

**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: 2020/62/94086/W

Site Address: 42, Britannia road, Milnsbridge, Huddersfield, HD3
4QF

Description: Erection of raised decking to front

Recommending Officer: Laura Yeadon

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.

John Holmes

AUTHORISED OFFICER

Date: 09-Nov-2021

Officer Report

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f94086>

Site Description

42 Britannia Road is a two storey semi-detached property located within the Green Belt. The property is set up significantly from the roadside. The property hosts a bay window to the front elevation and sloped front garden with a single storey extension on the side elevation with a garden area to the rear. There are a number of properties within the street scene that have terraces to the front, of varying degrees of projection. The adjacent property, No. 40 has a two storey side extension which is constructed to the shared boundary line. The surrounding area is comprised of Scar Wood to the rear of the site and residential properties to the east and west. To the south is Huddersfield Narrow Canal.

Description of development

Retrospective permission is sought for the erection of raised decking to the front of the property. The decking extends the existing decked area.

The application has been submitted with an indicative site plan and block plan however the assessment is based upon the scaled elevations and floor plans.

The decking is flush with the side elevation of the existing decking and projects forward by 2.5 metres on the side elevation facing No. 40 and is a width of 2.4 metres. The total height of the projection is 2.4 metres with the balustrade above being a total additional height of 0.9 metres. The materials of construction match those of the existing decking.

The application has been submitted retrospectively.

History of negotiations/amendments received

None

Relevant Planning History

1992/03466 Erection of detached garage
Conditional Full Permission

Representations

We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters.

Final publicity date expired 1st April 2021 – one representation was received with the following being a summary of their objections:

- Blocks light to property
- Overlooking
- Poorly constructed on top of an existing wall of questionable structural integrity

Parish/Town Council comments – not applicable

Consultation Responses

None required

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 the Green Belt on the Kirklees Local Plan. The site is within an area with a known presence of Bats.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 24 – Design
- LP 30 – Biodiversity and geodiversity
- LP 57 – The 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 21st July 2021, 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 14 – Meeting the challenge of climate change, flooding and coastal change

Supplementary Planning Documents

- House Extensions and Alterations Supplementary Planning Document

Kirklees Council has adopted supplementary planning guidance on house extensions which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions and alterations.

With specific regard to the House Extensions and Alterations SPD the key design principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 5: Overshadowing/loss of light
- Key design principle 9: Construction materials
- Key design principle 12: Natural environment

These are addressed where applicable within the following report.

Assessment

Principle of development:

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 chapter 2 of the National Planning Policy Framework.

As the site is within the Green Belt there is a need for the development to be assessed against Policy LP57 of the Kirklees Local Plan and policies within Chapter 13 of the NPPF in relation to the principle of development.

As the site is within the Green Belt the main issues are:

- Whether the development would be inappropriate development for the purposes of the NPPF and Kirklees Local Plan
- The effect of the development on the openness of the Green Belt, and on the character and appearance of the area

- If found to be inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances, so as to amount to the very special circumstances necessary to justify development

The effect of the development on the openness of the Green Belt

Britannia Road is characterised by semi-detached properties with some of the properties hosting terraces to the front of the property with varying degrees of projection. As such, the enlargement of the decking is not considered to be out of character within the area. The use of timber provides the appearance of a more temporary structure and it is not considered that the decking would be harmful to the Green Belt nor the visual appearance of the area. The floor of the decking is at the finished floor level of the property and it is therefore considered that the size, scale and massing is acceptable and in keeping with the surrounding area.

Is the development inappropriate in the Green Belt?

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt, the most relevant in this case being to assist in safeguarding the countryside from encroachment. Paragraph 148 of the NPPF states that inappropriate development should not be approved except in very special circumstances. Certain forms of development are exceptions to 'inappropriate development'. These are set out within paragraphs 149 and 150 of the NPPF.

The construction of new buildings is regarded as inappropriate development in the Green Belt. Within paragraph 149, one of the exceptions to this is the extension or alterations of a building providing that this does not result in disproportionate additions over and above the size of the original buildings.

This particular application is for decking to the front of the property which would not be enclosed with elevations or a roof and is therefore considered to be an alteration to the property rather than an extension.

The decking is located on the front elevation of the property and comprises a total area of 2.5m x 2.4m, set in an elevated position due to the topography of the site. In terms of Policy LP57 sub-paragraph c states that an alteration to a property will normally be acceptable in the Green Belt providing that the development does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access.

The decking, being within the curtilage of the existing dwelling, is not considered to lead to encroachment within the Green Belt, or conflict with any of the other purposes of including land in the Green Belt as set out within paragraph 138 of the NPPF.

It is considered that the development is small in scale, located within established residential curtilage, within a residential area and in terms of the impact on the Green Belt, the development is considered a proportionate addition which has an acceptable impact upon openness of the Green Belt.

The development is therefore concluded to not constitute inappropriate development in the Green Belt and is acceptable in principle.

Impact upon Visual Amenity

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Furthermore, policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council’s adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

The decking is viewed in the context of the wider street scene and, visually, is in keeping with the existing decking to the front of the property. As such it is considered the visual impact of the development is not of such significance to warrant refusal in this case taking account of the existing terraced areas to the front of other properties in the street with some larger and of materials of a greater degree of permanence than those used in the construction of the development.

The development would not reduce the provision of outdoor amenity space and is considered to have a neutral impact in this regard.

It is therefore considered the development meets the requirements of the aforementioned policies.

Impact on amenity:

With regard to residential amenity, Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3 and 5 of the Council’s adopted House Extensions and Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive or overbearing.

Paragraph 130 of the NPPF requires that planning decisions ensure developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Key Design Principle 3 states that alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours

Whilst the SPD does not refer specifically to decking, the development does fall into the category of a raised platform which is similar in its impact to a balcony. With regards to balconies, section 5.5 of the SPD is relevant with sub-section 5.28 stating that balconies and roof terraces should not negatively affect neighbouring properties or alter the character of the area and they should be:

- Positioned, and screened if required so that they do not overlook neighbouring homes or gardens.
- Sited away from locations that are sensitive to additional noise levels or disruption

Due to the siting of the extended section of decking, the property mainly affected by the development is No. 40. It is noted that there are a number of enlarged terraces within the street scene of varying sizes and styles. With regards to this development, the layout of the site and adjoining site are unique in so far as the neighbouring property has been extended up to the boundary of the plot and therefore is closer to application site than the layout of other properties within the street scene, being less than 1 metre in separation. As the decking projects forward of the building lines of the application site and neighbouring property and is at the same height as the finished floor levels of these properties, this gives rise to overlooking at close quarters to the habitable room window in the neighbouring property, to the detriment of the occupiers of this property.

It is noted that there has been a recent application for a large decked area to No. 54 Britannia Road which was significantly larger than that constructed at the application site. However the development at no.54 was for the terrace to be flush with the side elevations of the property and maintained the separation in place to the shared boundary. In addition, screening was proposed on the approved terrace and subsequently conditioned.

In terms of this application, Officers have considered screening along the side elevation of the decking however due to the proximity of the decking to the neighbouring property, this would result in an overbearing feature close to the openings of the neighbouring property. Whilst it is noted that the neighbouring property is set on a lower ground level, due to the decking being at finished floor level and the balustrade being limited to 0.9 metres in height, it is not considered that the development would cause significant overshadowing.

It is therefore considered that the development would have an unacceptable impact on the adjacent neighbouring property, contrary to Policy LP24 and principle 3 of the Council's adopted House Extensions & Alterations SPD.

Impact on highway safety:

None

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 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. No mitigation measures have been put forward in this instance.

Biodiversity – the site is within the Bat Alert layer on the Council's GIS system. Due to the works being retrospective and no works proposed to the property itself, it was considered that a Bat Survey was not required.

Representations:

One letter of representation has been received with the following being a summary of comments:

- Blocks light to property

Response: This has been addressed within the amenity section of this report

- Overlooking

Response: This has been addressed within the amenity section of this report

- Poorly constructed on top of an existing wall of questionable structural integrity

Response: The structural integrity of the land is the land owner's responsibility and it is their responsibility to make sure that the works are safe

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. T

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development does not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2021/94086

Officer Recommendation: Refuse

Due to its siting the decking results in an unacceptable level of overlooking resulting in a loss of privacy to neighbouring occupiers, contrary to Policy LP24 (b) of the Kirklees Local Plan, Key Design Principle 3 of the House Extensions and Alterations SPD and paragraph 130 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	TQRQM21053125629753		23 rd February 2021
Existing and proposed site plans			23 rd February 2021
As Built Survey Drawing	W21074		23 rd February 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 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. No negotiations have taken place as the works are retrospective.

Report Dated: 8th November 2021

Coal – none

