# 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: | **2022/62/90013/E** |
| Site Address: | 5, Lane Hackings Green, Lower Cumberworth, Huddersfield, HD8 8PW |
| Description: | Erection of raised terrace and steps |
| Recommending Officer: | Katie Wilson |

**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.**

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 28-Feb-2023**

# Officer Report – 2022/90013

## Site Description

The application site is 5, Lane Hackings Green, Lower Cumberworth. It comprises a detached bungalow, thought to date from the 1980's with flat roofed single garage attached to the side. The walls are natural stone to the front with dark brown brickwork elsewhere and the roof is dual pitched with ridge running on front to back axis and surfaced in brown/grey concrete tiles. There is a small garden to the front with driveway to the side and footpath / steps down the side of the garage linking front and rear gardens.

The dwelling is built on land that slopes from south west (higher level) to north east (lower level) so at the rear there is a drop of approximately 1.8m from base of patio doors in the rear elevation to ground level of the garden. There is an existing raised patio and steps at the rear, and the lower level garden slopes gently down and away from the base of the raised patio, tapering to a point and enclosed by fencing around 2.0m high with neighbouring gardens to all sides.

## Description of Proposal

Erection of raised terrace and steps.

Raised terrace immediately to rear of house, same location as existing raised terrace.

- Roughly rectangular footprint 2.0m x 6.2m wide with indent following garden boundary with 3, Lane Hackings Green.
- Floor of terrace around 1.8m above garden ground level.
- Balustrade approximately 1.0m high around front perimeter of raised terrace.
- Floor of terrace flagged.
- Existing steps removed and replaced by new set of flagged steps with handrail either side, in different position at 90 degrees to the front of the flagged terrace, and off set from the boundary fence with 3, Lane Hackings Green approximately 1.8m
- 1.2m wide flagged path around base of the steps and linking to path at side of building.
- New1.8m high boundary fence to neighbour at 3, Lane Hackings Green.

The application follows enforcement complaint relating to existing raised platform.

## History of negotiations/amendments received.

Amendments were secured to minimise overlooking to neighbouring property at 3, Lane Hackings Green. These are shown on dwg no. 01 rev A

**Relevant Planning History**

At the application site:

COMP/21/0177 – general investigation of alleged unauthorised high platform

3, Lane Hackings Green:

2003/94551 – erection of two storey extensions to side and rear. Refused.
Planning application details | Kirklees Council

18/93502 – Prior notification for single storey rear extension. Prior approval not required.
Planning application details | Kirklees Council

**Representations**
**Final publicity date Expires:** 1st March 2022. One representation received. Further round of publicity for amended plans ended 10th February 2023. No further representations received.

Points made in representation:

- Overlooking impact from raised platform over neighbours garden at 3, Lane Hackings Green.

Denby Dale Parish Council comments: No objections

**Consultation Responses**

K C Strategic Waste: one closed landfill within 250m of application address. A small site accepted builders' waste to level up a low point in a field to depth of 1.5m. Shallow spike surveys for LFG in 2003 produced values of:- CH4 – 0.1% v/v and Co2 – 0.2% v/v.

**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).

The site is unallocated on the Kirklees Local Plan.

**Kirklees Local Plan (LP):**

- **LP 1** – Achieving sustainable development

- **LP 2** – Place shaping
- **LP 21** – Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design

**Supplementary Planning Documents:**

Highways Design Guide SPD (2019)

House Extensions and Alterations SPD

The Kirklees House Extension and Alterations SPD, adopted on 29 June 2021, has been prepared to help householders, developers, agents and architects who are planning and designing an extension or alterations (householder development) to an existing residential property, including conservatories and outbuildings, such as garages. It provides detailed guidance regarding the standard of development that will help achieve a well-designed house extension or alteration required by the Council.

**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.

**Assessment**

The following matters are considered in the assessment below –

1) Principle of development
2) Impact on visual amenity (including any heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction

with the House Extension SPD and Chapter 12 of the NPPF, regarding design.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

It is noted that the application follows enforcement complaint regarding alleged unauthorised high platform.

2 –Impact on visual amenity:

The properties on Lane Hackings Green are residential with some diversity in terms of age and style. Dependent upon design, scale and detailing, it may be acceptable to extend the host property to form a raised decking area.

Key Design Principle 1 of the House Extensions & Alterations supplementary planning document (SPD) does state that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the HESPD goes onto state that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.

Detailed guidance for balconies is also given in the House Extensions an Alterations SPD stating that:

Balconies and roof terraces on existing buildings should not negatively affect neighbouring properties or alter the local character of the area. Balconies and roof terraces should be:

- Positioned, and screened if required, so that they do not overlook neighbouring homes or gardens.
- Sited away from locations that are sensitive to additional noise levels or disruption.

In terms of impact upon visual amenity, it is considered that the scale of the proposed raised terrace would be modest when compared to the footprint of the host building. Its height would also be restricted to roughly the finished floor level of the bungalow and it would be directly at the back of the building. As such it is considered that it would have no impact upon the street-scene as is would be significantly screened by the house at the application site together with surrounding buildings.

The external materials of flags for the base of the terrace and steps, is also considered appropriate for a domestic extension. As are the proposed balustrade and boundary fence.

Having taken the above into account, it is considered that the proposals would not cause any significant harm to the visual amenity of either the host dwelling

or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the raised patio and steps would form a subservient addition to the property in keeping with the existing building, KDP 1 & 2, together with detailed guidance on balconies, in the House Extension and Alterations Supplementary Design Guide and the aims of chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Policy LP24, part c, goes on to stipulates that extensions should *minimise the impact on residential amenity of future and neighbouring occupiers*.

Key design principles 3 (privacy), 5 (overshadowing/loss of light), 6 (preventing overbearing impact) and 7 (outdoor space) of the Kirklees householder extensions SPD expand upon LP24 and are discussed below.

In this instance, there would be two households potentially affected by the proposals; these are addressed as follows:

*3, Lane Hackings Green* – this is an earlier semi-detached house with natural stone walls. It is 2-storeys to the front and 3-storeys at the back, and it has a single storey extension at the rear. It is located to the west of the application site and its footprint is further forward than that at the application site. It also has a relatively generously proportioned side and rear garden with eastern boundary shared with the application site. There is a 90 degree dog-leg in this boundary (approximately mid-way along) and a flat roofed single storey outbuilding is positioned there within the garden of 3, Lane Hackings Green, close to the mutual boundary and its roof is approximately the same level as the floor of the proposed raised patio.

In terms of privacy, the proposal includes a new 1.8m high boundary fence along the mutual boundary and around the western side of the raised terrace. It is considered that this would provide effective screening to prevent overlooking the flat roofed outbuilding and bottom section of the garden at 3, Lane Hackings. During the course of assessment, the position of the external steps has been altered from adjacent to the mutual boundary to set in approximately 1.8m. It is considered that this together with the proposed new 1.8m high fencing along the mutual boundary would provide mitigation to prevent undue overlooking. This is considered compliant with detailed guidance for balconies given in the house extensions SPD.

Regarding overshadowing and overbearing impacts, the floor level of the proposed terrace would be roughly the same as the flat roof of the neighbours outbuilding and as such it is considered that it would have no significant impact of this nature. The proposed fencing may cast some additional shade, but in officers' opinion this is likely to be restricted to the bottom part of the garden and have very limited effect upon the outlook from windows at 3, Lane Hackings Green.

*7, Lane Hackings Green* – This is a similar detached bungalow located to the east of the application site. The properties staggered footprints and parallel facing side elevations which overlap to a significant degree.

In terms of overlooking, there is a window in the side elevation of 7, Lane Hackings Green, close to the mutual boundary where there is a low fence. Part of the window protrudes beyond the rear elevation of 5, Lane Hackings Green and looks directly onto the back garden.

The proposed terrace would be attached to the side of an integral garage at the application site, and it would project no further. As such there would be no direct overlooking, and the massing of the garage would screen much of the proposed terrace from the facing window at 7, Lane Hackings Green

The proposed steps would be more exposed, but they would be set in from the overlooking window approximately 6.0m and people are unlikely to pause on the steps for extended periods of time. As such it is considered that the overlooking impacts would be relatively small.

In relation to overshadowing and overbearing impact, the proposed terrace and steps would be at the finished floor level of the existing bungalow and project no further than the existing garage. As such it is considered that there would be no significant overshadowing or overbearing effect.

*10, Shelley Woodhouse Lane* – This is a relatively recently built detached bungalow with rooms in the roofspace. It is located to the north west of the application site and the raised platform would be approximately 17.5m away from the nearest part of this neighbouring dwelling.

In terms of overlooking, the south elevation of this neighbouring property contains habitable room windows, but there would be a slightly indirect relationship between the proposed raised platform and these windows. Furthermore there is tall fencing and high evergreen hedging along the boundary, together with the separation distance described above. It is therefore considered that there would be very limited overlooking impact.

Regarding overshadowing and overbearing, given the separation distance and that the proposed platform would be relatively low, it is considered that there would be no impacts of this nature.

With regards to Key Design Principle 7 - Outdoor space. Extensions and alterations should ensure an appropriately size and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals. In this proposal, the garden area would be reduced by less than a quarter and so it is considered that an appropriate sized garden would be retained.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding

neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extension SPD and design details for balconies given in the same document, and Paragraph 130 (f) of the National Planning Policy Framework.

4 – Impact on highway safety:

It is considered that the proposals would result in very limited intensification of the domestic use. It would not affect the existing parking arrangements at the site, nor would it requite additional parking spaces as a result of the proposal.

Furthermore, bin storage for the dwelling would not be moved as part of the proposals. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

5 – Other matters:

*Carbon Budget*

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 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

Landfill Gas

The application site is located within 250m of a closed landfill site.

Strategic Waste officers were consulted and commented that the closed landfill site was a small site accepted builders' waste to level up a low point in a field to depth of 1.5m. Shallow spike surveys for LFG in 2003 produced values of:- CH4 – 0.1% v/v and Co2 – 0.2% v/v.

Bearing in mind the distance from the site and a number of other houses inbetween, it is considered that in this instance landfill gas measures are not required. However, it is recommended that a precautionary footnote is added to the decision notice.

The proposal therefore complies with the aims of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

6 – Representations:

One representation received. Points made in representation:

- Overlooking impact from raised platform over neighbours garden at 3, Lane Hackings Green.
  **Response:** This has been assessed in section 3, above and found to be acceptable.

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**: 2022/90013
**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 Policy LP24 of the Kirklees Local Plan, Key Design Principles of the House Extension Supplementary Planning Document and the aims of the National Planning Policy Framework.

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

**FOOTNOTE:**
The applicant is hereby advised that the site lies within 250m of a former closed landfill site. Shallow spike surveys for LFG in 2003 produced values of:- CH4 – 0.1% v/v and Co2 – 0.2% v/v. Other development lies between the former landfill and application site and it is considered unlikely that methane would be able to migrate this distance in sufficient quantities to present a hazard. Nevertheless, as a precaution it is advised that the applicant should consider carrying out landfill gas monitoring prior to development to establish whether landfill gas levels are present. In the event significant levels are discovered appropriate mitigation measures shall be included in carrying out the development to protect against hazard caused by landfill gas migration.

**NOTE**: Due to its location, 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 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**: 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 may control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location plan | | | 04.01.2022 |
| Existing and proposed plans and elevations | Dwg no. 02 | Rev A | 25.01.2023 |

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.

Amendments were secured to minimise overlooking to neighbouring property at 3, Lane Hackings Green. These are shown on dwg no. 01 rev A.

**Report Dated:** 28.02.2023