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: 2018/62/91821/W

Site Address: 276, Halifax Old Road, Birkby, Huddersfield, HD2 2SN

Description: Erection of two storey detached domestic building

Recommending Officer: William Simcock

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 25-Oct-2018

Officer Report

Site Description

276 Halifax Old Road is a large detached two storey dwelling that is constructed in stone and with a gable roof that is finished in grey slate. The dwelling is situated on higher ground level than the highway (Halifax Old Road) which runs to the south of the site. Vehicle access to the dwelling is taken off South Cross Road to the western corner of the site. A substantial two-storey detached building (the subject of the current application) has been constructed near to the south-eastern corner of the site, predominantly in stone and with a double-pitched blue slate roof.

Description of Proposal

The proposal is a retrospective application for the erection of a two-storey detached outbuilding. The eastern elevation is rendered with a stone return, with all other walls faced in stone. Set back from the highway boundary to the same extent as the original dwelling, it measures 8.4m in width and 10.3m in depth. The land is substantially higher at the rear and there is a door at upper floor level in the rear elevation giving direct access to the rear garden, where some recent landscaping has been done. There is some underbuild at the front, where natural ground level is lower.

According to the submitted plans, the building incorporates an office, domestic store, shower and two gymnasia (described as “gents’ gym” and “ladies’ gym”, the former of which takes up most of the space on the ground floor).

History of negotiations/amendments received

17-Aug-2018: Amendments were secured to obtain an accurate block plan.

19-Sep-2018: Applicant’s agent confirmed they would accept fixed obscure-glazing condition as an alternative to permanent screening at the side.

Relevant Planning History

2016/91380 – Demolition of existing garage / store and erection of two-storey outbuilding. Approved.

2017/91581 – Demolition of existing garage store and erection of two-storey outbuilding. Declared invalid because of inaccurate plans.

Enforcement history:
COMP/17/0009 – Alleged unauthorised erection of a building. Ongoing (application submitted).

Representations
Final publicity date Expires: 19-Oct-2018

One representation made. Makes the following comments:

- The building process has taken over a year so far and the landscaping is still uncompleted;

- Earth and rubble have been dumped on South Cross Road and damaged kerb stones;

- A hedge was taken out without consent.

Consultation Responses

No consultations were considered necessary on this occasion.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and without designation on Kirklees Publication Draft Local Plan.

It is considered that the development does not raise access issues or other issues under the Equality Act.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design

- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway safety
- **T19** – Parking

Kirklees Publication Draft Local Plan (PDLP):
- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 21** – Highway safety and access
- **PLP 22** – Parking
- **PLP 24** – Design

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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 12 – Achieving well-designed places
- Chapter 16 – Conserving and enhancing the natural environment.

Assessment
The following matters are considered in the assessment below –
1) Principle of development
2) Impact on visual amenity (including any heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development: The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development … of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations including visual and residential amenity and the avoidance of overdevelopment]”. All these considerations are addressed later in this assessment.

Neither the UDP nor PDLP contain specific policies on domestic outbuildings. These should be assessed having regard to Policy D2, also BE1 and BE2 which require that development should be visually attractive and contribute to a sense of local identity, and in addition Policy PLP24 of the PDLP which also sets out design criteria.

2 –Impact on visual amenity: The north side of Halifax Old Road is dominated by two house types: traditional terraced houses to the east of the application site and large late Victorian or Edwardian houses on substantial plots to the west. On the south side, where the land is lower, are modern detached houses on small plots.

On the plot now occupied by the two-storey outbuilding originally stood a flat-roofed domestic garage.

The case officer's report for the original approval (2016/91380) made the following observations:

> "…despite being subservient when considered against the host property, the building is still large is scale and would be prominent within the street scene, given its siting, particularly as it would be located on higher ground in comparison to the adjacent highway. Nevertheless, it would occupy a footprint that is similar to that of the existing building albeit slightly larger."

The officer's assessment of the impact on visual amenity concluded that on balance it would not compromise the visual appearance of the surrounding area or the street scene. The approval was not for a full two-storey building but for a large single-storey building with underbuild and with room in the roof space, and which would have had a footprint of 8.6m by 7.3m. Average height would have been 6.3m and 3.8m from ground to ridge and ground to eaves respectively, measured from the road elevation, compared with 7.1m and 5.9m for the current proposal, the footprint is also materially larger. This means that the new building is larger and more prominent that the one previously approved would have been.

Policies BE1, BE2 of the UDP and PLP24 of the PDLP contain no specific guidance on outbuildings, their scale in absolute terms or relative to the original dwelling. As the site is within unallocated land, any proposal of this nature has to be considered in the light of the need to avoid overdevelopment (D2 ii), that development is visually attractive and creates or retains a sense of local identity (BE1 i-ii), is in keeping with surrounding development in terms of design, scale etc (BE2 i) and takes into account the topography of the site (BE2 iv). Similar criteria are endorsed by PLP24 a) and b).

In general, the erection of small domestic outbuildings such as double garages is considered appropriate subject to an assessment of any impact on visual and residential amenity. This may apply to triple or even quadruple garages, or larger double garages with ancillary space above, provided the house has a medium to large curtilage and the garage can be sited so as not to be intrusive or visually dominant. Outbuildings comprising a fully two-storey structure are, however, rarely applied for or granted permission.

The building now under consideration is unusually large for a detached domestic building and superficially gives the impression of looking like a detached dwelling house rather than an ancillary building. It is, however,

visually subordinate to the existing host dwelling both in terms of height and the size of its footprint. It is noted also that it does not project any further forward than the host dwelling and is even set back slightly behind its furthest extent. It is set back some 5m behind the terraced row 262 to 274 Halifax Old Road. Furthermore, it occupies a gap in the original built frontage of 23m in width, which would in many circumstances be considered a satisfactory plot width for a new building.

The total plot size is 1900sqm. The original house has a footprint of 150sqm; the new building adds 86sqm. Total building to plot size ratio, at 15%, would be far lower than that of several near neighbouring properties, such as nos. 278-284 Halifax Old Road and the Woodlands, which are also large individually-designed houses of a similar age.

In conclusion, it is considered that the building does not amount to overdevelopment and does not appear dominant in the street scene.

It is considered that roof style, window positioning, and other design details are satisfactory and that the materials used ensure that the building harmonises with its surroundings. The use of rendering to the side elevation reflects the side elevation of no. 274.

In summary, it is considered that the development respects the appearance of its surroundings and does not detract from local character, thereby supporting the aims of Policies BE1-2 and PLP24.

3 – Impact on residential amenity: There are no near neighbouring residential properties to the north or south that are in a position to be affected.

To the east it would be approximately 1.5m from the boundary with no. 274 and 7.5m from the facing side wall of this property – this west-facing elevation contains a window but this is likely to be secondary or non-habitable as no. 274 has its main outlook to the north and south. No. 274 has a garden at a higher level and to the north but this is not directly adjacent to the new building – it is set some 5m in from the east wall.

The new building is higher than no. 274 by approximately 1 storey and projects to the rear of it. However, the outlook to the west and north-west from no. 274 would already be obscured by the high hedge, rising land, and no. 276 behind it. It is very unlikely to have an effect on sunlight to habitable room windows since the sun's rays from a westerly direction would already be obstructed by the topography of the land. Whilst it might have impact on sunlight to the upper garden, especially during the later part of the afternoon between the spring and autumn equinox, it is considered that this would be minor given the elevated position of the garden and the distance between it and the new building, and not of a sufficient level to justify a refusal. In conclusion, it is considered that in this setting, the building does not have an overbearing impact on this property.

The east side wall of the building is approximately 12m from the side boundary with no. 272 Halifax Old Road. No. 272 is set lower than no. for the same reasons, it is considered it would not have a significant impact upon this property or any others in the row.

The development has a total of 4 windows in the east side elevation. The approved proposed would have had only one, a landing window. The new windows all look towards neighbouring land, including that within the curtilage of no. 274. It is approximately 15m from the side-facing windows to the western curtilage boundary of no. 272, the next property in the row, and it is considered that it is only these two (mainly no. 274) that could be significantly affected.

The two upper floor windows in the eastern elevation are both already obscurely glazed, although the office window is openable; the ground floor ones are clear-glazed. It is considered that for the ground floor windows it will be necessary to condition obscure glazing or the permanent retention of a screen hedge, or some combination of these – the natural screening at the side would appear to be sufficient to screen the gym window if retained permanently but not the stairway window.

The agent has confirmed that the client will agree to a condition requiring obscure glazing to be installed and that windows be fixed. It is recommended that a condition is imposed requiring (i) obscure glazing provided before first being brought into use and retained permanently; (ii) these windows fixed shut

Subject to this the development would not detract from the amenities of neighbouring properties and would accord with the aims of Policies D2(v) and PLP24(b).

4 – Impact on highway safety: The new development might in theory result in some additional parking demand but there is ample parking and turning space within the curtilage which would be unaffected. Subject to it only being used for purposes ancillary to or incidental to the original dwelling, which can be conditioned, it is considered that it would have no impact on highway safety and would accord with the aims of Policies T10 and T19.

5 – Other matters:

Ecology:
The site is in the bat alert layer and close to extensive scrub and woodland to the rear which may provide foraging grounds. Enhancement measures are not normally requested for domestic outbuildings, although this is an unusually large one. Since it is already externally complete, however, it will be difficult to fit one integral to the fabric of the building, which is generally preferred as being the best way to ensure permanent retention. On balance, therefore it is considered that an enhancement measure will not be required in this instance.

Possible future changes of use:
For the avoidance of doubt, it should be conditioned that the building is only used for purposes incidental or ancillary to the dwellinghouse as such and for no other purposes. This is to ensure that it is not used as a separate dwelling or for running a business, which could lead to an unacceptable intensification of the site.

6 – Representations: The concerns raised are highlighted below together with officer's responses:

- The building process has taken over a year so far and the landscaping is still uncompleted;

Response: Some landscaping has been carried out in the land at the rear, including the formation of retaining walls. This does not form part of the current application and so it has not been assessed as such.

- Earth and rubble have been dumped on South Cross Road and damaged kerb stones;

Response: Damage or unauthorised spoil tipping during construction are not material planning issues.

- A hedge was taken out without consent.

Response: The removal of hedgerows does not require any form of consent except in a limited range of situations as set out in the Hedgerows Regulations 1997, none of which apply here.

7 – 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 **CONDITIONAL FULL PERMISSION**

Decision Authorisation - Delegated Powers

Application Number: 2018/91821

Officer Recommendation: Approve

Conditions and Reasons

1. Before any part of the building is first brought into use, all windows in the eastern side elevation of the building hereby approved shall (i) be fitted with obscure glazing, and (ii) be non-opening. Thereafter all windows in this elevation shall be retained as obscurely-glazed windows of a non-opening fixed type.
Reason: To ensure that the development does not give rise to a loss of amenity to neighbouring residential properties or land arising from loss of privacy and to accord with the aims of Policy D2(v) of the Unitary Development Plan and PLP24(b) of the Publication Draft Local Plan.

2. The building hereby approved shall be used solely for purposes incidental or ancillary to the enjoyment of the dwellinghouse (276 Halifax Old Road) as such and for no other purposes.
Reason: For the avoidance of doubt, to ensure that adequate planning control is retained over the site in the interests of highway safety, and to accord with the aims of Policies D2(iv) and T10 of the Unitary Development Plan and PLP21 and 22 of the Publication Draft Local Plan.

NOTE: There is the potential for a bat roost to be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location and site plan			17-Aug-2018
Block plan as proposed			15-Aug-2018
Floorplans and elevations			20-Jun-2018
Application form			20-Jun-2018

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 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer requested the applicant

submit an amended block plan so as to reflect what was shown on the floorplans and elevations.

Report Dated: 22-Oct-2018