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:	**2018/62/92613/W**
Site Address:	21, The Ghyll, Fixby, Hudersfield, HD2 2FE
Description:	Erection of single storey and first floor extensions (Modified Proposal)
Recommending Officer:	Teresa Harlow

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.

John Holmes

AUTHORISED OFFICER

Date: 21-May-2024

Officer Report

Reference: 2018/92613

Proposal: Erection of single storey and first floor extensions (modified proposal)

Location: 21 The Ghyll, Fixby, Huddersfield, HD2 2FE

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f92613

Site Description

The application relates to a detached two-storey property previously a bungalow built in the Fixby area of Huddersfield. The existing house is built with stone and the pitched roof is covered in tiles. The property is set slightly lower than the road level. To the front of the house there is a small, grassed area, as well as off-road parking provision for three vehicles. The rear garden is a moderate size at approximately 135m2. While the property has a pitched roof, there is also a front facing gable which projects 3.4m further than the rest of the property.

Within the close vicinity of the host property the properties all appear to be detached, although they all vary in size. There is a mixture between bungalows and two-storey properties. The houses are all set within similar sized plots and have been designed to reflect the topography of the area.

Description of Proposal

This is a modified proposal following two previously approved permissions for first-floor extensions to create a two-storey property, where the internal layout to the property for all application has primarily unchanged.

In 2017 (2017/90799) permission was granted for a first-floor extension with a condition removing permitted development rights for extensions and that the first-floor rear elevation windows were obscurely glazed and top openers only.

In 2018 (2018/91873) permission was granted for an amended scheme for the raising of the roof for the first-floor extension and a 2-storey extension at the

side of the dwelling, a single storey rear extension, and the garage converted into a playroom. Once again with a condition removing permitted development rights for extensions and that the first-floor rear elevation windows are obscurely glazed and top openers only.

This current application is a modified proposal which appears to be a combination of the previous two applications in that the roof height reflects the 2017 application but includes the conversion of the garage to a playroom and a single storey rear extension, albeit in a different position from the 2018 application.

The rear extension would project from the rear elevation of the original dwelling by approximately 2.9m and have a total length of approximately 7.7m. The extension would have a lean-to roof and as such an eaves height and ridge height of approximately 2.5m and 3.7m respectively. The extension has moved position to the west.

The principle of a first-floor extensions, side extension has already been considered to be acceptable on the previous two applications, along with the single storey rear extension. Therefore, the rear extension is only being considered with regards its size & position. There are consequential impacts arising from the first floor extensions which are discussed in the report below.

The final set of amended plans received align with the development as completed on site. This includes the pattern and placement of fenestration, the placement of the rear extension and the floor layouts and accommodation. The first floor windows in the rear elevation remain as originally proposed to serve non-habitable accommodation (bathroom and en suite) and a secondary window to a bedroom, where the main window is within the side elevation. The ground floor rear extension serves – with existing accommodation – as a living kitchen. The original garage is converted to a study.

History of negotiations

Negotiations have taken place to show the first-floor rear windows to be top hung or fixed windows only. Where following a site visit in 2023, the rear windows are still side hung but are obscured glazed. The final set out plans received on 10th May 2024 still do not include this detail, but this can be controlled by condition. The plans received on 10th May were requested to ensure the development shown on the plans aligned with that undertaken on site.

Relevant Planning History

2017/90799 – Erection of first floor extension (Conditional Full Permission)

2018/91873 Erection of first floor extension & single storey rear extension (including a 2-storey side extension). (Conditional Full Permission)

Representations

Final publicity date Expires: 26 April 2019

Three letters of objection received, including one being a copy to a previous objection, which refers to the building itself with regards the size of the property, being overbearing and impact on neighbours. The second letter says they should keep to the original plan and not change the plans.

A summary of the comments received relating to this application are set out below:

- Loss of privacy from the first-floor side hung rear windows. These were conditioned to be grade 4 obscuration or higher;
- The bulk and massing of the extensions has a detrimental impact, especially given the topography of the land whereby the application site it higher than the objector's property;
- The extensions have an overbearing and imposing impact;
- The extensions constitute overdevelopment of the site, and the dwelling is disproportionately larger than its neighbours.
- Contrary to Article 8 of the Human Rights Act, setting out the issues this has on occupiers of a neighbouring property.

The final set of amended plans were not re-publicised as these were submitted simply to ensure these aligned with the development undertaken on site and the scheme as advertised is considered to have adequately alerted the public to the nature of the development proposal.

Consultation Responses

No consultations were sought regarding this application.

Policy

The site is unallocated on the Kirklees Local Plan, falls within an area with a known presence of bats and also an area at low risk of ground movement as a result of former mining activity.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development.
- **LP 2** – Place shaping
- **LP 21** – Highway Safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, 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 12 – Achieving well-designed and beautiful places.
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment.

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).

Assessment

The following matters are considered in the assessment below –

1. Principle of Development
1. Impact on Visual Amenity
2. Impact on Residential Amenity
3. Impact on Highway Safety
4. Other Matters
5. Representations
6. Conclusion

Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – that “extensions and alterations to residential properties should be in keeping with the appearance, scale, design, and local character of the area and the street scene.”

- Principle 2 – that “extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and detail.”

With specific regard to the proposed development paragraph 5.6 of the SPD specifically refers to single storey rear extension which should:

- be in keeping with the scale and style of the original house.
- not normally cover more than half the total area around the original house (including previous extensions and outbuildings);
- not exceed 4 metres in height; not project out more than 3 metres from the rear wall of the original house for semi-detached and terraces houses or by 4 metres for detached properties;
- where they exceed 3m in length the eaves height should generally not exceed 2.5 meters; and
- retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.

Paragraphs 5.31 & 5.32 of the SPD are also considered to be of relevance, which set out the following:

> 5.31 Careful consideration should be given to two storey and first floor extensions to bungalows. These can cause a negative impact on the street scene and character of the area through changing the height, rhythm or form of a roof in relation to the rest of the street scene.

5.32 Increasing the height of the property by amending the roof pitch or eaves height will significantly affect the character and proportions of the building and will impact on the surrounding street scene and is usually unacceptable where the roof pitches and heights in the street scene are consistent.

The above listed policies and guidance within the House Extensions and Alteration SPD are taken into account within the 'Impact on Visual Amenity' and 'Impact on Residential Amenity' sections of this report. On the basis the proposal is considered to be acceptable in terms of visual amenity, residential amenity and all other relevant matters it is considered the development could be concluded acceptable in principle.

Impact on Visual Amenity

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

The proposed application is a modified application following the approval of two similar schemes where at the time of submission, works hadn't started on either of the permissions (2017/90799 or 2018/91873) which were both extant at the time.

The principle of a first-floor extension and single storey rear extension have already been assessed and considered to be acceptable on the two previous applications and therefore, these elements are not being assessed in terms of visual amenity. It is noted that two storey dwellings are a characteristic of the street with a mix of single and two storey dwellings in the locality.

The current application now shows the proposed single storey rear extension somewhat central to the rear elevation of the host property, following a similar footprint to that already approved. Therefore, re-locating the rear extension approx. 2m to the west, built from matching materials to the host property is considered to be acceptable and will have no greater impact on the street scene or surrounding area than the approved extension.

The ground floor rear extension, taking into account the previous assessment of the first floor extensions and other alterations in respect of visual amenity, is considered to relate satisfactorily to the host building and have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 & LP24 of the Kirklees Local Plan, having regard to principles 1, 2, and 9 of the Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 3-6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development retains a good standard of residential amenity. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. In respect of Principle 7, ample outdoor space would be retained.
The modified proposal, single storey rear extension over and above the first floor extensions and alterations previously assessed and determined, is only likely to materially affect the property to the rear, no 38 The Fairway. The impact below takes into account all representations made to the application and the impact of the scheme in its totality.
Impact on no.38 The Fairway

No.38 The Fairway is located to the rear (south) of the application dwelling, where there is potential overlooking from the first-floor rear windows. The mass of the first floor extension, due to topography of the site, means that this part of the extension looks over the evergreen boundary hedge. Both the previous approved applications required that the rear facing first floor windows, including both bathroom windows and the secondary bedroom window be obscurely glazed and top opening/fixed shut only to prevent overlooking. Should planning permission be granted in this instance such conditions would be re-issued. These would be enforceable as the existing windows breach the original planning conditions in the 2017 and 2018 applications and the breach is less than 10 years. It is noted that the windows are obscurely glazed but still include side hung openings when the case officer visited the site.

However, regardless of the above mitigation, representations have been made objecting to the considered scheme on the grounds of residential amenity. In particular the occupier highlights concerns in regard of the overall bulk and massing of the resultant building which would afford overbearing impacts, this includes the upper floor extensions. This property lies to the rear (south) of no 21 with the rear walls at a slight angle to each other. The upper floor extension is approximately 16.5 metres from the rear wall and to the north of it. It is noted that there is a difference in ground level between the two properties whereby this does foreshorten the perceived distance, and where previously the original bungalow would not have been overtly perceptible. Considering the now adopted SPD on House Extensions key design principles 3-6:

Principles 3 and 4: privacy and habitable windows: there should be at least 21m between habitable windows and 12m between non-habitable windows. Para 4.12 clarifies that in 'certain situations' harmful overlooking can be avoided by using obscure glazing in rooms which are non-habitable (which it is perceived includes secondary windows) and by appropriate screening at ground floor level, such as boundary treatments which protect the privacy of neighbouring properties.

Extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook.

In this case, the ground floor windows in the rear extension are whole obscured by a mature evergreen hedge, even though the separation between these windows and no. 38 is ~14m. This is deemed acceptable in this case.

The extension is to the north of no. 38 and is thus unlikely to have an unduly detrimental impact on light. The outlook for the occupants of no. 38 has changed; this is set out clearly in representations. However, the assessment is whether this is undue. Whilst the minimum distances of the extension to this property are set out above, the properties then angle away from one another. This rises to over 21m for around one third of the width of the plot. Given this, the existing boundary treatment and the mixed character of the area where single and two storey properties face one another at differing topography this relationship is concluded to be acceptable.

5. Overshadowing and loss of light. Extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.

Given the orientation of this neighbouring property to the application site, this would not materially affect the amount of natural light to the neighbouring property. Furthermore, it would not breach the 45 degree guidelines.

6. Preventing overbearing impact. Extensions and alterations should not unduly reduce the outlook from a neighbouring property.

As previously set out, the separation between the properties – together with the orientation and boundary treatments - would, it is considered, avoid an undue overbearing impact/loss of outlook. It is recognised the first floor extension, in particular would be more dominant when viewed from this property. However, this is not an isolated relationship in the established character of the area.

It is noted by planning officers that the proposed rear addition is single storey and that substantial boundary treatment, including mature vegetation exists to shield views and limit the overbearing and overlooking potential. However, any further extension to the application site could have unacceptable impacts. (overdevelopment, on privacy, overbearing impact). Consequently, a condition removing permitted development rights (Classes A, B and E) from the application dwelling, present on the previous permissions, will be re-issued. The changes to the internal layout of the dwelling would not have an adverse impact on no.38. The uses of the first floor rear windows remains unchanged. These windows serve non-habitable or secondary accommodation. Conditions will also be re-imposed, for these windows to be altered in accordance with the requirements of the original planning permissions to be fixed shut (secondary bedroom) or top hung only (bathroom

accommodation) and obscurely glazed. A period of 3 months will be provided for these alterations to take place.

The neighbour has referred to Article 8(1) of the Human Rights Act 1998 whereby everyone has a right to respect for his private and family life, his house and correspondence and under Article 1 of the First Protocol - Protection of Property every natural or legal person is entitled to the peaceful enjoyment of his possessions. Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate. In this case, it is considered that the interference is slight, and therefore, on balance, the proposal is concluded as acceptable in terms of residential amenity. The development is not considered to be contrary to Policies LP1 or LP24 of the Local Plan, the SPD or policies within the NPPF.

Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

The existing driveway is capable of accommodating at least three vehicles, where, the access arrangements would remain unchanged, furthermore the property is located on a quiet residential street and as such there is not believed to be an impact on highway safety. There is ample room for bin storage. The application is therefore assessed as complying with Policies LP21 and LP22 of the Local Plan, KDP of the SPD and the NPPF.

Other Matters

Biodiversity and Ecology

Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Although the application site is located within a bat alert area, it is not identified on the maps as having a bat roost. Given that the property is now built there would be no impact on bats in accordance with the aims of Chapter 15 of the National Planning Policy Framework, Policy 30 of the Local Plan and KDP 12 of the SPD.

Climate Change

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.

Considering the scale and nature of the proposed development, and fact it has been completed, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

Representations

Three public representations, objecting to the proposed scheme were received. These have been addressed in this report.

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: 2018/92613

Officer Recommendation: Approve

Conditions and Reasons

1.The bathroom and en-suite windows in the southern rear elevation of the first-floor extension hereby approved shall be made non-opening or top-opening only and fitted with obscure glass (minimum grade 4 obscuration) within 3 months of the date of this planning permission. Thereafter these windows shall be retained in accordance with the requirements of this condition.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policies LP1 and LP24 of the

Kirklees Local Plan, Key Design Principle 2 of the House Extensions and Alterations SPD and Policy in Chapter 12 of the National Planning Policy Framework.

2. The secondary bedroom window in the southern rear elevation of the first-floor extension hereby approved shall be made non-opening (fixed shut) and fitted with obscure glass (minimum grade 4 obscuration) within 3 months of the date of this planning permission. Thereafter this window shall be retained in accordance with the requirements of this condition.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policies LP1 and LP24 of the Kirklees Local Plan, Key Design Principle 2 of the House Extensions and Alterations SPD and Policy in Chapter 12 of the National Planning Policy Framework.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the first floor rear elevation of the dwelling.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policies LP1 and LP24 of the Kirklees Local Plan, Key Design Principle 3 of the House Extensions and Alterations SPD and Policy in Chapter 12 of the National Planning Policy Framework.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B or E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy or overbearing impact and to avoid the overdevelopment of the site and to accord with Policies LP1 and LP24 (a,b and c) of the Kirklees Local Plan, Key Design Principles 2, 3 and 6 of the House Extensions and Alterations SPD and Policy in Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	**Reference**	**Version**	**Date Received**
Location Plan	1710.1	-	16.8.19
Existing Ground Floor	1710.2	-	16.8.19
Proposed Ground Floor	1710.3	C	10.5.24
Proposed First Floor	1710.4	C	10.5.24
Existing front & rear elevation	1710.5		16.8.19
Existing side Elevation	1710.6	-	16.8.19
Proposed front and rear elevation	1710.8	D	10.5.24
Proposed Side Elevations	1710.9	C	10.5.24

Plan Type	Reference	Version	Date Received
Details of top hung windows	1710.10		21.3.19

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework (2018), 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. Negotiations have taken place regarding the first floor windows and the accuracy of the submitted plans

Report Dated: 15.5.24

Coal low