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:	2021/62/92442/E
Site Address:	28, Mortimer Terrace, Healey, Batley, WF17 8BY
Description:	Erection of single and first floor extensions and front porch, and widening of driveway
Recommending Officer:	Ian Lunn

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.

Paul Dowd

AUTHORISED OFFICER

Date: 24-Sep-2021

Officer Report

Site Description

28 Mortimer Terrace is a vacant semi-detached house constructed of a combination of white rendered blockwork and vertical timber cladding, for the external walls, under a natural blue slate pitched roof. It is located at the end of a cul-de-sac approximately 150 metres to the south-west of the junction of Mortimer Terrace and Mortimer Avenue, in an area of residential development.

Description of Proposal

Planning permission is sought to construct a first-floor bedroom extension over the existing garage, which stands to the side (south-east) of the dwelling, a single storey kitchen/lounge extension to the rear (south-west) a porch to the front (north-east) and to widen the existing driveway.

It is also proposed to widen the existing vehicular access serving the property. However, Mortimer Terrace is an unclassified highway, so these works do not require formal planning permission and do not, therefore, form part of this application.

History of negotiations/amendments received

Amendments were secured to reduce the size of the proposed first floor side extension, to site the rear extension slightly further in from the boundary with 30 Mortimer Terrace than was originally proposed, and to provide adequate parking for the enlarged dwelling.

Relevant Planning History

None.

Representations

The application was advertised by sending letters to the surrounding properties. These were posted on 12th July 2021 giving 35 days to comment (14 days more than the normal 21 days in this instance due to current Covid restrictions). The publicity period has now expired, and three letters of objection have since been received. The objections are that:

a) the extensions will adversely affect the level of light received by, and will unacceptably overlook, neighbouring properties,

b) the existing parking problems in the cul-de-sac will be exacerbated during the construction works (through lorries delivering materials etc),

c) ‘mess’ caused during the construction works may transfer onto adjoining properties,

d) there would be excessive noise during the construction works, and it would be difficult to keep domestic animals secure,

e) the development would prevent the occupiers of neighbouring properties from maintaining and repairing their properties.

One local resident has asked if the side facing garage window is necessary, and whether it will be obscure glazed.

Consultation Responses

KC Environmental Health (Strategic Waste Team): Indicated that there is a closed landfill site within 250 metres of this dwelling.

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 proposals map.

Kirklees Local Plan:

LP1 Presumption in favour of sustainable development
LP21 Highways and Access
LP22 Parking
LP24 Design

House Extensions Supplementary Planning Guidance

Kirklees Council has recently adopted its supplementary planning guidance on house extensions. Although the period for a potential judicial review has not yet expired, it is now being considered in the assessment of householder planning applications, with some weight attached. 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 SPG will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the NPPF, published 20 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 15 Conserving and Enhancing the Natural Environment

Other

Highway Design Guide SPD (2019)

Assessment

The main issues for consideration in this instance are:

a) Principle
a) Visual Amenity
b) Neighbour Amenity
c) Highway Safety
d) Landfill Gas
e) Other Issues

Principle

The proposals are considered acceptable in principle. They involve the extension and alteration of a dwelling that is sustainably located within the main built-up area of Batley.

Visual Amenity

The first-floor side extension and the porch will occupy prominent positions fully visible from Mortimer Terrace. The single storey extension will occupy a secluded position to the rear of the property. This aside it is considered that, following recent revisions to the scheme, the extensions will all, on balance, appear in scale and keeping with the host dwelling and the surrounding area meeting the requirements of policy LP24 of the KLP, of chapters 12 and 15 of the NPPF and of the Council's House Extensions and Alterations SPD (2021) in visual amenity terms.

It is considered that the extensions will, on balance, appear subservient to, and in scale with, the host property. The first-floor extension is to be set back approximately 0.15 of a metre from the main front wall with the ridge line set slightly below the existing roof and it will have a width (3 metres) that will not exceed two thirds of the width of the original house (6.9 metres). It will not wholly meet the requirements of the House Extensions and Alterations SPD but it is considered that, following recent amendments, a refusal of it on scale/subservience grounds could not now reasonably be sustained. The single storey extension will be modest in size, measuring approximately 4.4

metres (rear projection) x 8.7 metres (width) x 3.8 metres (overall height) and is to be located to the rear of the house. The porch is to be located to the front of the property but will also be relatively modest in size, measuring approximately 1.6 metres (outward projection) x 2.8 metres (width) x 3.7 metres (overall height) and it will be viewed against the larger backdrop of the host dwelling.

The structures are also considered to be acceptable in design terms. The first-floor extension will incorporate a 'gabled' pitched roof that will match that of the host dwelling, and it is to be constructed of matching rendered blockwork and slate. The porch and single storey rear extension are to be similarly constructed and will each incorporate a 'lean-to' roof that will harmonise with the main roof.

The construction of the first-floor extension over the garage will effectively create a "two-storey extension" to the side of this semi-detached house. However, the property to the immediate south east (26 Mortimer Terrace) stands some eight metres away and is positioned at a 'right angle' to no. 28. Consequently, no problems of 'terracing' will ensue.

The proposal to widen the existing driveway is also considered to be acceptable in visual amenity terms in this instance. Whilst the widened driveway will be fully visible from Mortimer Terrace the existing driveway is already hard surfaced, its width is only to be slightly increased to approximately 5.5 metres, and the applicant is proposing to construct the whole of the new parking area using block paviours which are considered appropriate materials to use in this instance. Widening the driveway as proposed should also ensure that some of the front garden is retained along with part of the wall which is currently located along the remainder of the boundary fronting Mortimer Terrace.

Neighbour Amenity

a) Light

The first-floor side extension will stand approximately 8 metres from facing windows in 26 Mortimer Terrace next door. It will therefore inevitably have some effect upon the level of light that these currently receive. However, the light received by these openings is already limited to some degree by the gable and garage of no. 28 itself. Furthermore, most of them are located slightly to one side of the site of the proposed extension. In view of this it is considered, on balance, that a refusal of this application on grounds of light loss to these openings could not reasonably be sustained in this instance.

The rear extension will directly adjoin a conservatory that has been added to the rear of 30 Mortimer Terrace on the opposite side. It will therefore also inevitably affect the level of light that this currently receives. However, it is considered, on balance, that a refusal of this application on grounds of light loss to that structure could not reasonably be sustained in this instance either despite concerns to the contrary. The extension will not project any further out

than the conservatory, and it is considered that the latter will continue to receive a satisfactory supply of light through its roof and other unaffected elevations.

The new porch will project approximately 1.6 metres forward of the main front wall of the host dwelling but will stand over four metres away from the nearest 'habitable room' window within no. 30 next door. It will not therefore intersect an imaginary '45' degree line should this be drawn from the centre of that opening, and consequently will not significantly affect the level of light that it receives.

It is not envisaged that the proposals will unduly affect light to any other of the surrounding properties. The extensions will all stand a minimum of 13 metres away from the next nearest potentially affected dwelling (32 Mortimer Terrace which lies to the immediate west of this property).

a) Overlooking

The proposals will not give rise to unacceptable overlooking of the neighbouring properties either despite concerns to the contrary. All windows and doors to be installed within the extensions will either be installed at 'high level' (the roof lights) will face a 1.8 metre fence located along the side (south-eastern) boundary of the host property, the rear garden boundary at a distance of over 13 metres, or Mortimer Terrace itself. A side facing ground floor garage window is shown on the plans directly facing 26 Mortimer Terrace. However, the applicant has indicated that this already exists, is obscure glazed and will continue to give light to the garage (a 'non-habitable' space).

b) Overdevelopment

The proposals will not lead to more than 50% of the property curtilage (excluding the land on which the 'original' dwelling currently stands) from being built upon. Consequently, they will not lead to the overdevelopment of the plot.

In view of the above it is considered, on balance, that the proposals will meet the requirements of policy LP24 of the KLP and the requirements of the Council's House Extensions and Alterations SPD (2021) in neighbour amenity terms.

Highway Safety

The proposals will lead to the creation of a dwelling with four bedrooms. Consequently, three associated 'off-street' car parking spaces will need to be provided. Three spaces are proposed, one within the existing garage and the other two on the newly widened driveway in front. In view of this the proposals are considered acceptable in parking terms.

It is not currently possible to turn vehicles around within the property curtilage nor would it be possible to provide a satisfactory 'on-site' turning facility given the space available. However, this should not lead to any undue highway safety concerns in this instance as the property is located at the end of a cul-de-sac which is unlikely to be experiencing substantial vehicular use and where vehicles are unlikely to be travelling very quickly.

The existing vehicular access serving the property is to be widened to allow vehicles satisfactory access to and from the enlarged parking area. This proposal is also considered to be acceptable as it is considered that the widened access will continue to allow vehicles safe access to and from the adjoining road.

For the record the development will not obstruct the 'line' of Public Footpath Number BAT/25/50 which in part 'runs' along Mortimer Terrace in front of the property. Furthermore, it is considered that the development will not significantly affect the setting of that footway in this instance. In coming to the latter view consideration has been given to the fact that:

a) the footpath does not appear to 'run' directly in front of this property (see details on 'Kompass'),

a) the extensions will be set back over 12 metres from the 'line' of that footpath and there is no public vantage point from which they will be seen against the backdrop of that footway, and

b) the works to be carried out immediately adjacent to the footpath adjoining this property (which as indicated above does not appear to form part of the public right of way itself) will be very minor amounting to a slight widening of the existing driveway.

In view of the above it is considered that the proposals will be acceptable in highway safety terms reasonably satisfying the requirements of policies LP21 and LP22 of the KLP, and of the House Extensions and Alterations SPD (2021) and Highway Design Guide SPD (2019), in this regard.

Landfill Gas

The Council's Environmental Health (Strategic Waste Team) have indicated that this property lies within 250 metres of a closed landfill site. However, it is understood that this is currently generating negligible levels of landfill gas so it seems unlikely that this will pose a significant risk to future occupiers of the development. If suitable protective measures are considered necessary to safeguard the occupants these can reasonably be required to be provided under the terms of the current Building Regulations.

Other Issues

The objections raised in respect of this development, as outlined in the 'Representations' section above, have been partly considered earlier in this report. The rest are addressed below:

a) whilst it is accepted that there would inevitably be some noise and disturbance (including some highway disruption) whilst the development was being constructed this would only be for a relatively short period and a planning application could not reasonably be refused on such grounds.

a) concern that development may prevent the occupiers of neighbouring dwellings from satisfactorily maintaining and/or repairing their properties cannot be taken into consideration when determining a planning application as it is not currently a recognised 'planning matter'. However, if a neighbouring occupant is able to prove that a development would take away a legal right of access that they currently have to undertake such works it may not be possible to construct it wholly in its approved form. For the record since the receipt of the objections the scheme has been amended showing the rear extension repositioned very slightly further away from the boundary with 30 Mortimer Terrace.

Conclusion

The proposals are considered acceptable in principle seeking approval to extend and alter an existing sustainably located dwelling. It is also considered, subject to the imposition of appropriate conditions, that the development would, on balance, reasonably safeguard the visual amenity of the area, the amenities of surrounding properties and highway safety. The proposals are therefore considered to be in accordance with the requirements of policies LP1, LP21, LP22 and LP24 of the KLP, chapters 12 and 15 of the NPPF and the provisions of the House Extensions and Alterations SPD (2021) and Highway Design Guide SPD (2019).

Recommendation: Approve

Decision Authorisation - Delegated Powers
Application Number: 2021/92442
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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP21, LP22 and LP24 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and the provisions of the House Extensions and Alterations SPD (2021) and Highway Design Guide SPD (2019).

3. The materials to be used in the construction of the external walls and roofs of the proposed extensions shall match in type, colour, texture, and shall be laid in a manner to match, those used in the construction of the external walls and roof of the host dwelling.
Reason: In the interests of visual amenity, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and the requirements of the House Extensions and Alterations SPD (2021).

4. The parking area shown on approved drawing number 2021–28-MT-02 Rev A shall be constructed using block paviours and, along with the garage, made available for the parking of vehicles before the enlarged dwelling is first occupied. These works shall include measures to ensure that surface water does not drain onto the adjoining highway. The new parking spaces/existing garage shall thereafter be retained at all times solely for the parking of vehicles in conjunction with the enlarged dwelling.
Reason: In the interests of visual amenity and highway safety, in accordance with the requirements of Policies LP21, LP22 and LP24 of the Kirklees Local Plan, Chapters 12 and 15 of the National Planning Policy Framework and the requirements of the House Extensions and Alterations SPD (2021) and Highway Design Guide SPD (2019).

5. The boundary wall, located along the front (north-eastern) boundary of the property adjoining Mortimer Terrace, shall be retained at all times at its current height with the exception of the portion that will need to be removed to allow for the widening of the driveway.
Reason: In the interests of visual amenity, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan, Chapters 12 and 15 of

the National Planning Policy Framework and the requirements of the House Extensions and Alterations SPD (2021).

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any subsequent legislation revoking or superseding that Order, no windows, doors or other openings shall, at any time, be formed within the side (south-eastern facing) elevation of the proposed first floor extension or the side (north-western facing) elevations of the proposed porch and single storey extension. **Reason:** To safeguard the privacy of the occupiers of the 26 and 30 Mortimer Terrace, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan and the provisions of the Council's House Extensions and Alterations SPD (2021).

NOTE: Please note that in to extend the existing 'dropped kerb' you will need to obtain the formal approval of the Council's Highways Service. They can be contacted on (01484) 456868.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	2021-28-MT-01		15/06/21
Existing and Proposed Site Layout Plans, Floor Plans and Elevations	2021–28-MT-02	A	16/09/21

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 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 and agent in dealing with the application. As a result of the latter, amendments have been secured and these have led to the recommendation of approval.

Development within a Coal Mining Area

DEVELOPMENT HIGH RISK AREA - INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:
www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Report Dated:	20.09.21