

**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: 2020/62/93889/E
Site Address: 51, Mill Lane, Hanging Heaton, Batley, WF17 6DZ
Description: Erection of external decking and stairs
Recommending Officer: Callum Harrison

DECISION – REFUSED

I hereby authorise the refusal 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: 25-Feb-2021

Officer Report

51, Mill Lane, Hanging Heaton, Batley WF17 6DZ

Site Description

The application relates to a terraced dwelling that is faced in stone. The dwelling has substantial age and appears on County Series maps dating back to 1893. The dwelling is set on a steep bank, meaning the rear garden is set approximately 2m below the ground floor level of the dwelling. The rear garden is accessed via stone steps down from the back door. The wider area is primarily residential.

Description of Proposal

The application is seeking permission for erection of raised decking with steps. The application is retrospective. The decking is set 1.9m above the rear garden level. It has an overall height of 2.8m including the timber railing. The decking projects out 2m from the rear elevation. The steps are located to the west of the decking. The decking is near identical to the decking at the neighbouring no.53 Mill Lane, which is also the subject of a retrospective planning application. There is no boundary treatment between the two decks, meaning that they appear as one. The decking runs the full width of the dwelling. All timber used is 150 x 50mm with 130 x 130mm concrete posts supporting the decking. The application also seeks permission for the erection of timber steps up to the decking.

History of Negotiations

The submitted plans raised significant concerns in terms of the impact on residential amenity of neighbouring occupiers and design. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under considerations. Due to the topography of the site, it is considered that there are no possible amendments that could overcome the significant concerns. Therefore, no amendments or negotiations were sought.

Relevant Planning History

COMP/20/0400 – Alleged unauthorised high platform.

Representations

The application was advertised by neighbour notification letters.

Publicity expired on 22nd January 2021.

No representations were received.

Consultations

No consultations were required or sought.

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 unallocated in the Kirklees Local Plan 2019.

Kirklees Local Plan (KLP):

LP 1 – Achieving sustainable development

LP 2 – Place shaping

LP 24 – Design

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 2 – Achieving sustainable development

Chapter 12 – Achieving well-designed places

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway amenity

- 5) Other matters
- 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. 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.

2. Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan states that “proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape”.

The proposed decking, by virtue of its position at ground floor level, significantly above the garden level, does not respect the form and layout of the dwelling. Furthermore, in consequence of the decking being set 1.9m above garden level, the traditional style of the dwelling is detrimentally impacted by the deck. The timber, projects across the full width of the dwelling, around a third of the way up the rear elevation, thus detracting from the traditional style and design of the dwelling. The decking essentially hides the traditional elements, such as stone lintels and sills, whilst the attaching of the thick timber to the natural stone walls of the dwelling does not represent a good finish visually.

Paragraph 127 b) of the NPPF states that: “Planning policies and decisions should ensure that developments: b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping”. The proposal by reason of height, scale and design does not create a visually attractive development and is not considered appropriate in context to the host dwelling. The style and colour of the timber provide a heavy finish, which materially affects the aesthetics of the host dwelling.

Given the reasons as discussed above, the proposal is considered unacceptable regarding visual amenity, given the proposal does not accord with LP24 of the KLP or Chapter 12 of the NPPF.

3. Impact on Residential Amenity

LP24 of the Kirklees Local Plan states that proposal should “provide a high standard of amenity for future and neighbouring occupiers”.

The decking is set 1.9m above garden level and projects out a notable 2m. This height renders the existing boundary treatment surrounding the garden ineffective in screening the decking. The decking, therefore, allows persons on it to have views of the full gardens of all the dwellings in the terrace. It should also be noted that these dwellings are modest in size and the garden space to the rear, which this decking overlooks, is the only outdoor amenity space from which these dwellings in the terrace benefit. This proposal removes all privacy for the rear gardens of the other dwellings in the terrace and, thus, the proposal is determined to be unacceptable on residential amenity grounds.

Not only will the decking detrimentally impact on the residential amenity of neighbouring dwellings in the terrace, the decking and the associated activity would also impact on the residential amenity of 6 New Street. No.6 is 15m away from the proposed decking. The deck will instigate use at a height where there is a direct view into the rear windows of no.6 from any position on the decking. Furthermore, the position of no.6 is in the direct line of view facing from the decking. This view will be into rear windows of no.6 at first floor level. These windows likely serve habitable rooms. The proposal is, therefore, considered to cause a detrimental impact on the privacy to no.6 New Street.

Given the reasons as discussed above, the proposal is considered unacceptable regarding the impact on the residential amenity of neighbouring dwellings. Therefore, the proposal does not accord with policy LP24 of the KLP.

4. Impact on Highways Safety

The decking is set to the rear and, therefore, will not materially impact on the highway or its safety.

5. Other Matters

None.

6. Representations

None.

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.

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 proposed development does not comply with policies regarding

residential and visual amenity and, therefore, the application is recommended for refusal.

Recommendation:

Refuse

Decision Authorisation - Delegated Powers**Application Number: 2020/93889****Officer Recommendation: Refuse****Reason(s) for refusal:**

1. The proposed decking, by virtue of its height, scale and materials does not constitute good design. The proposed decking does not respect the style, layout, form or character of the host dwelling and is, therefore, contrary to the objectives of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. The proposed decking would detrimentally impact upon the residential amenity of several neighbouring dwellings in terms of overlooking and loss of privacy. By virtue of the size and scale of the decking, the entire outdoor amenity space of neighbouring dwellings would be overlooked, whilst the decking would also cause overlooking into the rear, first floor windows of habitable rooms of an adjacent dwelling. The proposal is contrary to Policy LP24 of the Kirklees Local Plan.

Plans and specifications table:

Plan Type	Reference	Version	Date Received
Location Plan		1	15/12/2021
Proposed Elevations		1	15/12/2021

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 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.

The submitted plans raised significant concerns in terms of the impact on residential amenity of neighbouring occupiers and design. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Due to the topography of the site, it is considered that there are no possible amendments that could overcome the significant concerns. Therefore, no amendments or negotiations were sought.