping of chickens. In this respect, the proposal would appear similar to existing paraphernalia within the site but would increase the cumulative impact of existing and proposed development, including access, thereby detracting from the open character. While the appearance of the proposed development would generally be in keeping with the surrounding site, the impact on openness would be a concern.

Impact on Residential Amenity

Section B of LP24 states that development should:

‘...minimise impact on residential amenity of future and neighbouring occupiers.’

The nearest residential property which is separate to the applicant's land parcel is 260 Spen Lane which is located 40 metres to the north-east of the site. The two sites share a shrub border which has mature greenery which screen the property. It is acknowledged the cattery will have a business use with customers coming and going throughout the period, however given the nature of the business these will be set towards the morning and evening periods. Due to the length of time the cats will be left at a cattery, it is not considered this will lead to an impact on privacy that is to the detriment of neighbouring occupiers.

Due to distance, neighbours will not be impact by a loss of light or outlook from the structure.

Impact on Highway Safety

Policy LP21 states all proposals should ensure the safe and efficient flow of traffic within the development and on the surrounding highway Network.

Policy LP22 and the Kirklees Highways Design Guide Supplementary Planning Document are relevant insofar as they relate to parking provisions.

The applicant has indicated on block plans, the existing driveway of 240 Spen Lane could accommodate up to six vehicles. There are three cat pens within the building. The turnover of cats is expected to be low and the number of spaces can accommodate a 1:1 turnover if necessary.

Considering the number of parking spaces there is not considered to be an impact to the existing highway network.

Environmental Matters

BNG / Biodiversity

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990

(inserted by the Environment Act 2021). The development is considered to benefit from the de minimis exemption as set out by The Biodiversity Net Gain Requirements (Exemptions) Regulations 2024.

Paragraphs 187, 193, 194 and 195 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

In this case the area of development is limited to a green field, which would have a low habitat value. Considering the use of the structure development it would not be proportionate to require a habitat uplift.

Land Contamination

Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 198 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The site is located in a 200m buffer from a historic landfill (16996). The structure is formed of timber, shallow footings will be required. Given this if development was set for approval, it would be recommended a condition in the case unexpected contamination is uncovered during works is applied to the decision notice.

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

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.

It is considered that the cattery building is for business purposes and constitutes a new building in the Green Belt. The building is regarded as inappropriate development in the Green Belt by definition as it does not fall into any of the exceptions set out in paragraph 154 of the National Planning Policy Framework. Further harm would be caused spatial openness of the Green Belt by developing land that is currently open and by the associated access required for the cattery. No very special circumstances have been

demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policies contained within Chapter 13 of the National Planning Policy Framework.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation: **Refuse**

Decision Authorisation - Delegated Powers

Application Number: 2025/93033

Officer Recommendation: Refuse

Reason(s):

The erection of a building to be used as a commercial cattery is inappropriate development in the Green Belt by definition as it does not fall into any of the exceptions set out in paragraph 154 of the National Planning Policy Framework. Further harm would be caused to the openness of the Green Belt by developing land that is currently open and works required to provide access. No very special circumstances have been demonstrated to clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness or other harm. The development would be contrary to Policies contained within Chapter 13 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	-	-	12 November 2025
Proposed site plan	25/122/B	-	12 November 2025
Proposed grouped plans	25/122/A	-	12 November 2025
Design and access statement	-	-	12 November 2025
Climate change statement	-	-	12 November 2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant

in dealing with the application. No amendments were sought as it was considered that significant amendments were required to overcome the harm of development.