

**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: 2019/62/93626/E

Site Address: 17, Carriage Way, Heckmondwike, WF16 0NN

Description: Erection of first floor side extension and two storey rear extension

Recommending Officer: Katie Wilson

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.

Paul Dowd

AUTHORISED OFFICER

Date: 07-Aug-2020

Officer Report – 2019/93626

Site Description

The application site is 17 Carriage Way, Heckmondwike. It is a relatively recently built two-storey house with single garage attached to the side and conservatory at the back. The walls are a stone-coloured brickwork and the roof is ridged and surfaced in grey tiles. It is attached to the neighbouring property at 15 Carriage Way via the garage and to 19 Carriage Way over two-storeys. There is also a small garden and driveway to the front and larger enclosed garden at the rear adjoining houses and commercial building on raised ground at the back.

Land at the application site is relatively level. However, part of the garden at the back slopes upwards in a series of terraces, and the wider area is largely residential with properties in the same estate to either side and to the front, whilst beyond are a mixture of residential and business premises of various designs and materials.

Description of Proposal

Planning permission is sought for erection of first floor side extension and two storey rear extension.

First floor side extension:

- Directly above the existing garage and extending to the rear 4.0m to form part of two-storey rear extension
- Dual pitched roof with side and rear facing gable end, eaves in line with those of the existing house and ridge level set down approximately 1.5m from the main part of the house.
- One window in the front and rear elevations.
- It would provide space for an enlarged bedroom and bathroom.

Two-storey rear extension:

- Rectangular footprint 4.0m projection x 7.6m wide.
- Designed with a dual pitched roof eaves to match the existing and ridge set down around 0.6m from the existing ridge to main part of the house.
- Bi-folding and patio doors at ground level in the rear elevation with three windows above.
- It would provide space for family room and lounge at ground floor, with one bedroom with en-suite bathroom above.

The exterior wall and roof materials would be to match the existing.

It would be attached to the side elevation of the proposed extension at 19, Carriage Way subject to planning application ref: 2019/93628 and pending determination.

History of negotiations/amendments received

Amendments were secured to reduce the scale and massing of the proposal and to reduce the harm to highway safety, visual and residential amenity.

Relevant Planning History

96/92956 – Outline application for residential development and associated access. Conditional outline permission.

99/93595 – Variation of condition 1 relating to the time period for submission of reserved matters on previous permission 96/92956 for outline application for residential development and associated access. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=99%2F93595>

03/90627 – Removal / variation of condition 1 on previous permission 99/93595 to vary condition 1 relating to the time period for submission of reserved matters on previous permission 96/92956 for outline application for residential development and associated access. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2003%2F90627>

03/92319 – Reserved matters application for erection of residential development consisting of 69 no 2, 3 and 4-bedroom houses and apartments and garages with associated roads, footpaths and sewers. S106 reserved matters

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2003%2F92319>

2019/93628 – erection of first floor side extension, and two storey rear extension.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F93628>

Pending determination.

Nearby land at 23 Carriage Way:

2019/93922 – erection of single storey rear extension. Approved.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F93922>

Representations

Final publicity date expired: 29th December 2019. One representation was received during the course of this application.

It expresses concerns about the potential overlooking and prejudicial impact on future development.

Parish/Town Council comments: Not applicable.

Consultation Responses

K C Environmental Health: No objections subject to conditions.

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):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety
- **LP 22** - Parking
- **LP 24** – Design
- **LP 52** – Protection and improvement of environmental quality
- **LP 53** – Contaminated and unstable land

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 15 – Conservation and enhancement of natural environment

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 – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

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 case, the principle of extending the existing dwelling is considered acceptable and shall be assessed against other material planning considerations below.

2 –Impact on visual amenity:

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district. In regard to extensions, it sets out under part c, that proposals should promote good design by ensuring ‘extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...’.

In this instance, the amended plans show that the proposed extensions would be significantly below the overall height of the original part of the building and the projection to the rear is considered to be subordinate to the footprint of the original dwelling, therefore in terms of scale the proposal is now acceptable.

With regards to materials and detailing the external wall and roofing materials would be to match the existing and the roof design, window and door openings would harmonise with those on the original part of the house.

Overall therefore it is thought that the proposal would be sympathetic to the character of the surrounding area and in keeping with the existing buildings, which is compliant with policy LP24 of the KLP and the aims of chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 under part c goes on to say that proposals should promote good design by ensuring they minimise impact on residential amenity of future and neighbouring occupiers.

In this case there is potential for two neighbouring households to be impacted by the proposal.

15 Carriage Way – This is a similar two-storey link – detached house with its single garage attached to west elevation of similar garage at the application site.

In terms of overshadowing and overbearing impact, the proposed first floor element combined with the 2-storey section that projects a further 4.0m has potential to cast additional shade. However, the eaves level would be to match the existing and the overall ridge height would be significantly lower than the host dwelling house, so in the case officer's opinion this would minimise such impacts.

Furthermore, although the proposed projection is 4.0m and close to the mutual boundary, the original rear elevation of the main habitable part of the house at 15 Carriage Way is also set back by approximately 1.5m, so beyond that level the proposal projects just 2.5m, which is considered acceptable.

With regards to overlooking impact, the proposed side elevation, which would directly overlook 15 Carriage Way, is blank, and new openings could be controlled by condition. It is noted that an internal bathroom would be light and ventilated by a roof light on inward facing dual pitched roof slope.

19 Carriage Way – This is the adjoining semi-detached house attached to the south eastern side elevation. It is subject to planning application (ref: 2019/93628) for a 'handed' version of the current proposal with both schemes joining each other on the mutual boundary.

At the moment, both 17 and 19 Carriage Way have a conservatory at the back which adjoin the mutual boundary and project the same distance as the proposed rear extension. Given these circumstances and that the applications are made separately, there would be some concern that if both are not implemented together any of the proposed massing above ground floor level could have an overbearing and overshadowing impact upon the property that has not implemented development.

As such there needs to be a mechanism for ensuring both developments are done at the same time. This could be done if both applicants are satisfied that the developments could be done at the same time and agree to it being set out in a condition of approval in both applications.

It is recommended that the wording of the condition is as follows, '*Any part of the two-storey rear extension hereby approved above flooring to first floor level, shall not be carried out until development pursuant to planning permission reference 2019/93628 is commenced in accordance with all relevant conditions*'.

Provided that each party agrees to this condition (with relevant reference numbers), then in the case officer's opinion it would meet the 6 tests for the use of planning conditions of being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Subsequently in an email dated 5th August 2020 the agent has confirmed that his clients, (who are the applicants for both 2019/93626 & 2019/93628) *'have no problems with these conditions...these clients intend to build both of these units at the same time'*.

In terms of impact from noise, it is noted that there is a commercial building immediately to the rear of the application site, on slightly higher ground, with blank wall facing the back of the application site. Notwithstanding comments from environmental health officers, given these circumstances and approximately 17.0m separation distance between facing elevations, it is considered that the impact upon residential amenities would be very limited. Furthermore, the same condition was recently recommended but not imposed for a single storey extension nearby. As such officers have assessed the situation and the condition is not considered necessary or reasonable in this instance, which would fail two of the six tests for use of planning conditions (necessary and reasonable).

Overall, it is considered that the proposal would minimise impact on residential amenity of future and neighbouring occupiers and is compliant with policy LP24 of the KLP and the aims of the NPPF.

4 – Impact on highway safety:

The site is accessed from Carriage Way, an adopted but unclassified residential estate road serving this housing estate. Currently there is an integral single garage and one off-street parking space to the front. Following negotiations with the agent, the proposal retains the existing parking provision and does not increase the number of bedrooms at the premises. In these circumstances, it is considered that there would be no further impact upon highway safety and is compliant with policy LP21 of the Kirklees Local Plan.

5 – Other matters:

Carbon Budget

The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards

Environmental health issues:

Contaminated land:

The application site is on a former railway siding which, in the 1990's was re-developed for its current residential use.

Chapter 15 of the NPPF and policy LP53 of the KLP seek to ensure that decisions are taken in light of all available information regarding contamination or stability of land.

The Council's environmental health officers have been consulted and recommend a condition relating to reporting unexpected contamination. Provide that this is applied it will be acceptable in terms of policy LP53 of the KLP and the aims of the NPPF.

Noise:

The application site is also adjacent to commercial premises at the back and, therefore, policy LP52 of the KLP and chapter 15 of the NPPF apply. They aim to make sure that where environmentally sensitive development (such as housing) would be subject to significant levels of pollution, such as noise, they must be accompanied evidence to show that the impacts have been evaluated and mitigation levels applied, if required, to ensure there is no reduction in quality of life or environment to an unacceptable level.

Environmental health officers have recommended a condition requiring a noise report specifying the measures to be taken to protect the development from noise from nearby commercial premises to be submitted to and approved in writing by the LPA.

Notwithstanding these comments, officers have assessed the situation and given the scale of the proposal, the separation distance to property at the back and recently approved extension nearby where the same condition was not applied, it is not considered necessary or reasonable in this instance to impose the condition. As such it would fail two of the six tests for use of planning conditions.

6 – Representations:

One representation received during the course of this application.

- It expresses concerns about the potential overlooking and prejudicial impact on future development.

Response: During the course of the application, the scale of the proposal has been reduced and windows in the side elevation removed. Together with a condition removing permitted development rights for additional openings in the side elevation, there would be no overlooking impact to neighbouring properties.

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

Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/93626

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, LP24, LP52, and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

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

4. *Any part of the two-storey rear extension hereby approved above flooring to first floor level, shall not be carried out until development pursuant to planning permission reference 2019/93628 is commenced in accordance with all relevant conditions'*

Reason: To ensure that the development does not detract from the amenities of neighbouring property by reason of overbearing or overshadowing and to accord with Policy LP24 of the Kirklees Local Plan.

5. In the event that contamination not previously identified by the developer, prior to the grant of this planning permission, is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required.

The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning

Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and to accord with Policy LP 53 of the Kirklees Local Plan and the aims in the National Planning Policy Framework

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (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 west facing side elevation of the extension hereby approved.

Reason: So as not to detract from the amenities of neighbouring property by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

Note: All contamination reports shall be prepared in accordance with *Model Procedures for the Management of Land Contamination – Contaminated Land report 11* (CLR11), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

Note: Noisy construction related activities shall not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

Note: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan	Dwg no. 2179A-OS		05.11.2019
Existing and proposed floor plans and elevations	Dwg no. 2179A-1	Rev E	26.02.2020

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. Negotiations took place to reduce the scale of the proposed development and ensure visual and residential amenity, and highway safety.

Report Dated: 06.08.2020