

**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: 2021/62/92116/E

Site Address: 23, Fall Lane, Hartshead, Liversedge, WF15 8AP

Description: Erection of detached dwelling and single and two storey rear extension to existing dwelling

Recommending Officer: Liz Chippendale

DECISION – CONDITIONAL FULL PERISSION

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.

Emma Thompson

AUTHORISED OFFICER

Date: 16th December 2021

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Officer Report

Site Description

The application site is a two storey detached dwelling with attached garage. The dwelling is set within a large plot which slopes significantly to the rear. The site is surrounded by residential dwellings of a mixture of form and age with a childrens play area and open space to the North.

Description of Proposal

The application is sought for the erection of a detached dwelling and a single and two storey extensions to the existing dwelling.

Dwelling

The proposed dwelling is located to the rear of the existing dwelling within the rear garden. The proposed dwelling is 14.5m x 9.5m with an eaves height of 3.2m and ridge height of 6.3m with gable fronted windows to the frontage and dormer windows within the roof form.

The proposed dwelling has a double garage which extends 6m to the frontage in a L shape.

The proposed dwelling will be constructed from buff brick, sawn ashlar walling with standing seam zinc dormers.

The dwelling will be accessed via a driveway to the East of the existing dwelling with turning area. An enclosed garden is proposed to the rear.

Proposed extensions

The existing garage and utility to the East will be removed. The extension will project 4m to the rear at single storey to the West and 2 storey to the East. At single storey the extension has an eaves height of 2.6m which extends to 5m at two storey.

The extensions will form a Kitchen/living room at ground floor with a master bedroom at first floor. The dwelling will be refaced in natural stone and a light render with zinc detailing to the entrance.

Parking for the existing dwelling will be to the frontage set within a landscaped garden.

History of negotiations/amendments received

The officer approached the applicant to discuss amendments to the design of the proposed dwelling which was originally 2 storeys and appeared over

dominant for the site location. An amended scheme was submitted for a dormer bungalow which better suited the location.

A detached garage was proposed to the front of the existing dwelling. It was advised that this be removed from the scheme as it could not be supported due to the adverse impact on visual amenity.

Relevant Planning History

No planning history at the site.

Neighbouring site planning history of relevance –

88/04923	Erection of detached bungalow Granted conditionally
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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. The submission of amended plans were not advertised as there have been no representations received and the proposals were similar in position and scale.

Final publicity date expired 21st July 2021.

One objection has been received. A summary of the comments received is set out below:

- Impact on surface water drainage
- Restrictive covenant on the site
- Impact on residential amenity
- Out of character with the area
- Over development of the site
- Additional access with impact highway safety

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- The Coal Authority – No objection subject to condition
- KC Highways DM – *No objection subject to condition*
- KC Environmental Health: *No objection subject to condition*
- KC Trees – *No objection*

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).

Kirklees Council has adopted supplementary planning guidance on house building which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, with the general thrust of the advice aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). The SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing.

On 12/11/2019, 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 site is Unallocated within the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP11** – Housing mix
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP32** – Landscape

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th 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 14 – Meeting the challenge of climate change, flooding and coastal change

Supplementary Planning Guidance / Documents:

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Highways Design Guide SPD
- Housebuilders Design Guide SPD
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

Principle of development

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

Principle 5 of the Housebuilders Design Guide SPD states that good quality built form is supported by a strong and distinctive building line which helps create active street frontages and defines character of places. It recommends that building should front on to the street with well designed frontages and

prominent front doors and have windows which overlook the street. The proposed dwelling is located to the rear of 23 Fall Lane and therefore would not comply with this guidance. However, it is considered that this pattern of 'back land development' has already been established and is therefore a character of the area. There is an existing dwelling at 25a Fall Lane. Also the pattern of development to the East and North West is one which follows round. Therefore the pattern of development is not linear. For the reasons outlined, the proposed development of the rear garden for a single dwelling is considered to be acceptable.

The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system.

The application site is unallocated within the Kirklees Local Plan. As such Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Urban Design issues

The application site is bordered by residential dwelling which are a mixture of ages, design and materials.

The scale of the dwelling proposed is considered to be acceptable for the site location. Due to the slop of the site, the dormer bungalow design works well to not appear over dominant. The dwelling will be screened mostly from the street scene by the existing dwelling and visible only through the proposed driveway.

The proposed extension is considered to be acceptable with regards to scale and design.

The use of materials are not widely evident within the street scene, however, there is evidence of the use of render on properties along Fall Lane. Therefore, the use of render is considered to be acceptable. A condition will be added to secure suitable colour of render. The use of zinc elements for the dormer windows of the new dwelling and to frame the entrance to the existing dwelling are considered to be acceptable in these small amounts.

Design principle 12 of the housebuilders design guide SPD states that parking should not dominate frontages. The proposed parking is to the frontage of the dwellings which is broken up by lawn from the street..

A condition will be added to secure details of boundary treatments for the site.

It is considered that the development proposed is acceptable from a visual amenity perspective and is in accordance with Policies LP24 of the Kirklees Local Plan, as well as the aims of the NPPF.

Residential Amenity

A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings

The closest residential dwellings to the application site are 21 Fall Lane and 25 Fall Lane

21 Fall Lane is a detached dwelling to the North West of the existing dwelling, the rear garden of which runs parallel to the location of the proposed dwelling. There is a proposed separation distance of 3.7m from the proposed extension which is to be single storey with no proposed windows. There is therefore considered to be no impact on the level of residential amenity. The proposed dwelling has a separation distance of 26m. Although there is an increase in land levels, as the boundary is screened by mature trees and the dwelling is restricted to 1.5 storeys, there is considered to be no impact on residential amenity as a result.

25 Fall Lane is a detached dwelling to the South East of the existing dwelling the rear garden of which runs parallel to the location of the proposed dwelling. There is a separation of 5.3m from the proposed two storey extension which is separated by the proposed driveway. Due to the separation distance and angled relationship of the dwellings, there is considered to be no impact on residential amenity. The proposed new dwelling is located at a distance of 29m. Although there is an increase in land levels, as the boundary is screened by mature trees and the dwelling is restricted to 1.5 storeys, there is considered to be no impact on residential amenity as a result.

There is a proposed distance of 27m from the proposed dwelling and the existing dwelling. Both dwellings have generous private garden spaces and generous indoor living spaces.

To the North East of the proposed dwelling is a children's play area which has the potential to cause noise disturbance. A condition will therefore be added for a noise report to assess the noise source for potential impacts on residential amenity.

As such, it is considered by officers, that the development would not result in any material harm to the amenity of nearby residents and an acceptable standard of amenity would be provided for the future occupants of the development thereby according with policy LP24 of the Local Plan, in terms of residential amenity.

Highways:

The proposed new dwelling will have 4 bedrooms for which there is considered to be sufficient parking provided. The existing dwelling will also have sufficient parking with 3 spaces.

The proposed site will use a shared access that is the original access widened to allow 2-way vehicular movement. From a highway perspective it is important that the access which is shared, remains clear and available for its intended use at all times. A condition would therefore be added for details of how this would work in practice.

The proposed works to widen the access will include the removal of part of the current wall and the works for an extended dropped curb which will need to be secured under a separate S148 agreement.

A waste storage and collection point has been presented in a suitable location on the site access.

The development of the site would not compromise highway safety and would accord with the aims of policies LP21 and LP22 of the Kirklees Local Plan.

Other:

Climate change

Chapter 12 of the KLP relates to climate change and states that “Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.

A condition is recommended to secure the installation of electric vehicle charging points to serve the proposed units.

Coal Mining legacy

A Coal Mining Risk Assessment (June 2021, prepared by RGS Ltd) has been submitted to support the application. The report identifies the recorded shallow mine workings which underlie the site and confirms that there may not be sufficient rock overburden to alleviate the risk of potential subsidence. Consequently, the report recommends undertaking intrusive site investigation works. A series of conditions will be added.

Representations:

So far as the points have not been dressed above:

- Impact on surface water drainage
Response: The application site is not within a high risk flood zone. A proposed drainage scheme will be required to be passed by building control.
- Restrictive covenant on the site
Response: This is a private matter and one which the Local Planning Authority have no powers of control over.
- Impact on residential amenity
Response: The impact of the development on residential amenity is addressed fully in the above report
- Out of character with the area
Response: The impact of the development on visual amenity is addressed fully in the above report
- Over development of the site
Response: the principle of the development is addressed fully in the above report
- Additional access with impact highway safety
Response: The development will retain the original access which will be widened. There will be no new access created.

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: 2021/92116

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1, BE2, and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22 and PLP24 of the Kirklees Publication Draft Local Plan as well as the aims of the National Planning Policy Framework.

3. Samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before development commences on the superstructure of the new dwelling hereby approved. The development shall then be completed using the approved materials.

Reason: In the interest of visual amenity and to accord with the aims Policy LP24 of the Kirklees Local Plan as well as aims of Chapter 12 of the National Planning Policy Framework and key principles of the Housebuilders Design Guide SPD.

4. Prior to first occupation of the dwelling an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging point so provided shall be retained.

Reason: In the interests of promoting modes of transport with ultra-low emissions and to accord with the sustainability principles of the National Planning Policy Framework and key principles of the Housebuilders Design Guide SPD

5. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment from a coal mining features and hazards in accordance with Policy LP 53 of the Kirklees Local Plan and the Chapter 15 of the National

Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwelling.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 5 development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment from a coal mining features and hazards in accordance with Policy LP 53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwelling

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To identify and remove unacceptable risks to human health and the environment from a coal mining features and hazards in accordance Policy LP 53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwelling

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in the Phase II Intrusive Site Investigation Report is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy

Reason: To identify and remove unacceptable risks to human health and the environment from a coal mining features and hazards in accordance with Policy LP 53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised 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 the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure that unacceptable risks to human health and the environment from a coal mining features and hazards have been appropriately remediated in accordance with Policy LP 53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework

10. The development shall not be brought into use until all areas indicated to be used for parking on the approved plan(s) have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) this shall be so retained, free of obstructions and available for the use(s) specified on the submitted/listed plan(s) for the lifetime of the development.

Reason: In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements and parking and to ensure that the areas of hardstanding are appropriately drained in accordance with Policies LP21 and LP22 of the Kirklees Local Plan as well as the aims of the NPPF

11. Before construction work commences a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development eg the adjacent children's playground and recitation ground shall be submitted to and approved in writing by the Local Planning Authority.

The report shall:

- a) Determine the existing noise climate
 - b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
 - c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).
- the development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained

Reason: So as not to detract from the amenities of future occupiers by reason noise disturbance and to accord with Policy LP 24 of the Kirklees Local Plan and key principles of the Housebuilders Design Guide SPD

12. Notwithstanding the submitted plans and information, full details of all boundary treatments and retaining walls, including their height and material, shall be submitted to and approved in writing by the Local Planning Authority before development commences on the superstructure of any dwelling hereby approved. The development shall thereafter be completed in accordance with the approved details before the dwellings are first brought into use and thereafter retained.

Reason: In the interest of visual amenity and to accord with the aims of Policy LP24 of the Kirklees Local Plan as well as Chapter 12 of the National

Planning Policy Framework and key principles of the Housebuilders Design Guide SPD

13. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created within the East and West elevation of the extension hereby approved.

Reason: So as not to detract from the amenities of future occupiers and neighbouring properties by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Plan and key principles of the Housebuilders Design Guide SPD

NOTE: The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays

08.00 and 13.00 hours, Saturdays

With no working Sundays or Public Holidays In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed plans and elevations existing dwelling	2691(100)04		11.06.2021
Existing dwelling	2690 (100)02		11.06.2021
Location plan	2691 LOC		11.06.2021
Existing block plan	2961 (100)01		11.06.2021
Coal Mining Risk Assessment by Geotechnical Environmental June 2021	C1800/21/E/2782		11.06.2021

Plan Type	Reference	Version	Date Received
Proposed site sections	2691 (100) 06	C	23.11.2021
Proposed plans and elevations	2691 (100) 05	D	23.11.2021
Proposed block plan	2691 (100) 03	C	23.11.2021

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. The applicant was approached for amended plans for the proposed dwelling and to remove the detached garage.

Report Dated: 16.12.2021