

**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>2026/70/90266/E</b>
Site Address:	Albion Street, Dewsbury, WF13 2AJ
Description:	Variation of conditions 2 (plans) and 3 (materials) on previous permission 2024/91263 for erection of garage and MOT servicing centre with associated works
Recommending Officer:	Nicole Helliwell

**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: 30-Mar-2026

## **Officer Report**

**Reference No.** 2026/70/90266/E

**Site Address:** Albion Street, Dewsbury, WF13 2AJ

**Proposal:** Variation of conditions 2 (plans) and 3 (materials) on previous permission 2024/91263 for erection of garage and MOT servicing centre with associated works

### **Site Description**

The application relates to a vacant parcel of land located off Albion Street in Dewsbury. The wider area comprises a combination of residential and commercial properties of varying materials and architectural styles. There are no listed buildings or public right of ways within the immediate vicinity of the site. However, the site is located adjacent to the Northfields Conservation area.

### **Description of Proposal**

The applicant seeks consent to vary conditions 2 (Plans) and 3 (Materials) of previous permission 2024/91263 for the erection of a garage and MOT servicing centre with associated works, which was granted on 29<sup>th</sup> July 2025.

Condition 2 of permission 2024/91263 relates to the plans and details approved under the application and reads as follows:

*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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP21, LP22, LP24, LP28, LP30, LP35 and LP52 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.*

Condition 3 of permission 2024/91263 relates to the material palette approved under the application and reads as follows:

*3. The development hereby approved shall be faced in red brick for the external walls and slate for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.*

**Reason:** *In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.*

This Section 73 application seeks to vary the approved plans due to changes to the design and materials of the garage and MOT servicing centre. The submitted plans confirm that the previously approved brickwork for the external walls and slate for the roof would be replaced with composite steel cladding. Furthermore, the height of the existing boundary walls would be increased by 1m -1.5m.

### **Relevant Planning History**

- **2024/91263:** Erection of garage and MOT servicing centre with associated works. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2014/93761:** Erection of two storey cafe and take-away. [Planning application details | Kirklees Council](#) – Refused
- **2014/90857:** Erection of two storey cafe and take-away. [Planning application details | Kirklees Council](#) – Refused
- **2005/94109:** Outline application for erection of 1 no. dwelling. [Planning application details | Kirklees Council](#) – Refused
- **2005/94108:** Outline application for erection of B1- Business Unit. [Planning application details | Kirklees Council](#) – Granted Under Reg.3 General Regulations.
- **87/00859:** Alterations to premises to form flat and. [Planning application details | Kirklees Council](#) - Granted Conditionally

### **Representations**

The application was publicised by site notice, which expired on 26<sup>th</sup> March 2026. As a result of the above publicity, no representations have been received.

### **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

[KC Highways Development Management](#) – No objection

[KC Conservation and Design](#) – Objection

### **Policy**

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 27<sup>th</sup> February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, the site is located adjacent to the Northfields Conservation Area. The most relevant policies for consideration in this case are:

### **Kirklees Local Plan Policies**

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land and Buildings
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 28** - Drainage
- **LP 30** - Biodiversity and Geodiversity
- **LP 35** - Historic Environment
- **LP 52** - Protection and Improvement of Environmental Quality

### **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, 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 6** - Building a Strong, Competitive Economy
- **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
- **Chapter 16** - Conserving and Enhancing the Historic Environment

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

### **Other Guidance Documents:**

- Kirklees Highways Design Guide (2019)

- Biodiversity Net Gain Technical Advice Note (2021)

## **Assessment**

### **1. Principle of development**

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development for the erection of a garage and MOT servicing centre with associated works, was established under permission 2024/91263. As such, it is considered that the principle of the development remains established by way of this permission. This assessment will deal with the merits of the proposed variations only.

### **1. Impact on Visual Amenity and Historic Environment**

General design considerations are set out in Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. Policy LP24 of the Kirklees Local Plan states that *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.'*

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

Policy LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) is relevant, and requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

The application seeks to increase the height of the existing boundary walls by 1m -1.5m. Whilst the proposal would alter the external appearance of the site, officers do not consider that the resultant boundary treatment would have a significant visual impact on the character and appearance of the surrounding area and would be acceptable in this regard.

The submitted plans also confirm that the previously approved brickwork for the external walls and slate for the roof of the Garage and MOT servicing centre would be replaced with composite steel cladding. Whilst the increase to the boundary treatment would provide some form of screening, it is noted that the building would project well above the wall and due to the change in materials would appear unduly prominent and highly visible from public vantage points within the Northfields Conservation Area. Furthermore, it is considered that the material palette proposed would be out of keeping with the immediate building group and would fail to preserve or enhance the character of the Northfields Conservation Area.

### Summary

In view of the above, it is considered that the variation to the development proposed would detrimentally harm the historic character of the Northfields Conservation Area failing to comply with Policy LP35 of the Kirklees Local Plan. The less than substantial harm would not be outweighed by public benefit and as such, the proposal would not accord with Paragraph 215 of the NPPF. Furthermore, the proposed development would cause significant harm to the visual amenity failing to comply with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

### **2. Impact on Residential Amenity**

Section B and C of LP24 states that alterations to existing buildings should: "...maintain appropriate distances between buildings' and '*...minimise impact on residential amenity of future and neighbouring occupiers*". Further to this, Paragraph 135 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.

The proposed alterations are not considered to have a greater impact on the neighbouring occupants than the originally approved scheme. As such, the proposal would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135 (f) of the National Planning Policy Framework.

### **3. Impact on Highway Safety**

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 116 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.

The submitted plans confirm that the existing boundary treatments will be raised as part of the application. It is noted that the wall that abuts the access will be raised by 1m. KC Highways Development Management have reviewed the scheme and have raised no objections in terms of visibility given that the wall already exceeds 1m. Furthermore, no alterations would occur to the access and parking arrangements of the approved scheme. Therefore, the impact on highway safety is still considered acceptable and unchanged since the previously issued decision.

Given the above, Officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network. The proposal is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework, and advice contained within the Kirklees Highways Design Guide SPD.

#### **4. Other Matters**

With regard to other matters that were assessed as part of the previous planning permission (climate change, noise, hours of use, EVCP, contaminated land, ecology and construction noise), the proposal is unchanged in relation to these aspects. Furthermore, any conditions or footnotes imposed in regard to these matters to make the development acceptable would have been reviewed as part of this application should the alterations to the scheme have been concluded acceptable.

#### **5. Representations**

No representations were received following the statutory publicity.

#### **6. Negotiations**

No amendments were sought or received during the course of the application.

#### **7. Conclusion**

This proposal is a Section 73 application to vary condition 2 (plans and specifications) and 3 (materials). In determining a S73, the Local Planning Authority must only consider the 'disputed' conditions that are the subject of the application – it is not a complete re-consideration of the application. Therefore, it is a consideration of Condition 2 and 3 only.

The proposed variation of condition 3 would detrimentally harm the historic character of the Northfields Conservation Area. The alterations to the material palette would be out of keeping with the immediate building group and would increase the buildings prominence from public vantage points within the Conservation Area. There are no public benefits to outweigh the less than

substantial harm to the setting and character of the Conservation Area. Therefore, to permit the development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan, and Chapters 12 and 16 of the National Planning Policy Framework.

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 the relevant policies in the development plan and other material considerations. For the reasons set out above, 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:** 2026/90266

**Officer Recommendation:** Refuse

**Reasons for Refusal:**

1. The material palette for the building proposed would be out of keeping with the immediate building group, detracting from public vantage points, detrimental to the historic character of the Northfields Conservation Area for which there is insufficient public benefit to outweigh the less than substantial harm to the setting and character of the Conservation Area contrary to Policies LP24 and LP35 of the Kirklees Local Plan, and Chapters 12 and 16 of the National Planning Policy Framework.

**Plans and specifications schedule:**

<b>Plan Type</b>	<b>Reference</b>	<b>Revision</b>	<b>Date Received</b>
Proposed Ground Floor Plan and Elevations	AR-06	-	06/02/2026
Design and Access Statement	-	-	06/02/2026

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. In this instance, the alterations

required would be beyond the scope of the application. As such, no amendments were sought thereafter.

**Report Dated: 26/03/2026**