

**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: 2021/62/92983/W

Site Address: Among Balay, 24, Gynn Lane, Honley, Holmfirth, HD9 6LF

Description: Erection of single storey rear extension and external alterations

Recommending Officer: Laura Yeadon

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.

John Holmes

AUTHORISED OFFICER

Date: 03-Nov-2021

Officer Report

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92983>

Site Description

Among Balay, 24 Gynn Lane is a detached two storey property located within an area without notation on the Kirklees Local Plan. The property is constructed from stone with an artificial stone roof. To the front of the property is a paved driveway and small garden area and to the rear is a patio and lawned garden. Accessed via the driveway is an integral garage. Boundary screening consists of hedging, fencing and trees. Surrounding development is predominantly residential with the properties along Gynn Lane being mainly detached with a row of terraced dwellings to the rear of the site.

Description of Proposal

Permission is sought for the erection of a single storey rear extension and external alterations.

Single storey rear extension

The proposed single storey extension would be located on the rear elevation of the property set in from the side elevation facing No. 22 by 5.2 metres and from the side elevation facing No. 26 by 2.7 metres. The extension itself would project a total of 3 metres from the rear elevation of the property and would be a total width of 4 metres with an eaves height of 2.5 metres and overall height of 3.7 metres to the ridge of the pitched roof. The proposed construction materials are natural stone and oak frames for the walls and artificial stone slates for the roof.

External alterations

The proposed external alterations within the site would be new 1.8 metre high timber fence along the shared boundary with No. 22 and a new low level garden wall (0.4 metres in height) to retain the levelling of the garden.

History of negotiations/amendments received

Initial comments from the Council's Lead Local Flood Authority (LLFA) raised concerns with the proposed development due to an existing culvert and the location of the proposed extension. Following the submission of further details and surveying information sought by the LLFA, the objection has been removed and the scheme now supported.

Relevant Planning History

- 1994/90747 Outline application for residential development
Refused – appeal upheld
- 1998/92197 Erection of 10 no. dwellings with integral garages
Approval of reserved matters
- 2000/93725 Erection of 4 detached dwellings (modified proposal)
Conditional Full Permission

Representations

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

Final publicity date expired 1st September 2021 – one letter of representation received with the following being a summary of comments:

- Part 6 of the application site states that there will be no trees or hedges removed which is true of the extension but not for the fencing some of which is outside of the site ownership
- Appears the extension will be on a higher ground level than the existing ground level and concerned about intrusion from windows and doors
- Concerned regarding construction and height of fence above the retaining wall
- Red line drawn on plan differs to that at the time of purchase
- Not accepting of wall being built on the boundary as would result in disruption to hedgerow and existing fence and if the existing fence is removed the garden would no longer be secure
- Not in agreement to the boundary wall as the wall is already 0.7 metres and adding a further 1.8 metres would affect light and create a narrow passage which could be an issue for remedial maintenance
- Culvert runs through the top of the garden
- Request that works for fencing and retaining wall is done within the applicant land

Holme Valley Parish Council – support the application

Consultation Responses

K.C. Lead Local Flood Authority – initial comments objected to the scheme, following receipt of a CCTV drainage survey the objection is removed

K.C. Environmental Health – conditions relating contaminated land request and notes added in relation to construction times and noise pollution

Policy

The site is without notation on the Kirklees Local Plan. The site does fall within an area with a known presence of bats and twite birds, an area with

potential to have contaminated land, and an area at risk of ground movement as a result of former mining activity as identified by the Coal Authority.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 24 – Design
- LP 28 -Drainage
- LP 30 – Biodiversity and geodiversity
- LP 53 – Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21st July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- 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

Holme Valley Neighbourhood Plan

The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, this will take place in November 2021, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021).

- Policy 2 – Protecting and enhancing the Built Character of the Holme Valley and Promoting High Quality Design.

The application site is within Landscape Character LCA7 – River Holme Wooded Valley

Key characteristics of the area include stone boundary walls being common features and also glimpsed views towards the wider landscape between built form and one of the key built characteristics of the area are settlements characterised by a close association between built form and landscape.

Supplementary Planning Document

- House Extensions and Alterations Supplementary Planning Document (June 2021)

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

Legislation

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).

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

1 – 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 National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

In this case, it can be stated the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity and highway safety.

2 – Impact on visual amenity:

Policy 1 of the Holme Valley Neighbourhood Plan (HVNP) sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA 7, detailed in the 'Policies' section of this report)

Policy 2 of the HVNP states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

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

With regard to the House Extensions and Alterations SPD and single storey rear extensions, these should:

- be in keeping with the scale and style of the original house;
- not normally cover more than half the total area around the original house (including previous extensions and outbuildings);
- not exceed 4 metres in height; not project out more than 3 metres from the rear wall of the original house for semi-detached and terraces houses or by 4 metres for detached properties;
- where they exceed 3m in length the eaves height should generally not exceed 2.5 meters; and
- retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge

The property no permitted development rights as these were removed for buildings and extensions to be constructed under Condition 8 of planning application 2000/93725 which granted consent for the dwelling. The reason for imposing the condition was to endure that unsatisfactory extensions do not result in close overlooking of adjoining property.

It is proposed that a single storey extension would be constructed on the rear elevation of the property and therefore would have little impact on the visual amenity of the street scene.

Given that the structure is single storey in height and the property is two storeys, the extension would be clearly subservient to the host dwelling which would accord with Policy LP24 and the supporting House Extensions and Alterations SPD. The materials would match and it is considered that the size, scale and massing is acceptable, not resulting in an overdevelopment of the site. It is recommended any grant of permission is subject to condition requiring the materials of construction to match those of the host property.

A 1.8 metre high fence would also be erected on the side boundary of the site. It is noted that a condition on 2000/93725 application specified the following:

(5) No development shall take place until details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls have been approved in writing by the Local Planning Authority. (Screening shall be 2 metres in height). The approved walls/fences shall be erected before the development hereby approved is occupied/brought into use and shall thereafter be maintained.

The reason for imposing the condition was' In the interest of visual amenity'

Whilst the fence would be less than the 2 metres which is conditioned, with specific regard to visual amenity, 1.8 metre high fencing would be visually acceptable in this instance and a typical residential boundary treatment.

It is therefore considered that the proposal is considered acceptable from a visual amenity perspective and would comply with both local and national policy, the Holme Valley Neighbourhood Plan and the Council's adopted House Extensions and Alterations SPD.

3 – Impact on residential amenity:

Policy 2 of the HVNP sets out that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings and prevent or reduce pollution as a result of noise, odour, light and other causes. Light pollution should be minimised and security lighting must be appropriate, unobtrusive and energy efficient.

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing

Due to topography, the adjacent property No. 22 is set on a lower ground level than the application site and No. 26 is set on higher ground level. Existing and proposed site levels have been indicated on the submitted plans

and the proposed extension would be on the same ground level as the existing land. The extension is set in from both side elevations of the property and due to the existing screening in situ along with the proposed fence height, it is not considered that there would be material harm from overshadowing, overlooking or oppressiveness / overbearing impact.

In terms of the impact from the proposed boundary treatments it is proposed that the ground levels would be increased along the area close to the boundary with No. 22 and a 1.8 metre high fence installed. There would be an increase of between 0.4 metres and 0.5 metres to level off the garden. Given the fence above this would be limited to 1.8 metres it is not considered that the impact would be so significant to the neighbouring property in terms of being overbearing that there would be sufficient justification to refuse the application on this basis. In addition, the proposed fence would be located to the north-east of the application site and therefore it is not anticipated that there would be a significant loss of direct sunlight.

The proposal would comply with the SPD in terms of the requirements for single storey rear extensions and the proposed boundary screening is also considered to be acceptable, in accordance with Policy LP24 of the Kirklees Local Plan and advice within the NPPF.

4 – Impact on highway safety:

None

5 – Other matters:

Climate Change - On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. No specific mitigation measures are required in this instance.

Bats – the application site is within a 'Bat Alert' layer on the Council's GIS system.

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Whilst formal comments have not been received from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. 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.

Contaminated land – With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development. The site has been identified on the Council's mapping system as potentially contaminated due to its use as a Mill and therefore Environmental Services have requested that conditions be attached to the decision notice in relation to the reporting of unexpected contamination during the construction process.

Boundary screening – it is noted that the application form states that no trees or hedges on the property are within falling distance of the proposed development. It is noted that there are a number of hedges and trees along the shared boundary which could be impacted on by the proposed fence. Whilst planning permission may not be required for any removal of these elements it is the land owners responsibility to ensure that the works carried out are legal.

Drainage – the Council's mapping system indicates that there is a culvert running through the garden area of the application site. The LLFA were formally consulted and due to the proximity of the watercourse, objected to the proposal. Following on from information being submitted and also the LLFA obtaining CCTV survey, it is not considered that the works would suggest a dangerous encroachment. As such, the objection has been withdrawn and the proposals supported.

6 – Representations:

One letter of representation was received with the following being a summary of comments and LPA response:

- Part 6 of the application site states that there will be no trees or hedges removed which is true of the extension but not for the fencing some of which is outside of the site ownership

Response: This has been addressed above. A note can also be attached to the decision notice highlighting that the planning permission does not override private rights of ownership

- Appears the extension will be on a higher ground level than the existing ground level and concerned about intrusion from windows and doors

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

- Concerned regarding construction and height of fence above the retaining wall

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

- Red line drawn on plan differs to that at the time of purchase

Response: The red line boundary of the site appears to be the same as the Land Registry records held on the Council's mapping system

- Not accepting of wall being built on the boundary as would result in disruption to hedgerow and existing fence and if the existing fence is removed the garden would no longer be secure

Response: This is a private matter and not a matter the Local Planning Authority can address

- Not in agreement to the boundary wall as the wall is already 0.7 metres and adding a further 1.8 metres would affect light and create a narrow passage which could be an issue for remedial maintenance

Response: The height of the fence and the impact on the neighbouring property has been addressed within this report. Access for maintenance is not a material planning consideration

- Culvert runs through the top of the garden

Response: The Lead Local Flood Authority were formally consulted as part of the application process and whilst initial concerns were raised, the objection has since been withdrawn

- Request that works for fencing and retaining wall is done within the applicant land

Response: Works should be contained and carried out within the application site. Any works carried out outside of the ownership of the land owner would require the legal right to do this. A note shall be added to the decision notice indicating this information.

7 – 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:

Officer Recommendation: Approve

Conditions

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 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 LP1, LP2, LP21, LP22, LP24, LP30 and 53 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6 and 7 of the Council's adopted House Extensions & Alterations SPD, Policy 2 of the Holme Valley Neighbourhood Plan and Policies within Chapters 2, 12, 14 and 15 of the National Planning Policy Framework.

3. The external walling 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 Policy LP24 of the Kirklees Local Plan Principles 1 & 2 of the Council's adopted House Extensions & Alterations SPD Policy 2 of the Holme Valley Neighbourhood Plan and Policies within Chapter 12 of the National Planning Policy Framework.

4. 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 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 on site 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. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the whole 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 identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the policies within Chapter 15 of the National Planning Policy Framework.

Note: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership

NOTE Please note that it is the developer and/or land owner's responsibility to secure a safe development in relation to land stability.

NOTE: The Council's GIS system indicates that a bat roost 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.

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 13.00hours, Saturdays

With no noisy activities on Sundays or Public Holidays

NOTE Footnote 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	Version	Date Received
Location plan	1022 – 03		26 th July 2021
Block plan	1022 – 04		26 th July 2021
Existing elevations and ground floor plan	1022 – 01		26 th July 2021
Proposed elevations and ground floor plan	1022 – 02B		26 th July 2021
Culvert Plan	1022 - 05		30 th September 2021
Culver on Kirklees Drainage Asset Map			7 th September 2021

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as it was considered that the proposal was acceptable as submitted.

Report Dated: 3rd November 2021

Coal – high