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:	2020/62/90110/W
Site Address:	16, Greenroyd Croft, Birkby, Huddersfield, HD2 2DQ
Description:	Alterations to existing decking and replacement planting
Recommending Officer:	Sam Jackman

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 26-Mar-2021

SITE DESCRIPTION – 2020/90110

16 Greenroyd Croft, Birkby is a detached property located in the corner of a cul-de-sac, within a residential area of similar properties. The property has been extended with a rear conservatory and a 2-storey side extension along with a large, detached garden room. Historically the rear garden was level; for the first 6m before steeply sloping down towards the rear boundary with a difference in levels of approx. 2.5m.

DESCRIPTION OF PROPOSAL

The proposal is to level the rear garden by creating a raised decking area. The applicant has already erected the decking where the submitted proposal is to reduce the size of the decking in place.

The proposed decking would have a length of 10.5m (reduced from 24.6m) by 6.75m from the rear of the conservatory.

This would result in the decking being set in from the rear boundary by 1m. Along the rear boundary would be screening in the form of trellis and ivy. The height of the decking would be 2.3m with the addition of a 1.5m high fence.

The proposal also includes re planting of 4 trees, once half the decking has been removed to comply with conditions on the removal of 4 previous TPO'd trees.

HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

Initially concerns raised with no obvious solution given the decking is retrospective to make the application acceptable.

However, a tree consultant has submitted alternative proposal and work methodology to accommodate the replacement trees.

RELEVANT HISTORY

2005/92739**:** erection of two storey and single storey extension - granted

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2005%2F92739

2018/92208 – tree works – approved to remove 5 Lombardy popular trees, where a condition included the trees were replaced with 2 Oak and 2 Rowan, 1.5m-2 in height in the same place. These have not been planted and currently the decking covers the area.

COMP/19/0030 – decking and outbuilding

2019/92346: Alterations to existing decking and replacement planting - Refused

Three reasons for refusal: -

1. The proposed decking, by reason of its appearance, overall scale, including its height and width and prominence in the rear garden of no's 12 and 14 Ashleigh Dale to the north of the application site would create a feature which is out of keeping with the character and appearance of the local area to the detriment of visual amenity. To permit such a development would be contrary to Policy LP24 (a & c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. The proposed decking, by reason of its overall scale, including its height and width would lead to a detrimental overbearing and overshadowing impact on the private amenity space no.12 Ashleigh Dale to the north of the application and when viewed from the rear of no.12. To permit such a development would be contrary to Policy LP24 (b & c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The proposed decking, by reason of its overall scale, including its height and width would, layout and orientation would prevent replacement protected trees from growing along the boundary of the application site and nos. 12 and 14 Ashleigh Dale. The decking would therefore lead to the loss of valuable protected trees. To permit such a development would be contrary to Policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92346

PUBLIC/MEMBERS RESPONSE

Final publicity date Expires: 16.2.19

No letters of representation have been received in respect of this application.

Councillor Sokhal requested information about the application which was sent on the 13th February 2020 with a committee request if to be refused. Further update sent 19.3.21, with a favourable response received.

CONSULTATION RESPONSES

K.C Trees – objections raised to the initial plans, however following amended plans received, removing half the decking and the trees relocated, no objection raised, subject to conditions.

POLICY

The statutory development plan comprises:

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 22 - Parking
LP24 – Design
LP 30 - Biodiversity and geodiversity
LP 33 - Trees

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, together with Circulars, Parliamentary 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 14** – Meeting the challenge of climate change, flooding & coastal change.
- **Chapter 15** – Conserving and enhancing the natural environment

ASSESSMENT

Principle of development:

The site is without notation on the Kirklees Local Plan. Chapter 2 of the NPPF states that:

"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"

Chapter 2 of the NPPF goes onto further state that objectives should:

"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"

In line with the NPPF, policy LP1 of the Kirklees Local Plan declares that:

"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."

LP1 goes further and states:

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

In this instance, it can be stated that the principle of development of this application is acceptable; and as a result, is subject to the assessment of impacts on visual and residential amenity, as well as highway safety and any other impacts that may arise

Impact on visual amenity:

Visual amenity and general design considerations are set out in Policy LP24 of the Local Plan, which seeks to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity, this is also supported by Policies in Chapter 12 of the NPPF.

The proposed decking would be at the rear of the property and would have little impact on the street scene, within Greenroyd Croft, however the existing decking is a large structure and can easily be seen on aerial photos. Furthermore, there is a significant change in levels between the application site and Ashleigh Dale to the north. The existing decking is particularly prominent from the rear of no. 12 and partly from the rear of no.14 Ashleigh Dale which was considered to be unacceptable. However, the application has been amended reducing the size of the decking by over ½ and setting the decking back off the rear boundary by 1m. Along this boundary the decking would have trellis and ivy planted to both help screen the decking and soften the appearance, when viewed from the properties along Ashleigh Dale. It is accepted that vegetation would take many years before the decking is fully screened, however the use of ivy is considered to be appropriate in this location for its vigorous growth.

Given the above, it is considered that the proposal as amended reducing the decking area would not cause detrimental harm to the visual amenities of the locality. The proposed development is therefore considered to comply with

Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

With regard to residential amenity, Policy LP24 advises that proposal should ensure that a high standard of amenity is achieved for future and neighbouring occupiers this is also supported by Policies in Chapter 12 of the NPPF.

The main properties that would be affected by the development are No's 14 and 17 Greenroyd Croft and No's 12 and 14 Ashleigh Dale.

With respect to the properties on Greenroyd Croft whilst the decking has raised the garden levels adjacent to these properties there is existing vegetation which when combined with the 1.5 metre high boundary treatment limits overlooking. It is also not considered that the decking would cause a detrimental impact on these properties in terms of overshadowing or overbearing.

Turning to properties on Ashleigh Dale, the decking would be approx. 3.5metres high when viewed from their rear garden, reducing the height slightly from the previous application due to it being set back from the boundary. The previous application considered that the scale of the structure would have a detrimental overbearing impact on these properties, in particular no. 12. The raised nature of the decking could also allow for some looking impact given that the boundary treatment is 1.5 metres high, but it is acknowledged that the boundary treatment would for the most part block detrimental overlooking. However, the decking has been reduced by over 50% to 10m in width with the remaining garden being reverted back to its original slope with 4 new trees planted. Furthermore, the remaining decking will be partially screened through the summer months by the neighbours own trees, therefore reducing its mass and subsequently overbearing appearance.

With regard to overshadowing the reduced decking is located to the south of no.14's garden and it would increase overshadowing to the southern part of their garden. However, it was noted on the previous application that protected trees were present on the boundary and would have had some impact, the impact of a permanent structure which has now been reduced to an overall height of 3.5metres for less than half the width of the garden is now considered to be acceptable.

Therefore, it is considered that the amended drawings for the decking/ fence including some screening and the replacement of the 4 protected trees wouldn't be unduly overbearing and wouldn't have a detrimental overshadowing impact to no.12 or 14 Ashleigh Dale thus concluding there would not be detrimental harm to residential amenity. As such the proposed development complies with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

Impact on highway safety:

In terms of highway safety there are no highway issues as the drive is not being affected by the proposal, as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety and advice in Chapter 12 of the National Planning Policy Framework.

Ecology

In terms of ecology the key impact of the proposal is its impact on protected trees. Policy LP33 is therefore relevant which states that proposals should normally retain any valuable or important trees where they make a contribution to public amenity. The application has also been assessed by the Councils Arboricultural Officer.

In this instance this boundary between host property and no.12 Ashleigh Dale was previously occupied by 5 Lombardy Poplar trees, protected under Tree Preservation Order (TPO) 02/79. These trees were removed under application 2018/92208 after concerns were raised regarding the potential for them to fall over. The consent was granted subject the planting of replacement trees in the form of 2 Oaks and 2 Rowan trees. The replacement trees would need to be 1.5 -2 metres in height and would have to be planted in the location shown on the submitted plans.

Amended plans have now been received to show the 4 new trees located to the west with adequate space to allow them to effectively grow. It is therefore considered that the decking once removed will give sufficient space for the trees complying with policy LP33 and Chapter 15 of the National Planning Policy Framework.

Other Matters

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 small-scale of the proposed development, 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 Policy LP51 of the

Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Representations:

It should be noted that no representations have been received as a result of site publicity.

Councillor Sokhal requested information about the application which was sent on the 13th February 2020 with a committee request if to be refused. Further update sent 19.3.21 and Councillor Sokhal supports the recommendation.

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 proposed development would constitute sustainable development and is therefore recommended for approval

Decision Authorisation - Delegated Powers

Application Number: 2020/90110

Officer Recommendation: Approve

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, in order to provide adequate space for replacement tree planting and in the interests of residential amenity and to accord Policies LP33 and LP24 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework

3. Within 3 months of the date of this permission, the unauthorised decking shall be removed and the ground prepared to allow future tree, shrub and climbing plant planting in accordance with the details as indicated on plan 16-0001 and the requirements of condition 4.
Reason: To ensure the development is undertaken in accordance with the approved plans and to ensure the site can appropriately accommodate replacement tree planting and soft landscape in the interests of amenity and to accord with the requirements of Policies LP24 and LP33 of the Local Plan and advice within the National Planning Policy Framework.

4. The planting of the 4no. replacement trees, the Carpinus Betulus hedge and climbing plants shall be carried out within the first planting season following the date of this permission (November-March) and be completed by March 2022 as stated in the Work Methodology Statement ref 16-0003C, excluding point 1.
Reason: To ensure the soft landscape scheme and tree planting is undertaken at the optimum time and at the earliest opportunity in the interests of visual amenity and the future health of the replacement tree planting and soft landscape i and to accord with the requirements of Policies LP24 and LP33 of the Local Plan and advice within the National Planning Policy Framework.

5. The approved landscape scheme indicated on plan no 16-0001C, from its completion, shall be maintained for a period of five years. If, within this period, any tree, shrub, hedge or climbing plant shall die, become diseased or be

removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
Reason: To ensure that there is a well laid out scheme of healthy trees, shrub, hedge and climbing plants in the interests of amenity and to accord with the requirements of Policies LP24 and LP33 of the Local Plan and advice within the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location Plan 1:500	1921.1		16.1.20
Existing layout	1921.2		16.1.20
Proposed site layout	16-0001	C	26.2.21
Section Elevation	16-0002	C	26.2.21
Work Methodology Statement	16-0003	C	26.2.21

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 Planning 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 resolve the issue of replacement trees, and the impact of the decking on visual and residential amenity.

Recommendation and Authorisation Box

Report Dated: 24.3.21

Coal – low risk