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:	**2022/62/91001/E**
Site Address:	3, Corn Mill Cottage, Corn Mill Bottom, Long Lane, Shelley, Huddersfield, HD8 8JJ
Description:	Demolition of existing garage and use of void to create subterranean garage
Recommending Officer:	Katie Wilson

DECISION – FULL CONDITIONAL 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 16-Jun-2022

Officer Report – 2022/91001

Site Description

The application site is 3, Cornmill Cottage, Cornmill Bottom, Long Lane, Shelley. It is a long, 2-storey detached house, which appears to have been two dwellings formerly, with porches to the front and single and 2-storey extensions to the side and rear. The external walls are natural stone and the roof is surfaced in stone slates.

There is off road hard standing, parking area to one side and garden area to the rear. An access track and former paddock also border the southern side of Shepley Dike, with mature trees, subject to Tree Preservation Orders lining the river bank.

The site is accessed via Long Lane (an unadopted lane from Dam Hill) serving several other properties in the hamlet of Corn Mill Bottom.

At the officer site visit it was apparent that building works had recently been carried out to implement planning approval 2017/93294 for extensions to dwelling and raised patio. A 2-storey side and rear extension was in place together with single storey rear extension, raised patio and steps leading to garden.

An area below the recently built raised patio and rear extensions is enclosed on all sides (except entrance onto side track) by concrete block walls approximately 2.5m high, concrete ceiling and floor, and several steel girder uprights. This area was not approved under planning approval 2017/93294. Access to the entrance of this void is via a track to the side of the house which was a grassy track leading to a paddock at the end of the garden and is now covered in finer road surfacing material. All these works are unauthorised.

Other re-modelling of the garden area had taken place in recent months, shrubs had been removed, some steps taken away from remaining single storey rear extension, and a retaining wall (forming extent of domestic curtilage with paddock, removed) and new grassy slope formed to make both spaces now one large space. This element of development does not form part of the current application.

Description of Proposal

Planning permission is sought for the demolition of an existing garage and use of the void to create a subterranean garage.

The submitted plans show the following:

- removal of single storey extension (single garage/store) located on the south western side elevation of the house;

- retention of sub-terranean garage (internal dimensions approximately 7.5m wide x 12.3m deep x 2.2m high)
- proposed ground level planting to south eastern side of garage entrance where the existing wall would be re-modelled and stepped back closer to the garage entrance;
- proposed timber garage door set back approximately 0.66m from entrance.

History of negotiations/amendments received

Application acceptable as submitted.

Relevant Planning History

87/04302 – Erection of extension to form porch and wc. Granted conditional full permission.

2003/91200 – Erection of verandah extension. Refused
Planning application details | Kirklees Council

2003/92732 – Erection of single storey extension. Conditional full permission.
Planning application details | Kirklees Council

2017/93294 – Erection of extensions to dwelling and patio. Conditional full permission.
Planning application details | Kirklees Council

2018/91225 – HHPD – withdrawn.

2018/92652 – Discharge condition 5 (tree protection) on previous permission 2017/93294 for erection of extensions to dwelling and patio. Discharge of condition approved.

2019/90701 – Formation of sub-terranean garage and alterations to patio. Refused.
Planning application details | Kirklees Council

2019/94069 – Formation of sub-terranean garage and alterations to patio. Refused. **Appeal dismissed**.
Planning application details | Kirklees Council

Pre-application – 2021/20846 for change of use of void to create a sub-terranean garage at 3, corn Mill Cottage.

Representations
Final publicity date Expires: 27th May 2022. No representations received.

Kirkburton Parish Council comments: No comment.

Consultation Responses

Kirkburton Parish Council – no response received

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 located in the Green Belt 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
- **LP 30** – Biodiversity and geodiversity
- **LP33** - Trees
- **LP 57** – The extension, alteration or replacement of existing buildings in the Green Belt

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.

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 13 – Protecting Green Belt land

- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 – Conservation and enhancement of the natural environment

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 application site is in the Green Belt on the Kirklees Local Plan and the proposal is to demolish a single garage and use a void under part of the house and patio to form a sub-terranean garage.

The void was required to be back filled following approval of 2017/93294 to ensure that development did not exceed what could be considered as an appropriate extension to a property in the Green Belt.

The NPPF establishes in paragraph 145 (c) that where the circumstances involve an extension or alteration of the building (in this case 3, Corn Mill Cottage), provided they do not result in disproportionate additions over and above the size of the original building, they may be exempt from being inappropriate development in the Green Belt.

The NPPF explains that the 'original building' is a building, as it existed on 1 July 1948 or, if it was constructed after that date, as it was built originally. Policy LP57 of the Kirklees Local Plan seeks to protect the Green Belt by only allowing limited extensions. The cumulative impact of previous extensions is taken into account in line with the NPPF.

The NPPF does not explain what a disproportionate addition means, it is therefore a matter of planning judgement.

It is noted that at the time of the last planning approval (ref: 2017/93294), the Council considered the approved extensions and patio to be at the limit of what might be considered proportionate extensions to the original dwelling. On a subsequent appeal to planning refusal for formation of sub-terranean garage and alterations to patio (ref: 2019/94069) the Planning Inspector concurred with that view.

However, discussions during the assessment of the pre-application submission, (ref: 2021/20846) led to a revised plan with the following mitigation measures to off-set the increased volume: an existing single storey

garage / store attached to the south western side of the house would be removed; the proposed garage doors would be set back from the frontage approximately 0.66m; and there would be regrading/ground level planting to the south eastern side of the garage entrance where part of the existing wall would be set back almost flush with the garage entrance to soften the appearance of the walling.

These modifications have been made to the plans submitted with this planning application. Officers consider that these, on balance, would be acceptable in terms of impact upon the Green Belt. However, tt is recommended that a condition be attached to any decision to remove permitted development rights included within Classes A-E of Part 1 of Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking or re-enacting that Order) is repeated in order to ensure any further enlargement/modifications are appropriately controlled. This relates to the redline boundary shown on location plan 2495 – LOC B

In this case, the principle of the proposal is considered acceptable and shall be assessed against other material planning considerations below.

2 –Impact on visual amenity and openness:

The proposed sub-terranean garage extension would provide additional domestic use of the existing space and retain much of the original garden area. Together with removing an existing single garage attached to the south western side of the house, it would ensure that there would not be overdevelopment of the site.

The proposed drawings also show some ground level planting to the south eastern side of the re-modelled entrance to the garage, and that the proposed garage door would be recessed approximately 0.66m and made of timber. In officer's view these measures would help to soften the somewhat urban and engineered appearance of the works when viewed from Long Lane. Furthermore, officers noted on site extensive planting to the banking located opposite which will also contribute to a degree of screening when established.

In conclusion subject to details of the proposed planting and colour of timber garage door the proposal would be of an acceptable design and provide an acceptable level of mitigation to limit the harm to the openness of the Green Belt.

Details have not been submitted as part of the current application, and so it is recommended that these are secured by condition.

3 – Impact on residential amenity:

In this instance, it is considered that the proposed development would not affect the neighbouring properties in relation to residential amenity.

4 – Impact on highway safety:

The site is accessed from the nearest adopted highway via Long Lane, an unadopted road serving several other houses. Long Lane is also Public Bridleway ref: KIR/225/10.

According to the submitted plans the house has four bedrooms and would require 3 off street parking spaces. The proposal would involve the removal of a single garage attached to the south western side of the house, but would retain one parking space to the side and create at least two parking spaces in the proposed sub-terranean garage. This is acceptable for the enlarged house. There would also be turning space onto Long Lane or access track to side to enable vehicles to access and egress the adopted highway in a forward gear.

No concerns are raised regarding the safety of users of the bridleway.

As such, there would not be detrimental impact on highway safety as no loss of parking is proposed in its current form.

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

Biodiversity

The site is within an area where bats may be present.

A bat survey was received during assessment of planning refusal 2019/90701. At that time there were no bats roosting in the existing garage and it recommended no biodiversity enhancements or mitigation strategy. There was also no requirement for a Natural England licence. However, they suggest that if the existing garage building is demolished, due care should be taken and if bats are found they should be covered and protected, work should cease, and a licences bat worker contacted for further advice.

The Council's ecologist recently assessed the previously refused application 2019/90701 and raised no objections. It is considered that these comments are relevant however it is recommended that a footnote be added to the decision notice to provide the above advice.

Drainage issues:

The site borders Shepley Dyke to the north and records show that paddock and part of the side and rear garden are in flood zones 2 and 3a. A flood risk assessment was submitted with planning refusal 2019/94069. It focussed on the proposed subterranean garage and concluded that the proposed development passes the sequential and exceptions test set out in the NPPF.

The Council's Lead Local Flood Authority were consulted and commented that the development is located within an area with very low surface water flooding, however it is vulnerable to river flooding and the views of the Environment Agency should be sought. If the Environment Agency accept the proposal, then a flood evacuation plan should be provided to manage risk. However, a householder development falls outside the scope of reasons for consulting the Environment Agency.

The application was accompanied by a flood risk assessment. Officers agree that the use as a garage for storage of cars and garden equipment would be a less vulnerable use and as such in this instance a flood evacuation plan is not required.

Trees

Trees subject to Tree Preservation Order 01/77/A2 line the backs of Shepley Dike which is close to the application site, particularly the proposed garage and access track. In recent years works have been carried out to the trees resulting in removal of several in the vicinity of the proposed development.

The Council's Trees officer was consulted when planning refusal 2019/94069 for sub-terranean garage was being assessed and commented that they have no objections. These comments are considered to be up to date to be relevant to this application.

This would be in accordance with policies LP24 and LP33 of the KLP as well as the aims of the NPPF.

Public Rights Of Way (PROW):

A public right of way bridleway runs along Long Lane.

The proposed development would be visible by the users of the PROW, but given the mitigation measures detailed above, on balance this is considered acceptable from a visual amenity point of view. In relation to safety of users of the PROW, no concerns are raised.

Curtilage issues:

It is noted that relatively recently a retaining wall between the garden and paddock has been removed and land re-graded allowing unhindered access between the garden and paddock. It also blurs the boundary between domestic curtilage and other land within the applicant's ownership.

Domestic curtilage is regarded as that shown outlined in red on the submitted location plan and does not extend into the paddock.

If the applicant were seeking to enlarge the domestic curtilage into the paddock a separate planning approval would be required for change of use of green belt land (paddock) to domestic garden, and policy LP 58 of the KLP would be relevant at the moment. This does not form part of the current application and has not been assessed.

6 – Representations:

No representations received.

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: 2022/91001
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 Policies LP1, LP2, LP21, LP22, LP24, LP27, LP30, LP33 and LP57 of the Kirklees Local Plan, Key Design Principles of the House Extension Supplementary Planning Document and the aims of the National Planning Policy Framework.

3. The timber garage door hereby approved shall be dark green or dark brown in colour.
Reason: In the interests of visual amenity and the openness and character of the Green Belt, in accordance with Policies LP24 and LP57 of the Kirklees Local Plan, Key Design Principles of the House Extension Supplementary Planning Document and the aims of the National Planning Policy Framework.

4. Within six months of this approval, details of planting to side of garage entrance shall be submitted and approved in writing with the local planning authority. The agreed planting scheme shall then be implemented within the first planting season after the planting area to modified garage entrance has been formed. Any plants which fail within the first three years of planting shall be replaced on a like for like basis.
Reason: In the interests of visual amenity and the openness and character of the Green Belt, in accordance with Policies LP24 and LP57 of the Kirklees Local Plan, Key Design Principles of the House Extension Supplementary Planning Document and the aims of the National Planning Policy Framework.

5. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A-E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary, without the prior written consent of the Local Planning Authority.
Reason: To ensure that unsatisfactory extensions do not result in overdevelopment of the site and to avoid potential for harm to be caused to visual and residential amenity, and to preserve the openness and character of the Green Belt. In accordance with policies LP24 and LP57 of the Local Plan and guidance given in the National Planning Policy Framework.

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	Dwg no. 2495 – LOC B	Rev B	22.03.2022
Plans and elevations as built	Dwg no. (100)71		22.03.2022
Section A-A as built	Dwg no. (100)72		22.03.2022
Site plan as built	Dwg no. (100)70		22.03.2022
Plans and elevations as proposed	Dwg no. (100)74	Rev A	22.03.2022
Section A-A as proposed	Dwg no. (100)74		22.03.2022
Supplementary information: Flood risk assessment	Job no. 2495		22.03.2022

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 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. Following pre-application advice, this application was deemed acceptable as submitted.

Report Dated:	16.06.2022