

**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:** 2020/62/92050/E  
**Site Address:** 123, Cross Lane, Birkenshaw, BD11 2BY  
**Description:** Erection of front porch and installation of side window  
**Recommending Officer:** Alice Downham

**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-Dec-2020**

## **Officer Report**

### **Site Description**

123 Cross Lane, Birkenshaw, is a two-storey semi-detached dwelling. It is constructed of brick, with a hipped roof finished in grey slate tiles. The property benefits from a two-storey side extension in brick, and a single-storey rear extension finished in render. There is a garden to the front, which is bounded by hedges approximately 3m high.

The location of the house is within a residential area. Immediately to the north and east are similar brick-built two-storey semi-detached properties. To the south is an area of open land, which is designated as Green Belt and a registered battlefield site (Adwalton Moor). To the west is an area of open land designated as Urban Greenspace.

### **Description of Proposal**

The applicant is seeking permission for the erection of a front porch. The approximate dimensions of the proposed development are as follows:

1.8m deep x 2.3m wide x 2.0m eaves height (3.3m maximum height).

Proposed materials comprise brickwork finished in render (off white/light grey - RAL 7040) to match the rear extension, with a timber door. There will be a window inserted into the north-west elevation of the proposed porch, which will be uPVC to match existing. The roof of the proposed porch will be a gable design, finished in grey slate tile, to match the host property.

### **History of negotiations/amendments received**

No amendments were sought or received during consideration of the application.

### **Relevant Planning History**

At application site:

2000/91823 - Erection of garage extension. Conditional full permission.

2002/91037 - Erection of first-floor extension. Refused.

2002/92235 - Erection of conservatory. Conditional full permission.

2007/92727 - Erection of first-floor extension. Conditional full permission.

At neighbouring properties:

95/90866 - Erection of ground floor extension. Conditional full permission.

2003/92155 - Erection of two-storey and single-storey extensions. Refused.

2004/90275 - Erection of single-storey garage / WC / lobby extension.

Conditional full permission.

### **Representations**

The application was advertised by neighbour letters, which expired on 17/08/2020.

No representations were received following this publicity.

### **Consultation Responses**

Kirklees Council Strategic Waste: provided landfill gas monitoring levels. This will be discussed in the “Other Matters” section of the report.

Kirklees Council HSE: provided an interpretation of landfill gas monitoring levels. This will be discussed in the “Other Matters” section of the report.

### **Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees Local Plan.

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 pre-dates 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 under other matters.

### **Kirklees Local Plan (KLP):**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 51** – Protection and improvement of air 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 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the 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
- 5) Representations
- 6) Conditions
- 7) 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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

These issues along with other policy considerations will be addressed below.

### 2 – Impact on visual amenity:

The location of the house is within a residential area. Immediately to the north and east are similar brick-built two-storey semi-detached properties. There is open land to the south and west of the property. It is important to note that a number of properties in the surrounding area have been extended or altered in some way and it is, therefore, considered that dependent on design, scale, and detailing, it may be acceptable to extend the host property.

The proposed front porch is small in scale and is considered subservient to the host dwelling, which would remain the dominant feature following

development. The development would be in keeping with the existing property in terms of design and materials. Due to the location of the porch to the front of the property, it will be visible from the road and from the immediate neighbouring property. However, the harm is reduced due to the small-scale of the development and the boundary treatments.

Having taken the above into account, the proposed front porch would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the KLP and the aims of Chapter 12 of the NPPF.

### 3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of Policy LP24 c), which states that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

#### *Impact on 121 Cross Lane*

This is the adjoining property to the north of the application site. This property benefits from a porch extension to the front and a small rear extension. This property is set back and angled away from the applicant property. It is considered that the existing two-storey side extension would entirely screen from view the proposed front porch. Therefore, there would be no overlooking, overshadowing, or overbearing impacts on the amenity of 121 Cross Lane resulting from this proposal.

#### *Impact on 1 Hodgson Lane*

This is the adjoining property to the south-east of the application site. This property benefits from several extensions. Given that there will be no windows inserted into the south-east elevation of the proposed front porch, it is considered that there will be no impacts from overlooking resulting from this proposal. The applicant property is located to the north of this neighbour and the proposed porch will be partly screened by the existing bay window to the front of the property. Therefore, it is considered that there will be no overshadowing impact resulting from this proposal. Given that the proposal is for a small-scale single-storey porch, with a gable roof design, which will take the massing away from the shared boundary, and, given the boundary treatment, it is considered that there will be no overbearing impact resulting from proposal. Accordingly, there would be no impacts on the amenity of 1 Hodgson Lane, resulting from this proposal.

There are no neighbouring properties to the front or the rear of the application site.

Having considered the above factors, the proposal is considered not to result in any significant adverse impact upon the residential amenity of any

surrounding neighbouring occupants, thus complying with Policy LP24 of the KLP and Paragraph 127 (f) of the NPPF.

#### 4 – Impact on highway safety:

The proposal is for a porch to the front of the property. The extension is unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at the site. The current parking arrangements are considered sufficient. Therefore, the scheme would not represent any additional harm in terms of highway safety and, as such, complies with Policies LP21 and LP22 of the KLP.

#### 5 – Other matters:

##### *Landfill Gas*

KC Strategic Waste and KC HSE have both reviewed the application. The consultee responses highlighted that two closed landfill sites have been identified within 250m of the applicant property. Levels of methane and carbon dioxide detected during the last surveys in 1992 and 1993 at the nearby historic landfill sites were very low. Due to the distance of the site from the generation source and the lack of built environment between the application site and the former tips, there is potential for gas to migrate. As such, and particularly as no records are available of the type, quantity and depth of waste, the Health & Safety Executive have advised that a precautionary footnote should be attached to the decision notice recommending that the applicant should consider carrying out landfill gas monitoring prior to developing the site. This would ensure that the proposal complies with the aims of Policy LP53 of the KLP and Chapter 15 of the NPPF.

##### *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 and which will require compliance with national standards. For this reason, the proposed development is considered to comply with Policy LP51 of the KLP and Chapter 14 of the NPPF.

There are no other matters considered relevant to the determination of this application.

#### 6 – Representations:

No representations have been received.

#### 7 – Conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions:

- Accordance with the approved plans, to ensure the development is carried out in line with the officer's assessment.
- Matching materials, to ensure that the extension harmonises with the host dwelling.

Notes will also be added regarding landfill gas monitoring, the hours of work, and notifying the applicant that neighbours do not have to grant access to their land.

### 8 – Conclusion:

This application to erect a porch to the front of 123 Cross Lane, Birkenshaw, has been assessed against relevant policies in the development plan, as listed in the policy section of the report, the NPPF and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered acceptable.

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.

As set out above, 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:** 2020/92050

**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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP51, and LP53 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. The extension hereby approved shall be faced in coloured render (off white/light grey - RAL 7040) as demonstrated on plan "11 - PROPOSED" and thereafter retained.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. The 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 Chapter 12 of the National Planning Policy Framework.

**NOTE:** The applicant is hereby advised that there are two closed landfill sites within 250m of the application site, where there are no records of the types, depth and volume of waste used to fill the site and no landfill gas or leachate measures were installed. It is therefore advised that the applicant should consider carrying out landfill gas monitoring prior to development to establish whether landfill gas levels are significant. In the event significant levels are discovered appropriate mitigation measures shall be included in carrying out the development to protect against hazard caused by landfill gas migration.

**NOTE:** Please note that the granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

**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 13.00 hours, 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 may control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	001	-	01/07/2020
Grouped Plans and Elevations	11 – PROPOSED	-	01/07/2020
Grouped Plans and Elevations	EX02 - EXISTING	-	01/07/2020

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 has, 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.

As the submitted plans were considered acceptable, no amendments were requested in this instance.

**Report Dated:** 04/12/2020