

**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:	2025/62/93101/E
Site Address:	182, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3NU
Description:	Use of kitchen for commercial use
Recommending Officer:	Elenya Jackson

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 02 June 2026

OFFICER REPORT

Site Description

182, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3NU is two storey semi-detached dwelling which currently benefits from its own driveway and private amenity space.

The immediate building group is residential in nature and the property is located on a corner plot within the street scene

Description of Proposal

The application has been received following the refusal of 2024/CLD/93447/E for a Certificate of lawfulness for proposed use of premises for commercial kitchen. This application was refused due to insufficient information.

The applicant is seeking permission for the change of use of the building to a commercial kitchen.

The planning statement submitted with the application states that the business would open between 12pm and 3pm Monday, Wednesday and Friday, with no operating on Sundays or bank holidays.

No customers would visit the premises and no deliveries would be received at the premises.

The existing extraction facilities would be utilised on site.

Relevant Planning History

2024/CLD/93447/E: Certificate of lawfulness for proposed use of premises for commercial kitchen – refused. Appeal Dismissed.

History of negotiations

N/A

Representations

The application was advertised by site notice which expired on 4/01/2026

As a result of the above publicity, two representations have been received in support of the application.

Consultation Responses

K.C Highways DM – informal discussion. No objection subject to conditions.
KC Environmental Health- information discussion. No further comments.

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 UNALLOCATED on the Kirklees Local Plan Proposals Map

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
- **LP13** – Town centre uses
- **LP16** – Food & Drink uses and the evening economy
- **LP21** – Highway safety
- **LP22** – Parking
- **LP24** – Design
- **LP47** – Healthy, active and safe lifestyles
- **LP51** – Air Quality
- **LP52** – Protection of Environmental Quality

Kirklees Council adopted supplementary planning guidance on Hot food Takeaways in September 2022 which now carries full weight in decision making. 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 consideration in terms of public health, residential amenity and highway safety among other matters. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to takeaways.

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 6 – Building a strong, competitive economy
- 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

A consultation draft of the National Planning Policy Framework (the Framework) was published on 16th 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.

Assessment

Principle of development:

Chapter 2 of the NPPF states that: *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions...”*

Chapter 2 of the NPPF goes on to further state that objectives should: *“support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment...”*

As the site is without notation on the Kirklees Local Plan, in line with the NPPF, Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *“good design should be at the core of all proposals in the district”*.

Commercial Kitchen

A use of this nature would not normally be viewed as a ‘Main Town Centre’ use due to the production of food for consumption by the public; however from reviewing the supporting documents, officers consider it is more akin to a mixture of general industrial processes (food preparation) and storage and distribution (food delivery). As the site would also be retaining a residential use, the proposal would result in a mixed use of the site and officers therefore consider it appropriate to consider the proposal to be a sui generis use.

The supporting information submitted with the application states that the site would be used to cook food for three days a week which will then be delivered. There will be no public access within the site. Officers consider that on this basis, this would therefore not be a main town centre use and the

change of use would not require a sequential test or an assessment against the Hot Food Takeaway Supplementary Planning Document.

Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

In view of this it is considered, on balance, that, the proposal would not unduly harm the viability or vitality of any Town Centre and would generally be compatible with the area. Therefore, subject to an assessment of the visual impact on the area, the amenity of neighbouring occupiers, impact on highway safety and sustainability, the proposal is, on balance, considered to be acceptable in principle meeting the requirements of Policies LP2 and LP24 of the KLP and chapters 2 and 9 of the NPPF.

Impact on visual amenity:

There are no alterations proposed as part of the application to the exterior of the outbuilding and the applicant has confirmed that no advertisements would be erected.

In this instance the existing domestic extraction system would be used, however the erection of any flues or extraction to the building in conjunction with a commercial use would require planning permission.

Having taken the above into account, the proposals would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

Although the proposal would not be considered as a hot food takeaway, it is considered appropriate to consider noise attenuation and odour control measures to ensure they are acceptable in terms of visual amenity, including location and external finish, not adversely impact on neighbouring occupiers by virtue of noise / vibration or colour and remain appropriate to the type of food being prepared.

Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this case the relevant possible increases could relate to noise, light & odour emissions.

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

The building in question is an existing residential property.

Officers acknowledge that cooking odours from take away type food cause a loss of amenity to the very close neighbouring properties; however, due to the limited time spent cooking with no additional members of staff, it is considered that the proposal would not be substantially different to the operation of a domestic premises in this instance. Officers intend to impose a condition,

should the application be approved, regarding operating hours, staff and no deliveries to limit disruption.

Having considered the above factors, the proposal would not result in significant adverse impacts in terms of noise and odours for the residents of the adjacent neighbouring occupants, and would be acceptable in the context of Policies LP24 & LP52 of the Kirklees Local Plan, in terms of the amenities of neighbouring properties and Paragraph 135 (f) of the National Planning Policy Framework.

Impact on highway safety:

Paragraph 115 of the NPPF states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Policy LP21 of the Kirklees Local Plan echoes this. Policy LP22 of the Kirklees Local Plan relates to parking provision.

The application has been reviewed with KC Highways and it is considered that as the proposal would be operated by the applicant only and have no visiting members of the public or deliveries associated with the business, subject to the imposition of a condition that the proposal would operate in accordance with the supporting statement including no collection/delivery, the use as a commercial kitchen would not be considered to be unacceptable in terms of highway safety.

Therefore, the proposal would accord with Policies LP21 and LP22 of the Kirklees Local Plan.

Waste Storage/Collection and Littering

As set out in the supporting information, the applicant proposes to utilise existing waste storage facilities on site; however, the local planning authority does not have a duty to collect commercial waste.

It is considered that due to the nature of the site and the scale of the proposal a suitable solution for waste storage and facilities for the disposal of the applicants litter can be accommodated within the application site. This would need to be adequately screened in a manner and location that does not detract from the street scene or the character of the area; or that does not cause odour nuisance to neighbouring occupiers. The applicant would need to liaise with the Local Authority or a private contractor regarding this. Therefore, a condition is required relating to the submission of these details to ensure the proposal would accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

Other matters:

Carbon Budget

The proposal is a small scale development to an existing property. As such, no special measures were required in terms of the planning application with regards to carbon emissions given the nature of the development seeking permission for change of use of the building.

Impact on Public Health

The NPPF sets out that Planning policies and decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs. Access to healthier foods is directly identified as a potential health and well-being need.

Also, of relevance to the consideration of this application is Policy LP47 of the Kirklees Local Plan, this policy sets out that the Council will, with its partners, create an environment which supports healthy, active and safe communities and reduces inequality. This policy sets out this will be enabled by, amongst other things, working with partners to manage the location of hot food takeaways particularly in areas of poor health.

To reflect the complexities of the obesogenic environment, the Public Health Team have developed a tool which uses a range of local data to assess which areas have multiple risk factors. These include the index of multiple deprivation (IMD), the percentage of adults, 5 year olds and 11 years olds either obese, overweight or with excess weight as well as the prevalence of diabetes and coronary heart disease rates. These indicators have been chosen to represent the health of the population living in a particular location. It is considered that as the proposal would not be open to the public, it does not require assessment against the public health tool kit. The proposal would therefore be acceptable in the context of Policy LP47 of the Kirklees Local plan and Chapter 8 of the NPPF.

Representations:

None received in objection. The representations received in support are noted.

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 development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2025/93101

Officer Recommendation: Approve

Conditions and reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Prior to the development being brought into use, notwithstanding the submitted information, details of the areas to be used for the storage and collection of waste from the premise(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the development being brought into use and shall be thereafter retained, kept clear of all obstructions to the use as storage and collection of waste facilities from the premises.

Reason: To ensure that the development has adequate facilities for the separation and storage of wastes and to ensure that they can be collected without causing an obstruction to the public highway, so as to accord with the aims of Policies LP21 and LP24(d)(vi) of the Kirklees Local Plan.

4. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. There shall be no deliveries to the premises in association with the business at any time.

Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties and does not result in an unacceptable intensification of the highway network by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP21, LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Notwithstanding the submitted details, no food production/cooking in association with the approved use shall be carried out on the premises outside the hours of 12:00 and 15:00 Monday, Wednesday and Friday with no working on weekends or bank holidays.

Reason: To ensure that the proposed development does not cause harmful noise pollution to neighbouring premises in the interest of amenity in

accordance with Policy LP53 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at food.safety@kirklees.gov.uk.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership

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

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00hours, Saturdays.

With no working Sundays or Public Holidays.

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

Footnote It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at food.safety@kirklees.gov.uk.
HSF1 Health & Safety –

Footnote All workplaces where staff are employed need sanitary accommodation and all premises which are open to the public for entertainment and consumption of food and drink require toilets that are accessible to the public. If applicants need further advice on number and facilities, then please contact the Health and Safety Team on 01484 221000 (ask for health and safety) or by email at healthandsafety@kirklees.gov.uk

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Application form	-		13/11/2025
Location Plan			13/11/2025
Proposed plans			13/11/2025

Plan Type	Reference	Version	Date Received
Application form	-		13/11/2025
Location Plan			13/11/2025
Planning statement	-		13/11/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application. Officers requested a floor plan during the course of the application to understand the proposal's relationship with neighbouring dwellings.