

**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: 2019/62/93186/W

Site Address: 43, Birkby Lodge Road, Birkby, Huddersfield, HD2
2BE

Description: Erection of detached garage

Recommending Officer: Ellie Worth

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: 31-Jan-2020

Officer report**Site description**

The application relates to 43 Birkby Lodge Road, Birkby an end terrace property. The design features incorporate a North Eastern facing gable with a flat roof bay window on the front elevation and a small single storey lean to the rear. The site benefits from a small garden to the front and private amenity space to the rear. Pedestrian access can be taken from the front and rear boundaries, with vehicular access being taken from the South Western boundary onto George Avenue. To the front, boundary treatment consists of small stone walling, with hedging and fencing to the rear. The site also benefits from an existing detached garage in which will be demolished as part of this application.

The site is unallocated on the Kirklees Local Plan, however to the North of the site is Birkby Conservation Area and 48 Birkby Lodge Road a Grade II Listed Building.

Description of development

The applicant is seeking permission for a single storey detached garage. The measurements of the proposal are as follows:

- 7.3m in length
- 5.2m in width
- 2.7m in height to the eaves; 4.3m in maximum height

The proposed garage will be situated to the rear of the host property and will replace the existing garage. The proposed materials are natural stone to the southern western facing front elevation and artificial stone to the side and rear elevations. A garage door will also be inserted into the South Western facing elevation.

History of negotiations/amendments received

Concern was raised with the agent regarding the overall height and scale of the detached garage and therefore final amended plans to reduce the proposal to single storey were received on the 23rd December 2019 and the 9th January 2020. An updated site plan and location plan were also received on the 21st January 2020.

Relevant Planning History

None at the application site

2007/94522 Erection of detached garage – Granted (47 Birkby Lodge Road)

2003/84763 Erection of detached garage – Granted (39 Birkby Lodge Road)

2004/95449 Erection of detached garage – Granted (37 Birkby Lodge Road)

Representations

The application has been advertised by site notice and neighbour notification letters.

Final publicity expires: 15th November 2019

As a result of the above publicity, one general comment was received. A summary of the concerns are outlined below:

- Clarification regarding boundary hedge

Given the amendments sought it was not considered necessary to re-advertise the scheme as it will be materially smaller than the original scheme.

Consultation responses:

KC Highways DM (informal): No objections as the garage is likely to have sufficient space for two parked cars, with a third on the area of hardstanding to the front of the proposal.

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 unallocated on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP21** – Highway safety
- **LP22** – Parking
- **LP24** – Design
- **LP30** – Biodiversity
- **LP35** – 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 design places
- Chapter 15 – Conserving and enhancing the natural environment
- 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
3. Impact on residential amenity
4. Impact on highways
5. Other matters
6. Representations
7. Conclusions

1. Principle of development

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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 NPPF. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

In this instance the principle of development has been considered acceptable subject to the other material planning considerations below.

2. Impact on visual amenity

As shown on the final plans, the footprint of the proposed garage would be significantly larger than the one in which it replaces. However, it would not result in the overdevelopment of the site, as there would still be ample of private amenity space retained at the application site. Furthermore, amendments have also been sought in order to reduce the overall height of the garage and its footprint. This includes omitting the first floor level (including the proposed dormer) and a reduction of the overall length by 0.7m.

As such, the overall design of the proposed garage has been considered acceptable in terms of visual amenity as it will benefit from a simple dual pitched design. With regards to openings, the submitted plans show a garage and pedestrian door to be inserted into the North East and South Western elevations. The agent has also confirmed that the garage will be constructed from natural stone to the front elevation and artificial stone to the side and rear elevations. The use of these materials has been considered acceptable, and therefore will be conditioned appropriately.

In terms of the impact on the wider street scene, it has been noted that the proposed garage would be significantly set back from the adjacent highway, and would be single storey in height, appearing as a subservient addition to the dwellinghouse. It has also been noted that there are a variety of garages within the vicinity all of which, differ in design and form. Therefore any visual impact from this proposal can be supported.

Impact on the conservation area and setting of the Listed Building

To the North of the application site is Birkby Conservation area and 48 Birkby Lodge Road a Grade II Listed Building. Given that the proposal would be located to the rear of the application site, it has been considered that there would be no undue impact on the heritage assets as the host property would obscure any impact. For these reasons it has not been considered necessary to advertise the proposal as affecting the setting of Conservation Area or the Listed Building in accordance with Policies LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

Overall, the application would have an acceptable impact on visual amenity and therefore is considered to comply with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the NPPF.

3. Impact on residential amenity

45 Birkby Lodge Road is the neighbouring property to the North West of the application site. It has been considered that there would be some impact on these neighbours amenity as the existing flat roof garage will be demolished and replaced as part of this proposal. Therefore it has been considered that there would be some impact on overbearing, as the overall of the development would be 4.3m high.

However, it has been noted that any impact would not be detrimental given the fact that there is well established boundary treatment in the formation of large hedging in which runs along the North Western boundary at the application site. Alongside this, any concern is also alleviated by the fact that these neighbours benefit from a large back garden and therefore any impact is not considered to be undue. It has also been noted that there would be limited impact on overshadowing, as these neighbours are located to the West and therefore any impact would only be evident within a morning/midday. With regards to overlooking, the submitted plans also show no additional openings to be inserted into the western elevation of the detached garage. In this case, it has not been considered reasonable to remove permitted development rights for future openings given the existing boundary treatment and the fact that the outbuilding will be used as a garage.

For these reasons, officers are satisfied with this relationship.

41 Birkby Lodge Road is the neighbouring property to the South East of the application site. These neighbours are located on a slightly lower level than the application site given the change in land levels within the area. As such, it has been considered that there would be some impact on these neighbours amenity in regards to overbearing and overshadowing.

However, it has been noted that these neighbours benefit from a detached garage within their rear amenity space, in which will be adjacent to the proposed outbuilding. For these reasons, it has been considered that any impact on overbearing would be acceptable. With regards to overshadowing, it has been considered that any impact would only be evident within an evening and therefore would not be undue. The submitted plans also show no further openings to be inserted into the South Eastern elevation, in which would alleviate any concern on overlooking. In this case, it is not considered necessary to remove permitted development rights as there is sufficient boundary treatment in place.

Having assessed the above, it has been considered that the impacts on these neighbours would be acceptable.

27 and 29 George Avenue are the residential properties to the South West of the application site. It has been considered that there would be minimal impact on these neighbours amenity as there would be a significant separation distance alongside a highway between these neighbours. As such, any impact on overbearing, overshadowing and overlooking from the additional mass and opening contained within the garage would be limited given the orientation of the properties with the application site.

As such, any impact on these neighbours has been considered satisfactory.

In summary, it has been considered that the impact on residential amenity would be acceptable and therefore the proposal is considered to comply with the aims of Policy LP24 of the Kirklees Local Plan.

4. Impact on highway safety

KC Highways DM have been informally consulted as part of this application, raising no objection to the demolition of the existing garage and the erection of the proposed double garage. This is due to the fact that there would be sufficient space for two parked cars within the garage alongside the potential for a third parking space on the area of hardstanding to the South West, adjacent to George Avenue.

As a result, the application is considered acceptable from a highways perspective in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

5. Other matters

Bats

The application site lies within the bat alert layer on the Councils GIS System. However, it has been considered that the existing flat roof garage is unlikely to contain bat roost potential. Nonetheless, as a cautionary measure, a note will be added to the decision notice stating that if bats are found development shall cease and the advice of a licenced bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF.

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.

Given the nature of the proposal it is not considered reasonable to require the applicant to put forward resilience measures. However, it has been noted that the proposed outbuilding will be constructed from stone which is considered to be a natural material in which can be easily recycled and sourced locally and would serve an existing residential dwelling within a sustainable location. For these reasons the proposal is considered to comply with the aims of Policy LP24 of the Kirklees Local Plan.

6. Representations

As a result of the above publicity, one general enquiry was received. This has been outlined below alongside officer comments.

- Clarification regarding boundary hedge
Comment: This has been discussed via telephone call, the existing boundary treatment is proposed to be retained however if removed could be replaced with either a new fence or new planting.

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 materials considerations. It is considered that the development would constitute to sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/93186

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 Policies LP1, LP2, LP21, LP22, LP24 and LP30 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. Notwithstanding the submitted plans, the external materials of the garage hereby approved shall be constructed from natural stone to the South

Western facing front elevation, and artificial stone to the side and rear elevations. The garage shall thereafter be retained with this finish.

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

NOTE: Due to its location, a bat roost may 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.

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	1936.1	A	21 st January 2020
Existing site plan and section	1936.2	-	30 th September 2019
Proposed site plan	1936.3	A	21 st January 2020
Proposed floor plan and front and side elevations	1936.4	B	23 rd December 2019
Proposed side and rear elevations	1936.5	B	6 th January 2020

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. In this instance concern was raised with the agent regarding the overall height and scale of the detached garage and therefore final amended plans to reduce the proposal to single storey were received on the 23rd December 2019 and the 9th January 2020. An updated site plan and location plan were also received on the 21st January 2020.

Report Dated: 20th January 2020