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:	2018/62/91857/W
Site Address:	land adj, The Lodge, 34, Daisy Lea Lane, Lindley, Huddersfield, HD3 3LP
Description:	Erection of swimming pool and lounge area ancillary to dwelling approved under 2018/62/90731/W (within a Conservation Area)
Recommending Officer:	Farzana Tabasum

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 26-Sep-2018

Officer Report
Site Description
The application site relates to an area of curtilage land in association with no. 34 Daisy Lee Lane, Lindley. The site is accessed by an existing vehicular drive from Daisy Lee Lane which also forms part of the application red line boundary. A number of mature trees exist on the periphery of the site boundary. At the time of my site visit the site had been cleared and the buildings works were well on the way to implement the previous permission for a new dwelling.

The site is surrounded by residential properties consisting of a linear form along the road frontages and a more sporadic form of development to the rear of plots along the road frontage.

Description of Proposal
The proposals seeks permission for a single storey building to accommodate a swimming pool and lounge area ancillary to the approved dwelling under application no. 18/90731. The submitted plans as revised indicate the siting to be in the south east part of the site close to the party boundary with the no. 44 Daisy Lea Lane. The plans have been amended to reduce the length of the proposed structure by 5m, so it does not project beyond the rear elevation of the above mentioned neighbouring dwelling. The revisions also now include a link from the lounge area of the proposed building to the host dwelling approved previously. The final revised drawing no. is 3152 (0-) 19 Rev C.

History of negotiations/amendments received
13/07/18- Revised plans following officer's request to relocate the building further away from the party boundary with no. 44.

21/09/18 – final revised plans reducing the proposed structure in length by 5m and introducing link to previously approved dwelling on this site. Following this the description on the application has been amended to omit 'gym' .

Relevant Planning History
2016/93702- outline application for one dwelling – granted April 2017
2017/92536 – erection of detached dwelling & garage block - granted 15/11/17
2018/90227- tree notification – noted 22/01/18
2018/90569 – erection of extensions – granted 21st May 2018
2018/90731 - Erection of detached dwelling and garage – granted May 2018

Representations
On receipt of final revised plans (received on 21/09/18), a copy was sent directly to the objector (occupier of no. 44 Daisy Lea Lane), who has confirmed that the objections made previously still stand. Furthermore, the objector states the issues of overshadowing and over development of the site still remain.

Previously 3 representations were received, all from the occupiers of no. 44 Daisy Lea Lane.

The concern of which are summarised below:

- Not in keeping with the area, creating an alien feature and setting a precedent
- Noise pollution from use of building and pool pump and no noise report.
- Flooding/leakage of the pool would affect surrounding properties
- overlooking, shadowing and loss of privacy to no. 44 Daisy Lee Lane
- Concerns over use of building as a separate dwelling
- The principle of garden grabbing was refused on similar application under 2004/91939 and should be applied in this instance.

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

K.C Conservation & Design - verbal confirmation to support as the proposals would retain the open space/area to the front of the site.

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 lies within Edgerton Conservation Area with a listed building nearby and remains as such on the on Kirklees Publication Draft Local Plan

Kirklees Unitary Development Plan:
- D2: Unallocated Land
- BE1: Design Principles
- BE2: Quality of Design
- BE5: New Development within Conservation Areas

Kirklees Publication Draft Local Plan (PDLP):

- PLP 24 – Design
- PLP35 – Historic Environment

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.

- Achieving well-designed places – Section 12
- Conserving and enhancing the historic environment- Section 16

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity & character of conservation area
2) Impact on residential amenity
3) Representations
4) Conclusion

1 – Principle of development:

As stated above the principle for the erection of a detached dwelling and garage was has been approved and currently under construction. Permitted development rights were withdrawn for buildings and extension under condition no. 5 of the approval to:

- avoid overdevelopment of the site,
- to protect the amenities of the adjoining properties & long term viability of protected trees to remain on site, and
- to preserve the setting of the conservation area.

Subject to the proposals meeting this criteria which is assessed below the principle of the proposed ancillary building would be acceptable.

2 – Impact on visual amenity & character of conservation area

The site lies within Edgerton conservation area. Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires special attention to be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Chapter 16 of the NPPF aims to conserve and preserve the historic environment. In particular, paragraph 192 and 200 of the framework echoes the sentiments outlined within section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990, seeking for preservation and enhancement of conservation areas.

Policy BE5 of the UDP states that proposals for new development within conservation areas, including extensions should respect the architectural qualities of surrounding buildings and their materials of construction, and contribute to the preservation or enhancement of the character and appearance of the area. Policy PLP35 of the PDLP follows this theme.

The Edgerton Conservation area appraisal describes this part of the conservation area amongst other things as:

> *"primarily developed in the early twentieth century but it has a relatively loose grain similar to other parts of the designated area. The houses are set back from the highway with hedges, fences or stone walls to the front gardens. There are two cul-de-sac developments on the north side of Daisy Lea Lane and due to the smaller plot sizes along West Avenue this section has a much tighter urban grain.*
> *The majority of buildings within the character area were constructed in the first half of the twentieth century and as a result the architectural treatment is slightly different from the rest of the Conservation Area, although the buildings have similar details, including canted bay windows, mullion windows, stone kneelers and corbels. The roof form is relatively simple with sprocketed eaves, with steeply pitched gables and tall chimney stacks.*
>
> *Within the character area the prevalent building materials are similar to the rest of the designated area, with the use of natural stone for walls, slate or stone slate roofing and timber sash or casement windows. In addition to the traditional roofing materials, there are a significant number of early twentieth century buildings which have red clay roofs. Enclosure to the street is generated by hedges along East and West Avenue, in addition to stone walls found along Talbot Avenue. Daisy Lea Lane and Occupation Road are unique in the designated area due the high dry stone walls that line the highway and the absence of a pavement. Within the character area there is little evidence of the historic floorscape, although the stone kerbs remain insitu along Talbot Avenue"*

The proposed ancillary building is to be sited between no. 44 and the previously approved dwelling on this site, with a resultant impact of further reducing the open gap on this site. However the proposed single storey building would not be prominently visible from the road side on completion and in this siting whilst of moderate footprint the proposals would not appear as over development of the site. Furthermore, with the retention of the open space to the front of the site between the recently approved dwelling/garage and front boundary wall would ensure the historic environment of this site and the surrounding context would be preserved.

With regards to trees, in the siting proposed there would be no adverse impact on the trees previously shown to be retained.

In terms of design, scale and materials the building is proposed to be single storey and to be externally faced in vertical timber boarding with areas of glazing in the west elevation over looking its own garden. In the siting shown the building would be largely obscured by the recently approved dwelling on

this site and unlikely to affect the visual amenity of the street scene. The scale is acceptable for an ancillary building and the chimney feature as shown on the roof slope on the eastern elevation would be in keeping with the strong local vernacular in building design of the area.

The considered proposals could be adequately accommodated on this site and would accord with Policies D2, BE1(i) and BE5 of the UDP, PLP24 and 35 of the PDLP as well as section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990.

To summarise the principle of developing this part of the site is considered does not contradict the reason for removing permitted development rights on the previous permission as such the only issues remain to be assessed is the impact on the occupants of the neighbouring sites.

3 - Impact on residential amenity

The revisions and additional information demonstrates and provides the following details:

- proposed finished levels within the application site
- proposed finished building height
- existing levels of adjacent plot no. 44 Daisy Lee Lane, in context to the proposed
- reduced length of the proposed building, and relationship from the party boundary with no. 44

No. 44 Daisy Lea Lane has a non habitable obscurely glazed opening at first floor level in the elevation facing the application site. The sites are separated with a stone wall with a close boarded timber fence on top of it. This together with the difference in levels between the two sites, reduced length of the building, single storey scale with a blank east elevation as shown on drawing reference no. 3152 (0-) 19 Rev C would ensure the residential amenities of no 44 are not compromised nor detrimentally affected. The proposal is therefore considered to have an acceptable impact on the amenities of the surrounding properties with sufficient space between the two sites, in accordance with Policies D2 of the UDP, PLP24 of the PDLP.

4 - Representations

- Not in keeping with the area, creating an alien feature and setting a precedent

Response: Addressed above. With regards to setting a precedent the proposals are very site specific and as each application is considered on its own merits it is in my opinion the proposals do not set a precedent.

- Noise pollution from use of building and pool pump and no noise report.

Response: The use of the ancillary building is considered would likely to have less noise levels from activity taking place within the building in

comparison to the use of the open garden land. In any case the proposals for an ancillary domestic swimming pool is compatible with the surrounding residential use/area.
It was not considered necessary to request a noise report for a domestic swimming room where the plant room is to be at the northern end of the building furthest away from no. 44 daisy Lea Lane.

- Flooding/leakage of the pool would affect surrounding properties

Response: the output to drainage channels and leakages will be considered by relevant authorities under building regulations. There are no known drainage issues in the area.

- overlooking, shadowing and loss of privacy to no. 44 Daisy Lee Lane

Response: in the scale, design with blank elevation and reduced length and in the siting shown, it is considered there would be no overlooking, shadowing or loss of privacy to the site of no. 44 Daisy Lea Lane.

- Concerns over use of building as a separate dwelling

Response: This would require separate planning permission, which would be considered under its own merits.

- The principle of garden grabbing was refused on similar application under 2004/91939 and should be applied in this instance.

Response: addressed on previous permission for dwelling.

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:18/91857
Officer Recommendation: C.F.P
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 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications 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 BE1, BE5 and BE2 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP35 of the Kirklees Publication Draft Local Plan and Policies set out in the National Planning Policy Framework.

3. The hereby approved ancillary building shall be externally faced in the materials as annotated on drawing no. 3152 (0-) 19 Rev C.
Reason: In the interest of visual amenity and so as to preserve the character of the
Edgerton Conservation Area in accordance with Policies BE1, BE2, and BE5 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP35 of the Kirklees Publication Draft Local Plan and Policies set out in the National Planning Policy Framework.

NOTE: The responsibility for securing a safe development rests with the developer and/or landowner. It is advised where a site could be affected by land stability issues this be taken into account and dealt with appropriately by the developer and/or landowner

NOTE- The granting of planning permission does not override any private ownership rights or legal covenants that apply to the land forming part of this planning application.

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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	3152 (LP) 03		06/06/18
Existing topography/site plan	3152 (SK) 122		06/06/18
Proposed grouped plan	3152 (0-) 19 Rev C.		21/09/18
Conservation Heritage Assessment			06/06/18

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. Other than revisions to achieve a greater separation distance from the adjacent neighbouring dwelling and reduced footprint of the ancillary building no other negotiations were considered necessary. The decision is based on the revised plans and the agent's formal agreement to the above conditions.

Report Dated: 26/09/18