

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	<b>2025/70/93262/E</b>
Site Address:	913, Halifax Road, Hartshead Moor, Cleckheaton, BD19 6PH
Description:	Variation of condition 2 (plans) on previous permission 2019/92507 for erection of one detached dwelling and demolition of existing stable block
Recommending Officer:	Elenya Jackson

**DECISION – VARIATION OF CONDITION 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: 20-Jan-2026

## **Officer Report**

### **Site Description**

The application relates to land to the rear of no. 913, Halifax Road, Hartshead Moor.

The land was previously used for variety of agricultural buildings and was in association with the residential property 913, Halifax Road, which is a detached property located to the north of the site fronting Halifax Road. The land to the south of the application site forms open countryside. The previous stable buildings have been demolished, and works have commenced on site for the previously approved dwelling.

### **Description of Proposal**

Variation of condition 2 (plans) on previous permission 2019/92507 for erection of one detached dwelling and demolition of existing stable block  
The previous condition(s) read as:

2. 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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21, LP22, LP24 and LP59 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

The application has requested variation to this condition to change the design of the dwelling to add two additional windows on the northern elevation and alterations to the redline boundary of the application site to extend further north.

### **Relevant Planning History**

The following relates to the planning history of the site, relevant to the consideration of this application:

- 2019/92507 – Erection of one detached dwelling and demolition of existing stable block – approved
- 2018/93545 – Alterations to convert stable to dwelling – approved
- 2012/91068 – Erection of tractor/implement store on the site – approved
- 2017/93533 – Erection of agricultural building – approved

Several applications for additions to the associated residential property, no. 913, Halifax Road.

## **Representations**

The application was advertised on the Kirklees Website and a site notice which expired on 4.01.2026

- No comments received

## **Consultations**

No formal consultations were required.

## **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 allocated as Green Belt on the Kirklees Local Plan proposals maps.

The following policies are considered relevant in the consideration of any application for one dwelling:

### Kirklees Local Plan:

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place-shaping
- LP 21 – Highway Safety
- LP 22 – Parking
- LP 24 – Design
- LP 27 – Flood Risk
- LP 28 – Drainage
- LP 30 – Biodiversity
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land
- LP 55 – Agricultural and forestry workers' dwellings
- LP 59 – Infilling and redevelopment of brownfield sites

### 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, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local

planning authorities and is a material consideration in determining applications. NPPF relevant chapters:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- 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**

The proposed variations to the previously approved plans are set out in full above, within the 'Description of Proposal' section of the report.

### Principle of Development

This Section 73 application seeks minor material variations to the originally approved plans which have come about by a change in the design and layout of the site.

It is considered that the key determining issue in the consideration of this application is whether the extension of the red line boundary and alteration to the extent of the application site can be considered as well as the visual impact of the alterations proposed and also the impact upon residential amenity.

The National Planning Policy Framework has been updated since the determination of the previous application and there has been the adoption of the Housebuilders Design Guide by the Council. It is not considered the adoption of the SPD and the update of the NPF has a significant impact upon the determining issues considered applicable in this case.

The determining issues are assessed as follows:-

### Visual Impact

Policy LP24 of the Kirklees Local Plan, principles within the Council's Housebuilders Design Guide and policies within Chapter 12 of the National Planning Policy Framework are relevant.

Officers have reviewed the revised design of the dwelling. It is considered that the addition of windows would not significantly impact the character of the building as there are existing windows.

It is considered the design of the scheme would accord with LP24 of the Kirklees Local Plan, principles within the Housebuilders Design Guide and policies within Chapters 12 of the National Planning Policy Framework.

### Residential Amenity Impact

A core planning principle as set out by policies within Chapter 12 of the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the House Builders Design Guide sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

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

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

The proposal would provide an acceptable level of amenity space and would meet the NDSS standards as required by principle 16.

Officers have reviewed the application and it is considered that due to the proximity of the application dwelling to the original dwelling of 913 Halifax Road and the change in site levels between the properties, officers consider that the additional windows would need to be obscured and fixed shut to remove any concerns regarding overlooking. As the dwelling has side facing windows serving the proposed bedroom and therefore the additional windows would be secondary. Therefore, subject to conditions, the proposed development would be considered to accord with the aforementioned policies.

### Procedural matters

Section 73 of the Town and Country Planning Act 1990 refers to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b)if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The red line boundary provided on a site location plan submitted as part of this application is to delineate the extent of the development proposal. It is for a site which differs from that of the original permission for which this S73 application seeks to vary a condition.

The submission of a site location plan is not a validation requirement of a section 73 application. This is detailed in section 7 of the Development Management Procedure Order which provides the general details required to be submitted as part of a planning application.

7 (c) states that these are required except for when applications are made in accordance with section 73 of the Town and Country Planning Act 1990. The original permission was submitted with an accompanying plan which identified the land to which the application relates.

The identification of the land which the application relates has already been detailed via the original permission.

Therefore, officers are unable to recommend approval to the revised boundary location/red line boundary as part of this application as this application is for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted and the alteration of this boundary would be the principle of the permission by amending the land to which the application relates as the proposal goes beyond the scope that a S73 permission is able to approve.

### **Representations**

No representations received.

### **Conclusion**

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not meet the requirements of a section 73 application and is therefore recommended for refusal.

**Decision Authorisation** - Delegated Powers

**Application Number:** 2025/93262

**Officer Recommendation:** REFUSE

**Reason:**

1. The proposal relates to land beyond the confines of that to which the application site relates to, as established by the drawing titled 'Location Plan' received on 26<sup>th</sup> July 2019 submitted as part of application 2019/92507 for which a variation of that plan is sought. The proposed variation of condition seeks to alter the extent of the site to which the development relates which goes beyond the scope that can be considered by an application for variation of condition as set out within section 73 of the Town and Country Planning Act 1990 and section 7 of the Town and Country Planning (Development Management Procedure) Order 2015.

Plans and specifications schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Site Location Plan		25/11/2025
Proposed site plans		25/11/2025
Plans and elevations		25/11/2025

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 2015 and otherwise actively engaged with the applicant in dealing with the application.

No alterations requested.