

**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: 2021/62/91355/W
Site Address: 8, Town End, Almondbury, Huddersfield, HD5 8NP
Description: Erection of submerged garage to rear
Recommending Officer: Katie Chew

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 16-Jun-2021

Officer Report

Site Description

8, Town End, Almondbury, Huddersfield, HD5 8NP

The application site relates to a mid-terraced stone-built property located off a predominantly residential street in Almondbury. Due to the topography of the site, the property is split level hosting two storeys to the front and three to the rear. Vehicular access is to the rear of site via an unmade track which is also the route of public footpath HUD/132/10. The rear garden area at lower ground floor is raised above the level of the access track and is accessed via steps. A small outbuilding which is in a poor state of repair, fronts the access track.

Description of Proposal

The application seeks planning permission for the erection of a submerged garage to the rear.

The proposed garage would measure approximately 7.9m x 5.4m, with a maximum height of 2.6m. A small stone wall (approximately 1.2m high) is to be provided above the garage for safety. The garage would have a green roof which would level out the existing garden area for the property. The exposed elevation to the front would be faced in stone with an electric roller garage door.

History of negotiations/amendments received

No amendments were sought in this instance.

Relevant Planning History

2015/93215 – Erection of detached garage under rear garden. Approved 2nd December 2015. Unimplemented, expired.

2011/92933 – Erection of garage under rear garden. Approved 1st March 2012. Unimplemented, expired.

Representations

Final publicity date expires:

Neighbour Letters – Expired 11th June 2021.

Site Notice – Expired 8th June 2021.

Press Notice – Expired 11th June 2021.

No representations have been received to date.

Parish/Town Council Comments

N/A.

Local Ward Members

N/A.

Consultation Responses

KC Environmental Health – Comments received 11th June 2021. No objections subject to conditions and informatives.

Officer note: Whilst a condition has been requested which seeks the installation of an electric vehicle charging point, given the scale and nature of the proposals it is considered unreasonable and unnecessary in officer's opinion to request such a condition in this instance.

KC PROW – No comments received within statutory timescales.

KC Highways Development Management – Comments received 24th May 2021. No objections to the proposals.

Planning Policy Background

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 application site is unallocated in the Kirklees Local Plan but is located within a Bat Alert Area. It is also important to note that there is a PROW running along the rear of the site.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP21 – Highways and access**

- **LP22 – Parking**
- **LP24 – Design**
- **LP30 – Biodiversity and Geodiversity**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and improvement of environmental quality**

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- 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

Supplementary Planning Documents

Kirklees Council is currently in the process of producing its supplementary planning guidance on House extensions. Although this is at the draft stage, it does need to be considered in the assessment of planning applications with some weight attached. 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.

Summary of Principal Planning Issues

The following matters are considered in the assessment below -

- 1) Principle of development
- 1) Scale, design and visual impact of the proposed development
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety
- 4) Other matters
- 5) Conclusion

1 - Principle of Development:

1.1 – Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of

sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

As the site is without notation in the Kirklees Local Plan (KLP), it is considered that the principle of development in this instance would be acceptable; and as a result is subject to the assessment of impacts on visual and residential amenity, as well as highway safety and any other impacts that may arise.

2 - Impact on Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 124 provides a principal consideration concerning design which states:

“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of the development in the local area, thus retaining a sense of local identity.

LP24 states that all proposals should promote good design by ensuring the following:

‘a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...

c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...”

The application site is surrounded by a number of other residential dwellings that are of a similar age and design. A number of these dwellings have been extended or altered in some way over the years. In addition to this, permission has been granted previously at the application site for similar proposals in both 2011 and 2015. It is therefore considered that dependent on design, scale and detailing it may be acceptable.

The proposed garage is to be single storey and would be significantly screened as the existing garden area would be reinstated above, therefore

appearing subservient to the host dwelling. In addition to this the garage is to reuse the existing wall topers and stone found within the existing retaining wall/outbuilding and have an electric roller garage door. This is typical of a garage and therefore the proposed design and materials are considered to be acceptable in this location.

Furthermore, the host property and its associated curtilage are of a sufficient size to support the proposed garage without amounting to overdevelopment and given the submerged nature of the proposals residential amenity space would be retained.

To conclude, the site is not within a Conservation Area, or located in close proximity to any Listed Buildings. The proposals are considered to be appropriate in size, scale and design in this location, and that they would not appear incongruous or overly dominant in the general context of this site. The proposals therefore accord with LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3 - Impact on Residential Amenity:

The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupiers of land and buildings. This is echoed within Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should:

“maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers”.

Given the garage’s location, submerged at the bottom of the garden of no. 8, it is considered that the proposals will cause no overbearing or overshadowing on adjacent properties. As no windows are proposed within the garage, and as shown on submitted plan ‘(PL) 004’, there is not to be any materially harmful overlooking caused by the proposal, as any overlooking caused would be similar to that existing due to the proposed garage only providing a moderate increase to the garden’s height.

It is therefore concluded that the proposal does not give rise to any adverse impacts upon neighbouring residential amenity and as such, this aspect of the proposal is considered to be acceptable. It is therefore concluded that the proposals comply with Policy LP24 of the Kirklees Local Plan and Section 12 of the National Planning Policy Framework.

4 - Impact on Highway Safety, including PROW:

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Given the nature of the proposals the Council's Highways officers were consulted, they raised no objections and welcomed the introduction of 2 off-street car parking spaces where at present there are none. Bin storage will remain located at the site frontage on Town End Road and therefore highways deem the proposals to be acceptable in respect to highway safety.

PROW HUD/132/10

The following is extracted from application 2011/62/92933/W's Highway Impact section.

There is no off-street parking provision for the property and the application proposes a single garage which would be accessed from the rear unmade track which is also the route of public footpath REF HUD/132/10.

Highway Services were consulted for their comment and raise no objections to the proposal. To ensure a car could turn into the garage without trespassing on third party land, a swept curve analysis was applied to the plan. This has proven that a car can turn into and reverse out of the garage without driving over third party land and accordingly there would be no detrimental impact on highway safety from the proposal.

Due to the proximity of the development to the public right of way however, Highway Services recommend a condition that the garage door shall be of a type so as not to encroach over the footpath when being opened, or in the open position. They also recommend a condition that before development commences, a detailed scheme for the protection of users of the footpath during the construction phase shall be submitted.

A discussion was held with the PROW officer about the precedent that could be set by accepting such a proposal and the impact this could have on the safety of users of the public right of way. The PROW officer does not consider there would be an undue impact on public safety should neighbouring properties also choose to apply for similar development, and does not wish to resist the granting of planning permission.

It is therefore considered that for the aforementioned reasons and subject to repeating the conditions above, the scheme would not represent any additional harm in terms of highway safety – including to users of the public footpath and as such complies with Local Plan Policies LP21 and LP22, and the guidance contained within the National Planning Policy Framework.

5 - Other Matters:

Land Stability

Paragraph 179 of the NPPF clearly states that matters of land stability rest primarily with the developer/landowner. However, under application 2015/93215 the Council's Building Control officers were consulted on the proposals. They stated that the proposed works would not adversely affect the foundations of the existing house and that the gradient of land is satisfactory. It was also highlighted that no material changes at the site or in national policy would invalidate their assessment. It is therefore considered that this assessment would also be suitable in this instance.

Biodiversity

Whilst it is acknowledged that the application site is within a bat alert area, given the nature of the proposals it is considered unlikely that roosting bats would be found during construction works.

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.

The proposal is for 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 which will require compliance with national standards. The proposed development would therefore comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

There are no other matters for consideration.

6 - 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

proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2021/91355

Officer Recommendation: Approve.

Conditions & 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.
1. The development hereby permitted shall be carried out in complete accordance with the plans and specification 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 Policy LP24 of the Kirklees Local Plan.
2. Notwithstanding the details on the hereby approved plans, the garage door first installed and subsequently retained shall be of a roller shutter type designed so as not to encroach over public footpath HUD/132/10 when being opened or in the open position.
Reason: To prevent obstruction of adjacent footpath HUD/132/10 and to allow for safe pedestrian access and to accord with Local Plan Policy LP24 of the Kirklees Local Plan.
3. 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. No part of the site shall be brought into use until such time as that part of 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.

4. A detailed scheme for the protection of users of public footpath HUD/132/10 during the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. The scheme so approved shall be implemented at all times during the complete construction phase.

Reason: In the interests of pedestrian safety and to accord with LP21 of the Kirklees Local Plan.

NOTE: The applicant should consult with Yorkshire Water as a combined public sewer connecting to the main house drainage is within 3 metres of the proposed works. This would also be the logical outfall for any roof drainage required under the lawn area.

NOTE: Public Footpath HUD/132/10 is the access to and adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works. The Council's public rights of way unit may be contacted by telephone on 10484 221000 and ask for Sharon Huddleston. Public rights of way are based at Flint Street, Fartown, Huddersfield, HD1 6LG and the email address is publicrightsofway@kirklees.vo.uk

NOTE: All contamination reports shall be prepared in accordance with guidance in:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group

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

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	Web ID	Date Received
Existing and Proposed block Plans	(PL)001	A	15 th June 2021
Existing Section	(PL)002	A	1 st April 2021
Proposed Section	(PL) 003	A	1 st April 2021
Site Sections	(PL) 004	-	1 st April 2021
Elevations	(PL) 005	-	20 th April 2021
Location Plan	(PL) 006	-	21 st April 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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No discussions or negotiations were held with the applicant's agent as the information as initially submitted was deemed acceptable to conclude the application. An additional plan was requested to show the set back of the garage from the access track. The applicant agreed to the pre-commencement condition in writing.

Report Dated:

16/06/2021