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:	2019/62/90804/W
Site Address:	2, Rosebery Street, Birkby, Huddersfield, HD2 2TE
Description:	Erection of detached garage (within a Conservation Area)
Recommending Officer:	William Simcock

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: 29-May-2019

Officer Report

Site Description

2 Rosebery Street is an end of terrace dwelling at the southern end of a row. Unlike the rest of the properties in the row, it has its main outlook to the south. It is two-storey with a cellar or understorey to the southern aspect and is externally faced in stone. To the west it looks out on to a small unenclosed garden area and a shared unadopted access track. The surrounding development comprises mostly traditional terraced houses with a row of modern townhouses along Sufton Street to the west.

Description of Proposal

The proposal is for the erection of a detached garage in the garden.

The plans as amended show a building of approximately 3.85m in width and 5.6m in length, positioned at right-angles to the adopted highway. It is to be 2.1m in height to the eaves and 3.5m overall, faced in natural stone and with a slate roof.

History of negotiations/amendments received

07-May-2019: Amended plans submitted changing scale and design.

16-May-2019: Amended plans further reducing scale.

None of the above were re-advertised since they represented a reduction in scale and did not significantly change the means of access to the highway.

Relevant Planning History

None.

Representations

Final publicity date Expires: 19-Apr-2019

One representation received. Grounds of objection:

- It would disrupt the rhythm of the present building stock;
- Does it have any relationship to the adjoining property or is it purely a business venture?
- The land provides much needed greenery and ecological benefits
- If the design were altered to include living walls and a green roof I would be less inclined to object.

Consultation Responses

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

Planning (Conservation & Design) – Recommend refusal (this was based not on the current amended plans but the previous version showing a 4.45m wide garage. The case officer did not consult a third time because based on the Conservation Officer's previous comments it is unlikely that a 600mm reduction in width would overcome the concerns that the Conservation Officer had previously highlighted).

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 27th February 2019).

The site is within the Birkby Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 24** – Design
- **LP 35** – 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 19th February 2019, 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 historic 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 in the Birkby Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area.

Chapter 16 of the NPPF states that in determining applications local planning authorities should give great weight to the asset's conservation. Any harm to or loss of the significance of a designated heritage asset requires clear and convincing justification. Substantial harm to any Listed building should be exceptional. Where the development will lead to substantial harm to or total loss of significance it should not be allowed unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where the development will lead to "less than substantial harm" this should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

Of particular relevance within the Local Plan are Policy LP24(a-b) which requires that the form, scale, layout and details of development respects and enhances the townscape and heritage assets while providing a high standard of amenity for future and neighbouring occupiers, and LP35 which advises that consideration should be given to the need to conserve the significance of heritage assets. Any implications for highway safety will also be considered as required by Policies LP21-22.

The General Permitted Development Order Part 1 Class E.1 states that (c) the erection of a detached domestic building is not permitted if any part would be situated on land forward of a wall forming the principle elevation of the building. Based on officer's observations, the southern elevation is the principal elevation. This means that a garage in the position shown cannot benefit from permitted development rights. Furthermore, if the western elevation is classed as a "side" elevation, this being a Conservation Area, no form of detached building can be permitted in the garden to the west of the house without planning permission as part E.3 applies. The proposal will therefore be assessed entirely on its own merits, there being no permitted development "fall-back" position.

2 –Impact on visual amenity: Birkby Conservation Area consists mainly of two-storey by-law terraced houses built to a consistent design in long continuous rows. Rosebery Street is, in some ways, typical of the area, but the street scene is dominated not by extensive terraced frontages but rather by the ends of rows, associated rear gardens and shared rear access tracks. The application property is in itself somewhat unusual in that it has a hipped roof and an historic two-storey extension which has a flat roof and a window pattern that does not reflect the rest of the row to which it is joined.

29-35 Crescent Road, which are immediately to the north and have the use of the same access track, do not have any detached curtilage buildings, but two properties in this row have substantial rear extensions that take up the greater part of the original rear curtilage. A variety of boundary treatments can be seen in the vicinity of the site including high timber fences (e.g. to 48 Sufton Street) and stone, brick or artificial stone walls of various heights.

The Conservation Officer has advised that the garage would fail to preserve the significance of the Conservation Area, on the grounds that the land in its present open condition adds to the street form, and that the garage would fill the majority of the site and close the gap between the boundary and the rear of the principal building. It is the view of the case officer that given the prevalence of extensions and outbuildings on rear plots, and the lack of a strongly consistent architectural character on Rosebery Street, the retention of the garden plot as open and undeveloped is not in itself important to preserving the character of the Conservation Area or the setting of the host building. The garage as originally proposed would have been severely excessive in footprint and its height would have given it an industrial appearance out of keeping with its surroundings. But it is considered that the latest version of the plans, showing a garage of domestic scale, clearly subordinate in height to 2 Rosebery St and 48 Sufton St, built in traditional materials and with a hipped roof to further minimise its bulk, would be an appropriate addition to the street scene and would contribute to the preservation of the Conservation Area.

In conclusion, it is considered that subject to materials harmonising closely with existing buildings, gutters of traditional profile supported by corbels, the development would accord with the aims of Policies LP24(a) and 35, and those of the NPPF Chapter 16 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The door should, for the avoidance of doubt, be of up-and-over or of overhead sectional type, so as to ensure that the door will not be of a type that would obstruct the footway when open or be inappropriate in appearance (roller shutter).

3 – Impact on residential amenity: It is considered that the proposed garage, by reason of its modest size and the separation distance it would maintain from other residential properties including 3-5 Roseberry St opposite, would not have any significant impact upon the amenities of any residential property and would accord with the aims of LP24(b).

4 – Impact on highway safety: The proposed garage would be built on a plot that is already used for informal car parking and would not therefore imply an intensification of vehicular access to the plot. The internal dimensions are acceptable and would allow it to be conveniently used. Given the nature of the

local road network it is considered it would function safely. In conclusion, the development would accord with the aims of LP21-22.

5 – Other matters: The site is in the bat alert layer but the development would not affect structures with bat roost potential. The proposal is not considered to raise further issues of planning significance.

6 – Representations: Concerns relating to visual amenity have been examined in the main part of the report but are highlighted here with other issues raised.

- It would disrupt the rhythm of the present building stock;

Response: It is considered that the proposal as amended would not have a disruptive effect on the street scene, for the reasons set out in part (2).

- Does it have any relationship to the adjoining property or is it purely a business venture?

Response: The proposal has been applied for as a Householder application. On this basis any commercial use could potentially amount to a breach of condition. However, merely leasing the garage to another property owner to be used as garaging for a private car would probably not amount to a material change of use, and even if this is the applicant's intention it is considered that this would be immaterial to the planning merits of the case.

- The land provides much needed greenery and ecological benefits

Response: Judging by an inspection of the site, the land has very limited ecological value in its present condition. It could in any case have hard surfacing laid under permitted development rights if the owner so wished. The erection of a small garage as shown on the plans would allow some of the grass to be retained, and might even provide the opportunity for improved soft landscaping on the remaining land.

- If the design were altered to include living walls and a green roof I would be less inclined to object.

Response: In many contexts this is something to be encouraged as allowing greater environmental sustainability. In the context of Birkby Conservation Area it might be difficult to design a "green" garage that would harmonise with its surroundings and conserve the character of the area, so there would very likely be a conflict with the aims of LP35 and NPPF 16. In any case, it is considered that any negative environmental impacts (e.g. increased water run-off) caused by the garage as proposed would be slight and there is not a pressing need to seek mitigation measures.

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.

Recommendation	**Approve**

Decision Authorisation - Delegated Powers

Application Number: 2019/90804

Officer Recommendation: Approve

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 91 of the Town and Country Planning Act 1990.

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 Policy LP24(a) of the Kirklees Local Plan.

3. The external walls and roofing materials of the garage hereby approved shall in all respects match those used in the construction of the existing dwelling.
Reason: In the interests of visual amenity and to accord with Policy LP24(a) of the Kirklees Local Plan.

4. The gutters shall be of traditional (ogee) profile, supported by stone corbels and not fixed to a fascia board.
Reason: To ensure that the development conserves the character of the Birkby Conservation Area and to accord with the aims of Policies LP24(a) and LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework.

5. The garage door shall be of up-and-over or overhead sectional type, or comprise folding doors that open within the garage footprint. A door of roller shutter type shall not be installed.
Reason: To ensure that the development conserves the character of the Birkby Conservation Area and that the doors do not interfere with the free and safe use of the public highway when open, and to accord with the aims of Policies LP24(a), LP35 and LP21 of the Local Plan and Chapter 16 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			15-Mar-2019
Location plan	WYK 111230		15-Mar-2019
Block plan as existing	PP/BW/JQ/001		15-Mar-2019
Block plan as proposed	PP/BW/JQ/002		16-May-2019

Plan Type	Reference	Version	Date Received
Proposed site layout	PP/BW/JQ/003		16-May-2019
Proposed plans and elevations	PP/BW/JQ/004		16-May-2019
Design and access statement			15-Mar-2019

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 undertook negotiations with the applicant to secure amended plans showing a garage of reduced scale and height of the garage and with improved materials and design details, so as to ensure it would respect the character of its surroundings and contribute to the preservation of the Birkby Conservation Area.

Report Dated: 29-May-2019