

**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: 2021/62/90690/W

Site Address: 2, Stoney Bank Lane, Thongsbridge, Holmfirth, HD9
7LW

Description: Change of use of adjacent field to domestic garden
and erection of two storey rear extension

Recommending Officer: Sam Jackman

DECISION – Full Conditional 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.**

Neil Bearcroft

AUTHORISED OFFICER

Date: 15-Jul-2021

SITE DESCRIPTION – 2021/90690

2 Stoney Bank Lane, Thongsbridge is a stone end terraced property of three, formerly two Cottages now converted into one with a stone slate roof. The property is on a slope site with the attached cottage to the SW being at a higher level and subsequently the adjacent property to the NE at a lower level by approx. 1.5m.

The adjacent property to the NE is a newly built 3-storey Town house, where the application property is set back from the road by approx. 10m so that the front elevation of the host property is in line with the rear elevation of the adjacent 3- storey town houses.

The large gable end of the 3-storey town house is close to the mutual boundary with the eaves in line with the ridge of the host property.

The property benefits from an attached porch linked to an attached single garage to the righthand side of the property with the remaining area providing additional parking.

To the rear is a small level patio area, approx. 5m by 10m edged with a drystone wall built on a raised area, where the land slope steeply down from the SW to the NE. directly to the rear is an enclosed grassed area.

Along the rear of the property, currently under the patio area is a sewer pipe, which becomes exposed to the NE of the property, which is supported by brick pillars.

DESCRIPTION OF PROPOSAL

The proposal is to create a 2-storey rear extension to provide a ground floor family room and 2 bedrooms at first-floor to create a 5 bedroomed property.

The extension would project 4m by 6.5m wide. The new extension would have a dual pitched roof at a height of 6.4m from the existing patio.

The extension would be built from materials to match the host property using artificial stone slates and reclaimed stone.

The proposal also includes the change of use of the adjacent field to garden, located behind No's 2,4,5 & 6, approx. 27m by 19m.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2F90690>

HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

The proposal rear extension in principle was acceptable however it reduced the applicant's amenity space. Therefore, the application was amended to include the adjacent field within their red line which they already owned. The description was changed to include change of use to garden.

RELEVANT HISTORY

2020/92161- first-floor bedroom with en-suite above the existing garage and porch - refused

2011/90439 – erection of single garage and porch – approved built

PUBLIC/MEMBERS RESPONSE

We are currently undertaking 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 which expired on the 12.4.21, whereby no representations have been received.

Following the change in description for the change of use for the adjacent field, neighbours were re notified which expired on the 18.6.21, whereby no representations have been received.

However, the owner of one of the properties expressed their concerns, with regards overshadowing via a smile enquiry, but no letter has been received. The case officer was made aware that all the properties that back onto this site have tenants rather than the homeowner.

Holme Valley Parish Council comments - supports the application.

CONSULTATION RESPONSES

None

POLICY

The statutory development plan comprises:

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 unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):

LP 1– Achieving sustainable development

LP 2 – Place shaping

LP 22 - Parking

LP 24 – Design

LP 30 - Biodiversity and geodiversity

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, together with Circulars, Parliamentary 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 & coastal change.
- **Chapter 15** – Conserving and enhancing the natural environment

House Extensions and Alterations Supplementary Planning Guidance

Kirklees Council has adopted supplementary planning guidance on House Extensions and Alterations in June 2021. The general thrust of the advice is aligned with both the Kirklees Local Plan and the National Planning Policy Framework, requiring development to be considerate in terms of the character the host property and the wider street scene. This is considered in detail in the report below.

ASSESSMENT

Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 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 LP1 goes on further to stating that “the council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design.

In this case the application, the principle of development on the application site is acceptable and shall be assessed against other material planning considerations below.

Impact on visual amenity:

The application forms two elements an extension and a change of use of land to enlarge the garden.

The rear extension would create a 2-storey extension. The proposed works will not be visible from the highway and therefore will not harm the appearance of the street scene.

The extension will be constructed of materials to match those of the existing building and designed to match the host property with a pitched roof.

The property has already been extended to the front with a single garage and linked porch, where the combined structures are in themselves considered, on balance, to remain subservient to the host building, future alterations may not. Although there is limited scope to extend further, it would be appropriate to remove permitted development rights for alterations within the roof space of the host property, further rear extensions and detached buildings, in this case. This would be to prevent the overdevelopment of the site in the interests of visual amenity. (condition 4)

The proposal therefore accords with Policy LP24 of the Kirklees Local Plan which seeks to ensure good design.

With regards to the change of use of land to garden, the land is located to the rear of the applicant's property as well as behind No's 4, 5 & 6. Historically this area of land was open fields leading towards the river and Spring wood.

However, following the recent granting of planning permission for 48 properties to the NW, including public open space located between the applicant's property and Spring Wood. This has resulted in this area being land locked. Furthermore properties 7 & 9 have already extended their garden into this area albeit, without the benefit of planning permission.

Therefore, given that the area is unallocated, bounded by POS, residential properties and the relatively small piece of land, the proposal is considered to be acceptable in this case and would have little impact on the visual amenity of the area.

Impact on residential amenity:

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to "*provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.*"

The proposed two storey rear extension would project 4m from the rear elevation, therefore, consideration has to be given to whether this would have

an unacceptable impact on the neighbour's property with regard to overshadowing or being overbearing.

In this case the rear elevation faces NW and will be to the north of the attached cottage. Furthermore, the rear extension would be set 3m away from their shared boundary, therefore it is considered there would be little impact with regards to overshadowing or overbearing on the attached cottage.

With regards to No. 4 located to the NE of the application site which is itself 3 storey and positioned so that the rear elevation of No. 4 is in line with the front elevation of the application site. Therefore, the existing cottage already casts shade onto the amenity space of property No. 4 and its neighbours. This has also been demonstrated by the agent submitting a sun path model for Spring, Summer & Winter, which shows that the additional loss of sunlight will be in the applicant's own garden.

With regards to the extension being overbearing, the proposed extension itself is approx. 6.35m high on the existing raised patio area and due to the topography of the area, the land slopes steeply down from the SW to NE, giving an overall height of the extension of 7.3m and the eaves at approx., 6m. The extension will be set in from the boundary by 0.9m where the current boundary wall and existing fence have a height of 3.5m.

Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate. In the case of this application given the relationship and orientation of the two dwellings to one another it is considered that the extension projecting 4m will albeit add additional bulk, it is considered that the proposed extension would not cause undue additional overbearing of their rear garden.

It is considered there would be no overlooking as a result of the extension as there are no windows in the side elevation of the rear extension with the rear elevation overlooking the applicant's garden & POS beyond. It is also considered that the change of use of land to enlarged garden would not have a detrimental impact on amenity given its use for domestic purposes only.

Therefore, the rear extension wouldn't create any overlooking in line with policies LP1, LP2 & LP24 of the Kirklees Local Plan and advice in Chapter 12 of the National Planning Policy Framework.

Impact on highway safety:

In terms of highway safety given the increase in accommodation, there are no highway issues as the drive is not being affected by the proposal and can accommodate 3 cars as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety and advice in Chapter 12 of the National Planning Policy Framework.

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.

Due to the size, scale and limited nature of development, it was not considered necessary to request specific measures to address the developments' resilience to climate change.

K.C. Lead Local Flood Authority – the property is within flood Zone 3a, however no comments have been requested as this is a minor development. Furthermore, the floor levels will follow through from the existing levels, creating no additional danger for flooding than the current situation, as such complying with the emerging Policy LP28 of the Kirklees Local Plan.

Yorkshire Water – The agent has been in discussion with YW, due to an existing sewer pipe which runs under the patio at the rear of the property and then becomes exposed in the field below. In principle they have no objections provided that the foundations meet their requirements. This would be addressed at the time of a building regs application.

K.C. Biodiversity – the application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance.

This is due to the fact that albeit the extension will connect into the existing roof, the property in this case appears to be well sealed and maintained with little opportunity for bats.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote shall be attached to the permission setting out that, should any bats be found using the building then works must cease and appropriate advice sought.

Representations:

It should be noted that no representations have been received as a result of site publicity with regards the amended details or the original submission.

Holme Valley Parish Council supports the application.

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.

Decision Authorisation - Delegated Powers

Application Number: 2021/90690

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 51 of the Planning and Compulsory Purchase Act 2004.

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 with Policies LP01, LP02 & LP24, of the Kirklees Local Plan, the adopted SPD on House Extensions and Alterations and advice in the National Planning Policy Framework.

3. The external walls and 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 LP01, LP02 & LP24 of the Kirklees Local Plan and advice in the National Planning Policy Framework

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B or E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary on the site plan on Dwg. No. 20050D-100-P02 without the prior written consent of the Local Planning Authority.

Reason: To avoid overdevelopment of the site and retain any future extension combined with existing extensions as subservient additions to the host property. Also, to preserve the amenities of nearby residential properties and to accord with LP24 of the Kirklees Local Plan and Policy in Chapter 12 of the National Planning Policy Framework.

NOTE: The Council's GIS system indicates that the property is within a bat roost area and 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 to 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.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Location Plan 1:1250 / Block Plan 1:500	20050D-100-P02	8.4.21
Existing layout & elevations	20050D-01-P03	3.3.21
Proposed layout & elevations	20050D-03-P03	3.3.21
Sun path diagram		6.4.21

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 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 discussed the potential of overdevelopment of the site and the application was amended to include the change of use of additional land already in the applicants ownership. This decision is based on the amended/additional documents submitted.

Recommendation and Authorisation Box

Report Dated:

14/7/21

Coal – low risk

