

**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: 2020/62/90593/W

Site Address: 41, Lamb Hall Road, Longwood, Huddersfield, HD3 3TJ

Description: Creation of basement, conversion of garage to living accommodation, excavation to form additional parking space, and new parking deck(modified proposal)

Recommending Officer: William Simcock

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: 23-Apr-2020

Officer Report

Site Description

41 Lamb Hall Road is a large detached dwelling on the south-west side of the highway. It is single-storey at the front with additional living accommodation in the roof space with dormers, and two-storey with an understorey at the rear. It is set below highway level and has an extensive rear garden where the land also falls away towards the south-west. The property has a large tarmac driveway at the front, with access to the highway.

It has a stone front and rendered rear elevation, and a blue slate roof.

It forms part of a ribbon development consisting of individually designed houses with extensive undeveloped land to the south-west.

Description of Proposal

The proposal is for:

1. The formation of a raised parking deck at the front, with accommodation below comprising a gym, study and WC. The parking deck, surfaced in tarmac, would be at the level of the adjacent highway and would cover most of the existing front curtilage, leaving a narrow strip adjacent to the house, and the boundary wall would be partly demolished to allow access.
1. The formation of a basement at the rear. This would not extend the building outward at the rear, but it would involve further excavation to create a full basement storey in place of the existing understorey, which at present is about 1.5m in height measured from the underside of the deck to ground level. It would provide two bedrooms, one of them en-suite.
2. The conversion of the existing garage to living accommodation.
3. The construction of a small dormer to the front elevation.

History of negotiations/amendments received

20-Apr-2020: Amended plans removing the proposed glazed screen.

Relevant Planning History

2019/91947 – Creation of basement, conversion of garage to living accommodation, excavation to form additional parking, and new parking deck. Approved, not implemented.

Representations

Final publicity date expires: 31-Mar-2020

One representation made.

A summary of the comments received is set out below:

1. The dormer window is not the only significant change;
2. The floor level of the proposed gym and study is lower than the previous proposal.
3. This will further impact the need to provide supporting calculations to ensure the support of all the associated boundary conditions;
4. The owner needs to urgently consider party wall conditions and make arrangements with adjacent owners to allow the works to proceed under the Party Wall Act;
5. The proposal does not appear to accurately reflect the possible impact the works may have on adjacent tree or hedges. Roots of mature trees may be affected and the hedge slopes to the west boundary. The existing walls and hedge form part of the retaining condition for the adjacent property driveway which must not be undermined in the interest of safety and impact on others;
6. Health and Safety concerns must be considered if the drive became unstable and cracked or subsided.
7. The top of the drive of the west boundary is at the same level as the highway and may also impact the public and users of Lamb Hall Road.
8. The note on the drawing regarding the glass screen appears incorrect as it was not previously approved and was actually noted as being

unnecessary so this matter needs to be reviewed as statements are confusing between applications and was omitted in the conclusion.

9. Additional drainage has been added to cater for a WC and may require substantial drainage works.

The revised plans were not re-publicised as these only omitted a glazed screen

Consultation Responses

No consultations were undertaken.

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 Green Belt on the Kirklees Local Plan.

The proposal is not considered to raise access or other Equality Act considerations.

Kirklees Local Plan (LP):

- **LP 1:** Achieving sustainable development
- **LP 2:** Place shaping
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 57:** Extension, alteration or replacement of existing buildings

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 13 – Protecting Green Belt land.
- Chapter 15 - Conserving and Enhancing the Natural Environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Appropriateness within Green Belt
- 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 within the Green Belt on the Kirklees Local Plan. As such the proposal will be assessed having regard to NPPF chapter 13 paragraph 144 which advises that planning authorities should ensure that “very substantial weight” is given to any harm to the Green Belt and that inappropriate development should not be approved unless very special circumstances can be demonstrated. Under para. 145, extensions to buildings may be appropriate if they are not disproportionate.

Under LP57, extensions within the Green Belt must ensure that the host building must remain the dominant element both in size and overall appearance, taking into account the cumulative impact of previous extensions and other associated buildings.

The other LP policies listed above, dealing with design and highway safety, will also be given due consideration.

2 – Appropriateness within Green Belt: The house has already been extended substantially.

The scheme of extensions approved under application 2009/90308 included:

- A two storey side extension (multipurpose room and master bedroom)
- A garage extension
- A single storey rear extension (dining/kitchen)
- Two dormers on the front elevation
- An extension to the existing lounge (lower ground floor)
- A porch extension

The case officer’s assessment of the last application concluded that as far as the basement was concerned any impact on the openness of the Green Belt by reason of the scale of the development or visual impact would be negligible, furthermore that the original building would still remain the dominant element taking into account the cumulative impact of this and previous extensions. The case officer’s assessment of the parking deck were, in brief, that it would be formed at existing highway level and would appear in the context of an almost continuously built up frontage, and that although a large structure was not deemed to adversely affect the openness of the Green Belt.

The above policies contain no guidance on basement or subterranean developments in the Green Belt. There are precedents for treating basement or subterranean development (if outside the original house footprint) as extensions, which would, for a Green Belt property, mean that they would have to be assessed against paragraph 145 of the NPPF in that they should not be allowed to cause disproportionate additions and also not adversely affect the openness of the Green Belt or the purposes of including land within it. The example now being considered would not be an extension in the literal sense as it would be a discrete structure detached from the original house although very close to it. However, it would provide living accommodation incidental to the enjoyment of the dwelling house, so it would seem reasonable to assess it in the same way as if it were an above-ground outbuilding for incidental use. Such a development can be deemed an appropriate form of development in principle having regard to the LP57 and NPPF objectives set out above, of avoiding disproportionate additions and also not adversely affecting the openness of the Green Belt or the purposes of including land within it.

Assessing it purely on the amount of living accommodation or space created, the gym and study could be considered disproportionate, in view of the amount of extensions already approved and built, as well as the rear basement extension now proposed. However, it could also be argued that the approved scheme, which created subterranean car storage that could in principle accommodate at least two vehicles with additional domestic storage (as indicated on approved drawing 04 F), was similarly disproportionate.

The current proposal would not be materially different in its visual impact, external appearance or footprint. The main way it would be different is that it would form a gym and study in place of garaging and storage. It is therefore considered that it would not be any different from the approved scheme in terms of its appropriateness within the Green Belt. It would have the same impact on the openness of the Green Belt and other GB objectives as set out in NPPF Chapter 13 or in adherence to Policy LP57 in avoiding disproportionate additions.

The proposal would therefore accord with the aims of LP57 and NPPF Chapter 13.

3 –Impact on visual amenity: The formation of the rear basement accommodation would have very limited visual impact and it is considered it would harmonise with the character of the building as long as matching materials are used.

The enlarged dormer would be a relatively small structure and it is considered that it would harmonise with the existing roof and not visually dominate it.

The parking deck with incidental accommodation below would be at the level of the adjacent highway. It would be same level as the left-hand part (as viewed from the street) of the existing driveway, although it would be about 1m closer to the house wall than the existing raised driveway. At the right-

hand side of the plot, it would be noticeably raised compared to existing ground levels.

This side of Lamb Hall Road is dominated by low stone boundary walls with round copings, the opposite side by higher stone walls but of varying heights and ages. However, there is a raised parking deck, open to the street, in front of another property a very short distance up the road to the north-west, which although smaller than the example now under consideration is still substantial, and it is considered that this does not adversely affect the street scene. The reinstatement of a section of the boundary wall following the completion of the parking deck would help to lessen the impact of the otherwise open frontage and serve to retain part of the vernacular walling which is part of the character of this section of Lamb Hall Road. Again, it would not be materially different from the previously approved scheme in terms of visual impact.

A condition will be imposed (as was done on the previous permission) requiring boundary treatments to the parking deck to be constructed before it is first brought into use. The plans show some additional stone walling on the north-western edge of the deck (the right-hand side as viewed from the street) which would act as a safety balustrade and limit the amount of mutual overlooking. The other side and rear of the parking deck would also, the floor plans indicate, be surrounded by a stone wall. The elevations do not clearly indicate the height of the boundary walls, but it can be adequately addressed by a prescriptive condition requiring that new walls to be to a uniform height of 900mm so as to maintain intervisibility and that metal railings or a timber post and rail fence be installed to the rear of the parking deck since a stone wall would, it is considered, look too imposing. These boundary treatments would help to ensure that the raised deck would blend into its surroundings.

It is considered on balance that the parking deck with incidental accommodation below, as conditioned would not be unduly detrimental to visual amenity or the character of the area.

The glazed screen was originally added to the plans for the last application in the interests of added privacy. Officers came to the conclusion that it was unnecessary on privacy grounds and would be aesthetically inappropriate in context. It has been omitted from the amended plans.

In conclusion, subject to a condition on the stonework for the extension matching the existing building in all respects, new walling and other boundary treatments being built before the parking deck is brought into use, and the rear boundary treatment conditioned as specified above, it would respect the character of its surroundings and accord with the aims of LP24(a).

4 – Impact on residential amenity: The parking platform would, at least in some parts and especially towards the right as viewed from the road, be substantially raised above the level of the existing driveway and yard. It is considered that this in itself would not be harmful to residential amenity by reason of impact on light or outlook to neighbouring properties. It would allow

people standing on it to look down on to land belonging to no. 43 below. No. 43 has two extensions that have windows facing in this direction, but these are about 15m from the nearest point on the proposed raised deck. From the point of view of someone standing on it, it would provide a view over no. 43's driveway, parking and turning area rather than their principal amenity space, and in any case the deck is not intended as a sitting out area. Furthermore the proposed extension to the stone boundary wall would provide a degree of screening.

It is considered that no. 39, although close to the application site, would not be significantly affected. On this side the development would not involve such a significant increase in height above its present levels. The elevation B does not show any form of boundary treatment to the left hand side of the parking deck but it is assumed that it will be a stone wall as indicated on the layout / floor plans. For the avoidance of doubt it can be conditioned as specified in part (3) above so as to avoid overbearing impact whilst providing a measure of privacy.

It is noted that the basement below the parking deck would have rather limited natural light but as it would not contain the principal living accommodation to the dwelling (e.g. bedrooms and living rooms) this is not considered problematic. The parking deck would affect light into front-facing windows but again these are not living accommodation. The new front-facing dormer would not affect the amenities of any neighbouring property.

In conclusion the development (as conditioned) would not result in the compromising of standards of living for existing or future occupiers and would accord with the aims of LP24(b).

5 – Impact on highway safety: The increased amount of living accommodation created, is greater than on the previous proposal, and would result in the formation of two additional bedrooms. The parking deck, it is anticipated, would be able to provide space for at least 3 vehicles to park off the highway, so even though the development would result in the loss of the existing garage and would no longer provide basement-level parking, it is considered that overall provision would be acceptable for the amount of living accommodation proposed. Furthermore the creation of a surface at or near highway level would make access and egress easier and safer, especially in the winter months. The requirement to reinstate sections of boundary wall to Lamb Hall Road would limit some manoeuvring on site. It could introduce more reversing manoeuvres either onto or off Lamb Hall Road especially if more than two cars were parked. However, the boundary wall is low and would not impact on visibility. Traffic speeds along Lamb Hall Road are low and, on balance, the proposed arrangement is considered not to result in a detrimental impact on highway safety.

The only remaining highway safety concern is the possible impact of excavation works close to the highway boundary of Lamb Hall Road. In the light of the advice of the Highway Structures team who were consulted on the

previous application, it is considered that this can be adequately addressed by a pre-commencement condition requiring a more detailed scheme for the works including modifications to the retaining wall, including cross-sections. Subject to this it would comply with the aims of LP21.

6 – Other matters: The site is in the bat alert layer but the existing site is very unlikely to have bat roost potential. It will be sufficient to add the cautionary footnote.

7 – Representations: Concerns raised are summarised below with officer responses:

1. The dormer window is not the only significant change;

Response: Noted. All changes from the earlier scheme have been fully assessed.

2. The floor level of the proposed gym and study is lower than the previous proposal. This will further impact the need to provide supporting calculations to ensure the support of all the associated boundary conditions;

Response: Elevation 'E' states that floor level is to be 2.7m below parking deck level. The lateral extent of the proposed excavations and their proximity to the highway boundary would appear to be the same. In any case a condition will be added to the decision notice requiring engineer's calculations, etc, so as to protect the integrity of the highway during and after construction. It is therefore considered that the plans as submitted provide enough detail for the application to be determined.

3. The owner needs to urgently consider party wall conditions and make arrangements with adjacent owners to allow the works to proceed under the Party Wall Act;

Response: The potential impact of a development upon the stability of neighbouring land is a private civil matter and is outside the scope of the planning system. This applies equally to the parking deck and the new domestic basement. The granting of planning permission does not override the requirement to comply with other Legislation, including that under the Party Wall Act.

4. The proposal does not appear to accurately reflect the possible impact the works may have on adjacent tree or hedges. Roots of mature trees may be affected and the hedge slopes to the west boundary. The existing walls and hedge form part of the retaining condition for the adjacent property driveway which must not be undermined in the interest of safety and impact on others;

Response: There do not appear to be any mature trees within the application site or immediately adjacent although there are some on the opposite side of

the road. The adjacent beech hedge would need cutting back in order to build the wall. But it is on neighbouring land which is somewhat raised above the level of the existing driveway, and so it is not anticipated that its health would be affected by the excavations. Domestic hedgerows however are not legally protected and there are no trees within or on the boundary of the site that are covered by a tree preservation order.

5. Health and Safety concerns must be considered if the drive became unstable and cracked or subsided.

Response: The existing driveway is to be excavated. Health and safety issues on private land during construction would be covered by other legislation and would not be a planning matter. Any issues arising out of possible future deterioration of the new parking deck once built would also be a private civil matter.

6. The top of the drive of the west boundary is at the same level as the highway and may also impact the public and users of Lamb Hall Road.

Response: Again, future stability of highway land can be adequately addressed by a planning condition. The formation of a level access would, if anything, represent an improvement to safety rather than detract from it.

7. The note on the drawing regarding the glass screen appears incorrect as it was not previously approved and was actually noted as being unnecessary so this matter needs to be reviewed as statements are confusing between applications and was omitted in the conclusion.

Response: This feature has been removed from the plans on officer's advice.

8. Additional drainage has been added to cater for a WC and may require substantial drainage works.

Response: This aspect of the development, it is expected, would fall within the remit of Building Regulations.

8 – 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 – CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2020/90593

Officer Recommendation: CONDITIONAL FULL PERMISSION

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 of the Kirklees Local Plan.

3. The external walling materials of the basement 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.

4. No excavation works shall commence at the front (north east) of the property, until a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new retaining walls or for building retaining walls adjacent to the existing highway, including any modifications to the existing highway retaining wall supporting Lamb Hall Road, have been submitted to and approved in writing by the Local Planning Authority. All excavations and associated works to form the parking deck and incidental accommodation below it shall be carried out in accordance with the approved details and thereafter retained as such.

Reason: To ensure that the development does not endanger the stability of the public highway in the interests of highway safety and to accord with the aims of Policy LP21 of the Local Plan.

5. Before the parking , or the incidental accommodation facilities located beneath it are brought into use, the additional stone walling to the left-hand and right-hand sides of the parking deck as indicated on the first floor plan as proposed, 2582(100)02 Rev A, shall be constructed to a height of 900mm above parking deck level, using stone to match the existing walling on the Lamb Hall Road frontage in all respects or reclaimed stone, including the use of the toppers reclaimed from the partial demolition of the boundary wall or matching them in all respects. The new walls shall thereafter be retained as such. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and

Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), the remaining part of the highway boundary wall as shown on the proposed first floor plan shall also be retained.

Reason: In the interests of visual and residential amenity, to limit the prominence of the proposed parking deck and to prevent it having an impact on the privacy of neighbouring properties, and to accord with the aims of Policy LP24(a&b) of the Local Plan.

6. Notwithstanding the details on the approved plans, the solid stone parapet wall to the rear of the parking deck is not approved and shall be omitted. The boundary treatment to the rear of the parking deck shall consist either of metal railings (which shall be given a painted or factory-applied colour finish before being installed and thereafter retained as such) or timber post-and-rail fencing. Any fence or railings shall be set into a stone dwarf wall no more than 300mm in height and shall be erected before the parking deck is first brought into use.

Reason: In the interests of visual amenity, to prevent the raised parking deck from appearing overly prominent in the street scene, and to accord with the aims of Policy LP24(a) of the Local Plan.

NOTE: Bats. There is the potential for a bat roost to 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: Sewer position. Maps held by the Council indicates that a main sewer flows on or very close to the line of the site boundary with the public highway. Notwithstanding the granting of planning permission, it is the developer's responsibility to seek the consent of the relevant statutory undertaker (Yorkshire Water) if there is a possibility that the works will affect the sewer or require for it to be diverted.

Construction Site Working Times - Condition

It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours, Saturdays

With no noisy activities on Sundays or Public Holidays

Construction Sites working times – Footnote

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 notices served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			25-Feb-2020
Covering letter			25-Feb-2020
Location plan	2582-LOC		25-Feb-2020
Existing site plan	2582-01		25-Feb-2020
Existing plans and elevations	2582-02		25-Feb-2020
Previously approved plans and elevations	2582 L(100)01		25-Feb-2020
Proposed plans	2582(100)02	A	20-Apr-2020
Proposed elevations	2582(100)03	A	20-Apr-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. The case officer requested the applicant submit an amended plan omitting the glazed screen. This was submitted and the application determined on this basis.

Report Dated: 23-Apr-2020