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:	**2022/62/90191/W**
Site Address:	410, Birkby Road, Birkby, Huddersfield, HD2 2DN
Description:	Extension and alterations to existing garage / office building to create dwelling forming annexe associated with 410, Birkby Road, Birkby, Huddersfield, HD2 2DN
Recommending Officer:	Neil Bearcroft

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.

Julia Steadman

AUTHORISED OFFICER

Date: 22/04/2022

Application: 2022/90191

Site: 410 Birkby Road, Huddersfield

Proposal: Extension and alterations to existing garage / office building to create dwelling forming annexe associated with 410, Birkby Road, Birkby, Huddersfield, HD2 2DN

Site Description

The application site forms an existing garage within the grounds of 410 Birkby Road which is in the process of being reconstructed. A bank of protected trees is located to the east of no. 410 with further protected trees to the north and west. Access is taken from a private drive that leads to Birkby Road that serves a number of other dwellings.
Surrounding the site to the south is a church and associated car park, to the east the rear of properties off Valley Head, a residential cul de sac. To the west is the housing allocation HS35 and the existing dwellings off Westward Croft. To the north is a protected woodland. Stone is the predominant construction material in the local area and detached dwellings the most common form of property type.

Description of Proposal

The proposal seeks extension and alterations to existing garage / office building to create dwelling forming annexe. The extensions include raising the roof of the building by 0.6 metres increasing the pitch and the replacement of the double garage door with a new window and door and the replacement of the single garage door with a window on the northern elevation.

On the eastern elevation a set of bifold doors would be introduced along with two roof lights along with two new windows on the western elevation and a roof light and 3 openings on the southern elevation.

Internally two bedrooms and a bathroom would be provided at first floor along with a living room and a kitchen dinning area, utility and WC at ground floor level.

The annex would provide accommodation associated with 410 Birkby Road.

History of Negotiations

The application initially proposed was considered to be too large for an annex, and a reduced scheme was requested by officers. After the submission of two amended plans an acceptable scheme was submitted, for the reasons set out in the main assessment below.

Relevant Planning History

Application Site

Planning Application History

2021/91239 - Demolition of existing dwellings and garage and erection of two detached dwellings - Approved
2013/90996 - Erection of detached garage with storage space and office above – Approved

Representations

The application was advertised by site neighbour letter. Final publicity date expired: 10 March 2022, 14 representations were received from 7 individuals, making comments on both the original scheme and the amended scheme. The amended scheme was not amended as it represented a reduced scheme.

A summary of the planning related objections to this application are as follows:

- The proposal will lead to an intensification of use of an existing access track leading to a 7th dwelling being accessed from the lane where a maximum of only 5 dwelling should use such an access. The proposal should be assessed in the context of all other approvals for access off the lane. The proposal would therefore in turn be detrimental to highway safety as it would add extra movements to its junction with Birkby Road which is close to the busy junction with Halifax Road which experiences queuing. Waiting vehicles to leave will prevent others from entering the land causing additional queues and there are no passing places along the access. The proposal would lead to 32 bedrooms being accessed off the lane which is the same as 8 4 bedroom dwellings.
- A covenant on the land restrict the access to being used by only 2 dwellings, the proposal would make 3.
- A large 2 bedroom dwelling is being applied for and not an annex and extensions proposed make the building too large for an annex. How can it operate ancillary when it is separated from the main dwelling and it is unclear how garden space and bin and parking arrangements will work.
- The proposal would be an overdevelopment of the site as two households are going to live in the annex and the annex will be adjacent to two large dwellings that had to be reduced in scale when applied for.
- A TPO has been lost to facilitate the development and should be replaced. Furthermore no more trees at the site should be lost. The application form is inaccurate to state there are none as there are trees and a hedge in the local area.
- The submitted tree report should not be relied on as it relates to a the development of the two dwellings.

- The building subject to this application has not been constructed in accordance with the plans original approved in 2013 and is larger than what was approved. Planning enforcement action should take place and no further extensions should be allowed by the current application. The 2013 permission also preventing any additional windows being installed to protect amenity, this issue remains.
- The proposal will lead to additional light pollution in the local area.
- Any additional extraction of material at the site should be taken and not dumped around the site.
- The removal of the extension does not overcome the concerns previously raised, the previous points remain.

It is noted that some comments make reference to the works on going to construct the two dwellings approved by 2021/91239, comments made in relation to this development are not relevant to this planning application and have therefore not been included in the summary. They are a matter for a planning enforcement investigation.

Consultation Responses

- **KC Trees**: No Objection

Planning Policy

Kirklees Local Plan (KLP)

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 LP Policies Map.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP21** – Highway safety and access
- **LP22** – Parking Provision
- **LP24** – Design
- **LP30** – Biodiversity and Geodiversity
- **LP33** – Trees

Supplementary Planning Documents (SPDs)

- House Extensions and Alterations SPD

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 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- 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

Assessment

The site represents unallocated land on the Local Plan and therefore policies LP1 and 2 apply which support sustainable development and seek to ensure that new developments protect and enhance the quality's which contribute to the character of an area. The proposal would lead to the formation of annex associated with the adjacent dwelling by the conversion and extension of an existing building.

The principle of developing the site is considered to be acceptable subject to assessment of design, residential amenity, highway safety, ecology and all other material planning considerations and representations received.

Background

The building subject to extension and conversion was approved by application 2013/90996. It is noted that the building does not appear to have been built in accordance with the approved plans, having a higher eaves at 0.7m more, being slightly wider at 0.6m more and slightly deeper at 0.8m more. However, it has been in place for over 4 years and is therefore now exempt from any action. Therefore, the building as currently seen on site has to be assessed.

Design

General design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. The House Extensions and Alterations SPD needs to be considered as it forms an annex to the main dwellinghouse, Key Design Principles 1 and 2 are relevant which state:

- Principle 1 – 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.”
- Principle 2 – 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 detail.”

Section 5.6 specifically covers outbuildings advising that outbuildings can have the same impact as any other extension and therefore they need to be carefully designed, setting out that outbuildings should normally:

- be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings;
- be set back behind the building line of the original building so that they do not impact on the street scene; and
- preserve a reasonable private amenity space appropriate to the potential number of occupants of the house and follow a general principle that no more than 50% of garden space should be lost.

The existing outbuilding already exists and has a simple architectural form. The alterations to the building are relatively modest with only a slight increase in overall height, the filling in of the existing garage door openings and the insertion of the new window and door openings. The existing footprint would be retained. The alterations to the existing building are considered to be in keeping with the existing building and the window proportions are considered to be appropriate and acceptable. Whilst it is noted that the building is in front of the principle elevation and not according with the guidance set out in section 5.6 of the SPD, given that it already exists and there are only minor changes to the building itself, there is no objection to the reuse of the building for an annex. Furthermore, the wider site is located down a private lane which is not highly visible within a street scene further reducing its visual impact. Its scale ensures that not more than 50% of the garden space is developed meeting the criteria in section 5.6 of the SPD.

Subject to a condition ensuring that appropriate materials used for the infilling of sections of the garage door openings match the existing and its use being conditioned to be subservient to the main dwelling the proposal is considered to be of an acceptable design. According with Policy LP24 of the Local Plan, the Extensions and Alterations SPD and Chapter 12 of the NPPF.

Residential Amenity

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to “*provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.*”

The House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposals impact on residential amenity, which state:

- Principle 3 - that “extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours.”
- Principle 4 - that “extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light, and outlook.”
- Principle 5 - that “extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.”
- Principle 6 - that "extensions and alterations should not unduly reduce the outlook from a neighbouring property.”
- Principle 7 - that “extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals.”

The closest properties to the proposed annex are nos. 410 and 412 which are in the process of being reconstructed, both of which are included within the red/blue line boundary of the application. The annex would be used ancillary to no.410 and therefore any impact on these properties is considered to be acceptable. A condition will be attached to the decision notice to ensure that the building is used for ancillary purposes only. All other properties are located over 40 metres away which is considered to be sufficient separation to ensure that residential amenity of any occupants of those properties is safeguarded.

In light of the above and subject to the suggested conditions above, the proposal is considered to have an acceptable impact on residential amenity and would therefore accord with Policy LP24 of the Local Plan, the Extensions and Alterations SPD and Policies in Chapter 12 of the NPPF.

Highway Safety

Turning to highway safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options.

The site benefits from substantial off-street parking and whilst the development would provide an annex accommodation any additional parking generated could be accommodated within the existing parking arrangements. In terms of access, it is noted that this is taken from a private lane and some objectors have raised concerns about the intensification of use of the access. Whilst there may possibly be one additional vehicle from the occupiers of the annex, it is not considered that this would adversely impact on the operation of the private lane or cause a detrimental impact to highway safety. A condition shall be attached to the decision notice to ensure that the building is used for ancillary purposes only to ensure that the highway impact remains the same as applied for.

In conclusion the proposal is considered to have an acceptable impact on highway safety and would accord with Policies LP21 and LP22 of the Local Plan and guidance in the SPD.

Other Matters

Trees – The site is located adjacent to a number of protected trees and the application has been assessed by the Council's Arboriculturist and assessed in relation to Policy LP33 of the KLP which seeks to retain mature and protected trees.

The Council's Arboriculturist has advised that the proposals for this application are far enough away from any retained trees on the site to not be a cause for concern. There is the possibility that the building is not built whilst the remaining site is being developed and therefore it would be appropriate to ensure that tree protection measures are included as a condition of compliance with this application. It is therefore recommended the tree protection plan from the previous consent, be included with this application for that purpose as it would adequately protect the trees near to the proposals for this application.

The plans do show a tree removed on the submitted plans, this is however marking where a tree has already been removed as part of the adjacent development. It should be noted however that the tree did require removal due to its declining health and the safety risk it posed to the site.

Subject to the aforementioned condition regarding tree protection measures, the proposal is considered to have an acceptable impact on trees and would accord with the requirements of Policy LP33 of the KLP.

Climate Change –On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The proposal would in part reuse an existing building which would aid in reducing the carbon front print of the proposed development. The conversion would also need to meet modern building regulation standards which would aid in it being thermally efficient. It is also small in scale and would not have any significant impact on climate change.

Representations

14 representations were received from 7 individuals, making comments on both the original scheme and the amended scheme. A summary of the planning related objections to this application are as follows along with a response to the points raised:

- The proposal will lead to an intensification of use of an existing access track leading to a 7th dwelling being accessed from the lane where a maximum of only 5 dwelling should use such an access. The proposal should be assessed in the context of all other approvals for access off the lane. The proposal would therefore in turn be detrimental to highway safety as it would add extra movements to its junction with Birkby Road which is close to the busy junction with Halifax Road which experiences queuing. Waiting vehicles to leave will prevent others from entering the land causing additional queues and there are no passing places along the access. The proposal would lead to 32 bedrooms being accessed off the lane which is the same as 8 4 bedroom dwellings.

Response: The proposal seeks annex accommodation and not a new dwelling. As set out in the highway safety section it is not considered that the proposal would lead to an intensification of use of the site which is detrimental to highway safety.

- A covenant on the land restrict the access to being used by only 2 dwellings, the proposal would make 3.

Response: This is a private legal matter and not something that any planning permission overrides.

- A large 2 bedroom dwelling is being applied for and not an annex and extensions proposed make the building too large for an annex. How can it operate ancillary when it is separated from the main dwelling and it is unclear how garden space and bin and parking arrangements will work.

Response: Whilst reasonably large in scale for an annex it could still operate as ancillary accommodation which is tied by condition to the host building (no.410). Garden space, parking, and bin collection would be shared with the main dwelling no.410, which helps to further ensure the ancillary nature of the development.

- The proposal would be an overdevelopment of the site as two households are going to live in the annex and the annex will be adjacent to two large dwellings that had to be reduced in scale when applied for.

Response: It is anticipated that only one household would live in the property and given the large size of the overall plot, and the proposal not increasing the footprint, the proposal is not considered to represent an overdevelopment of the site.

- A TPO has been lost to facilitate the development and should be replaced. Furthermore, no more trees at the site should be lost. The application form is inaccurate to state there are none as there are trees and a hedge in the local area.

- The submitted tree report should not be relied on as it relates to the development of the two dwellings.

Response: A full assessment regarding the impact on trees and the removal of an existing tree at the site is fully considered and addressed in the assessment above. Consultation has been carried out with the Council's Arboriculturist and there is no objection raised to the proposals, subject to the inclusion of a condition regarding tree protection measures relating to the remaining trees. In regard to the protected tree that has already been removed, as set out above, this was approved as part of the previous application for two dwellings and did require removal due to its declining health and the safety risk it posed to the site

- The building subject to this application has not been constructed in accordance with
  the plans original approved in 2013 and is larger than what was approved. Planning enforcement action should take place and no further extensions should be allowed by the current application. The 2013 permission also preventing any additional windows being installed to protect amenity, this issue remains.

Response: The matter of the existing building has been fully addressed in the main assessment above. It is acknowledged that the building on site does not fully comply with the drawings approved as part of the 2013 approval however, as set out above, the building has been in place for in excess of 4 years and is therefore immune from enforcement action. This application therefore needs to be assessed in regard to the building that exists on site and consider any additional impact over and above that building as a result of this proposal.

- The proposal will lead to additional light pollution in the local area.

Response: Any light pollution from window or roof lights would be relatively minor and not considered to be detrimental to residential amenity.

- Any additional extraction of material at the site should be taken and not dumped around the site.

Response: It is unlikely that the proposed development would lead to the extraction of additional material given that the footprint would remain the same as existing.

- The removal of the extension does not overcome the concerns previously raised, the previous points remain.

Response: Noted, however a response to the points previously raised along with a full assessment of the proposal is set out above.

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

Application Number: 2022/90191
Decision Authorisation: Delegated Powers
Officer Recommendation: Full Conditional Permission

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, as amended by the Planning and Compulsory Purchase Order 2004.

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 Policy LP24 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

3. The external wall materials of the extension and external alterations 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.

4. The annex building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as no.410 Birkby Road, Birkby, Huddersfield, HD2 2DN. It shall not be sold or let independently to no. 410 Birkby Road.
Reason: To ensure that the annex is used solely as ancillary accommodation to the main dwelling house in the interests of highway safety, residential amenity of future occupiers and adjoining occupiers in accordance with Policies LP21 and LP24 of the Kirklees Local Plan, Principles 7 and 15 of the House Extensions and Alterations SPD and chapters 2 and 12 of the National Planning Policy Framework.

5. Throughout the construction/conversion phase of the hereby approved development, the tree protection measures set out on the Tree Protection Plan (Morfe Valley Environmental Ltd, ref MVE_TPP_01_Rev B) which are within 25 metres of the building subject to this application will either remain in place or be put in place, throughout the construction/conversion phase of the development hereby approved.
Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Local Plan and advice within the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location Plan	-	-	19/1/2022
Existing Site Plan	01	-	19/1/2022
Existing Plans and Elevations	03	-	19/1/2022
Proposed Site Plan	02	A	31/3/2022
Proposed Plans and Elevations	04	B	31/3/2022
Design and Access Statement	-	-	19/1/2022
Tree Protection Plan	MVE_TPP_01_Rev B	-	20/4/2022

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 Planning 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. Amended plans were secured to reduce the scale of the outbuilding to an acceptable level and remove the extension to the dwelling. A Tree Protection Plan was also requested and subsequently submitted during the course of the application.

Report Dated: 21/4/2022