

**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: 2020/62/92839/E

Site Address: 22, Aspen Close, Gomersal, Cleckheaton, BD19 4NY

Description: Erection of single storey side and rear extensions

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: 11-Jan-2021

Officer Report – 2020/92839

Site Description

22 Aspen Close, Gomersal is a relatively recently built two-storey detached house, thought to have been constructed in 2005/6. The walls are predominantly brown brickwork with some cream render to the front and the roof is dual pitched, surfaced in grey / brown tiles. There is a driveway and integral single garage to the front, and moderately sized garden at the back enclosed by other gardens to all sides.

The land is relatively level and the location of the house is near the head of a cul-de-sac, within a larger residential estate, built at similar time, in similar materials, but with a variety of house designs.

Description of Proposal

Planning permission is sought for the erection of a single-storey side and rear extensions.

Side extension:

- Rectangular footprint projecting approximately 1.9m to the side x 4.5m deep.
- Mono-pitched roof, 2.5m high eaves level and 3.5m overall height.
- Part of new bi-folding door in rear elevation. No other openings.
- Located on the east facing elevation and covering the rear half of the side elevation.

Rear extension:

- Rectangular footprint projecting 4.0m x 3.8m wide.
- Flat roof with lantern light in centre. 3.0m high to eaves and 3.45m to top of lantern light.
- High sill window in rear elevation and bi-folding doors to east facing side elevation.
- It would cover the western half of the rear elevation and provide space for enlarged dining room.
- It would replace a small single storey element of the original house

The walls would be brickwork and the mono-pitched roof would be surfaced in concrete tiles.

History of negotiations/amendments received

Site photographs were requested during assessment of the application, together with confirmation of scale of plans.

Relevant Planning History

01/93780 – outline application for residential development – S106 outline permission

[Planning application details | Kirklees Council](#)

03/95308 – Reserved matters application for erection of 221 dwellings and 69 apartments with garages. Approval of reserved matters.

[Planning application details | Kirklees Council](#)

11/91545 – NMA for permission 03/95308. NMA approved.

[Planning application details | Kirklees Council](#)

13/93831 – Compliance with conditions on previous permission 01/93780. Discharge of conditions split decision.

[Planning application details | Kirklees Council](#)

13/93993 – compliance of conditions on previous permission 03/95308. Discharge of conditions split decision.

[Planning application details | Kirklees Council](#)

Representations

Final publicity date expired: 17.11.2020. Two neighbour representations received.

- The rear extension will have an overshadowing impact blocking natural day light, which together with tall bushy tree at end of garden will affect health and wellbeing.

Parish/Town Council comments: not applicable.

Consultation Responses

Environmental health (pollution & noise): No objections subject to condition.

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 27th February 2019).

The site is without notation on the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design

- **LP 30** – Biodiversity and geodiversity
- **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 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 – Conservation and enhancement of the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 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 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. With regard to extensions, it states 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 existing house is considered to be as originally constructed, and in relation to its scale, the proposed extensions would be small, and would involve replacing an existing bay window with one that has patio doors.

In terms of materials and details, the external walls would be in brickwork and could be conditioned to match the existing. With regards to the roofs, the side extension is designed with a mono-pitched roof surfaced in concrete tiles, which could also be conditioned to match. The proposed rear extension has a flat roof and, although this is introducing a new feature, roof designs such as this are now more commonly seen on domestic extensions and, in this instance, it is considered to complement the design of this relatively recently built house.

As such, overall, it is considered to promote good design and comply with this part of policy LP24 of the KLP.

3 – Impact on residential amenity:

Policy LP24, part c, goes on to stipulates that extensions should *minimise the impact on residential amenity of future and neighbouring occupiers*.

In this instance, there would be three households potentially affected by the proposals; these are addressed below:

20 Aspen Close - This is a two-storey detached house, located to the west of the application site. Its eastern side elevation is parallel to the opposing elevation at the application site, and it has a small single-storey element projecting to the rear.

In respect of overshadowing and overbearing impacts, the rear garden of this neighbouring house is already overshadowed to some degree by another two-storey detached house at 44 Burnley's Mill Road, which is directly to the south. It is also impacted by the existing properties to either side at 18 and 22 Aspen Close, and the massing of a detached double garage within its own boundary.

In officers' opinion the proposed rear extension has potential to cast some additional shade and make the private amenity space at the back of 20 Aspen Close feel more enclosed. However, the proposed development is single-storey and designed with a flat roof 3.0m high and projecting 4.0m, and much of this impact would be screened by the existing fencing along the mutual boundary, which is approximately 1.7m high, or could be screened by a 2.0m high boundary fence, with permitted development rights.

Given these circumstances, it is considered that the additional impact over and above the existing overshadowing and overbearing from surrounding buildings would be relatively limited.

It is also noted that reference is made in representations to existing tall vegetation casting shade. In this instance the trees are not covered by a tree preservation order or within a conservation area, and very unlikely to meet standards for being protected. As such, control of the vegetation would be a civil matter and not a material planning consideration.

Regarding overlooking, the plans indicate that there would be no openings in the facing side elevation of the proposed rear extension, and new openings could be controlled by condition.

Furthermore, the planning history indicates that, although condition 6 of reserved matters application 2003/95308 removed permitted development rights for buildings and extensions within the curtilages of Plots P1, P64 – P89 & W122 to W130 (inclusively), the application site was plot W63 and therefore appears likely to benefit from permitted development rights.

As such when assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part A, Class A, the size and location of the proposed extensions are also likely to be permitted development. Whilst legal confirmation may require a lawful development certificate, in officers' opinion this could be regarded as a potential fall-back position.

24 Aspen Close – This is another two-storey detached house, located to the east of the application site. In this instance, the facing side elevations diverge slightly, being closer at the front, but increasingly apart towards the back of the house and into the rear garden. This neighbouring property also has a single-storey extension to the rear.

In terms of overshadowing and overbearing effects, the main impact would be from the proposed side extension. However, given that it is single-storey with eaves around 2.45m and mono-pitched roof that slopes away from the boundary, it is considered that this impact would be relatively limited. The proposed rear extension is also single-storey and set in from the mutual boundary by around 5.5m, so that the impact from this would be less than that of the side extension.

With regards to overlooking, no openings are shown in the facing elevation of the proposed side extension and new openings could be controlled by condition. The proposed rear extension has bi-folding doors in the facing side elevation. However, fencing on the boundary would provide effective screening.

44 Burnley's Mill Road – This is a further two-storey detached house, positioned to the south-west of the application site. Its side elevation faces onto the rear elevation of 20 Aspen Close, with a front garden and turning head directly opposite the rear elevation of the house at the application site.

The main impact upon this property would be from the proposed rear extension. However, given that it is single storey with a gap of around 7.5m

between the nearest parts of the properties, it is considered that any overshadowing or overbearing impacts would be minimal.

Turning to overlooking, the drawings indicate that there would be a high sill window only in the south facing elevation. It is considered that this would be adequate to prevent any loss of privacy.

To conclude, it is considered that the proposal would minimise the impact on residential amenity of future and neighbouring occupiers and is compliant with this part of policy LP24 of the KLP.

4 – Impact on highway safety:

The site is accessed from Aspen Close, a residential estate road that is adopted by the Council, but not classified. The scale of the proposed extensions would not amount to an intensification of the existing use requiring further parking spaces, and the existing off-street parking provision would be unaffected by the proposed development.

As such, it is considered that the proposal would not cause harm to highway safety and is compliant with policy LP21 of the KLP.

5 – Other matters:

Carbon Budget

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.

The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures are 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.

Protected species (bats):

The site is in an area recorded as a bat alert area. Bats are protected species and the NPPF requires planning authorities to take account of priority species within planning policies.

An assessment in relation to the bat alert layer guidance - flow diagram has been carried out and as a result no survey is required, however a precautionary footnote shall be added to the decision notice in order to comply with the aims of chapter 15 of the NPPF.

Contamination issues:

The application site is on land that was formerly part of a larger textile mill.

Policy LP53 of the KLP and paragraphs 178 and 179 of the NPPF require LPAs to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

In this instance the Council's environmental health officers have been consulted and recommend that a condition relating to reporting unexpected contamination should be applied if the proposal is granted planning permission.

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

6 – Representations:

Two neighbour representations received.

- The rear extension will have an overshadowing impact blocking natural day light, which together with tall bushy tree at end of garden will affect health and wellbeing.
Response: the impact of the proposed development upon residential amenity of future and neighbouring occupiers has been fully addressed in section 3 above and found to be acceptable.

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: 2020/92839

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 Policies LP1, LP2, LP21, LP24, LP30 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The external walls of the extensions and roofing materials of the side 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. 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 rear extension, and the side elevation of the side extension hereby approved.

Reason: To not 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.

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 ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

NOTE: All contamination reports shall be prepared in accordance with guidance in Land Contamination Risk Management (LCRM), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

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.

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: 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. This is to safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and policy LP24 and LP52 of the Kirklees Local Plan.

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.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan			28.08.2020
Site plan with proposed extensions	Dwg no. 20/146		28.08.2020
Plans and elevations as existing	Dwg no. 20/146		28.08.2020
Plans and elevations as proposed			

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. Site photographs were requested during assessment of the application together with confirmation of scale of plans.

Report Dated: 07.01.2021