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:	**2022/62/91226/W**
Site Address:	5, Southway, Lindley, Huddersfield, HD3 3LN
Description:	Erection of dormer window
Recommending Officer:	Laura Yeadon

DECISION – Refuse

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Stuart Howden

AUTHORISED OFFICER

Date: 03-Aug-2022

Site Description

5 Southway is a large 1/2 bungalow property with dormer windows in the roofslope, which is constructed from red brick and render with a tiled roof. The property is located on a small cul-de-sac where the dwellings are relatively modest in sized within large plots, with a mixture of bungalows and two storey dwellings of varying styles and designs. To the front of the main body of the dwelling is an attached double integral garage and an off-street parking area and lawned garden and to the rear of the property is a larger lawned garden which is set up from the finished floor level of the dwelling. The Edgerton Conservation Area boundary wraps around the properties on Southway, and is adjacent to the rear boundary of the site

The property was granted permission for single and two storey extensions, dormer windows to front and rear and external alterations under application number 2021/92354 which is currently under construction (and thereby this permission is deemed to be extant).

Description of Proposal

Permission is sought for the erection of a dormer window.

The proposed dormer opening would be located within the north facing side elevation of the property within part of the extension granted under application number 2021/92354.

The proposed dormer would be set up from the eaves by 1.3 metres and would lie flush with the ridge height of the dwelling (as extended) with the width being 8.3 metres and a total height of 1.7 metres to the top of the flat roof. It is proposed that the dormer would project 2.3 metres with the roof design being flat and would be constructed from anthracite cladding panels to match the colour of the existing roof tiles.

At the time of the site visit, the works to implement the previous approval and proposed dormer were underway.

History of negotiations/amendments received

As at the time of the site visit the works were underway and covered with sheeting and scaffolding. As such and following concerns being raised by neighbouring occupiers, clarification from the Agent was sought that the works were being carried out in accordance with the approved plans. Email confirmation was received on 19th May 2022 that the works, other than the dormer subject to this application were being carried out in accordance with the approved plans. There is a live enforcement case for the works which are being investigated by the Compliance Team.

Relevant Planning History

<u>Planning applications</u>

1996/92457	Erection of extensions and dormer window *Conditional Full Permission*
2018/91169	Erection of extensions and alterations *Conditional Full Permission*
2020/91843	Erection of single and two storey extensions, dormer windows to front and rear and external alterations *Conditional Full Permission*
2021/92354	Erection of single and two storey extensions, dormer windows to front and rear and external alterations *Conditional Full Permission*

Enforcement Investigations

COMP/22/0137	Development not built in accordance with approved plans *Ongoing investigation*

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, site notice and newspaper advertisement.

Final publicity date expired 5th June 2022 – 6 letters of representation received with the following being a summary of comments:

- Work carried out far exceeds the plans and raises the roofline so now the property is clearly visible and rises above the adjacent properties.
- Overlooking into neighbouring homes and gardens and badly affects neighbours and is approximately 1 metre from the Conservation Area boundary.
- Impact on saleability and value of neighbouring properties.
- The proposed anthracite panels do not match the colour of the existing tiles and conflict sharply with surrounding forms and colours.
- There are no similar features in nearby properties or in the setting of the adjoining Conservation Area.
- The terms of the previous planning consents have been broken such as the dormer window which are not in the consented plans.
- Application form incorrect as the works have already commenced and there are trees within falling distance of the proposed development.
- South dormer is bigger than shown on the plans creating increased privacy and light problems.
- A fascia not shown on plan has increase the height and the width of the dormers which has also created a greater overshadow for surrounding properties.

- Fascia is white in contrast to the back of the dormers which damages the overall appearance of the construction as the roof overhangs the dormers on all sides increasing the overall size.
- Impact on view.
- No regard to the conservation of the environment and is at odds with most of the houses in the area.
- Original plan for a skylight seemed far more appropriate.

NOTE: Whilst it is acknowledged that concerns have been raised in terms of unauthorised works to the property, these are currently under investigation with the Compliance Team under COMP/22/0137. The only matter for consideration as part of this application is the proposed dormer extension to the northern side of the property.

Parish/Town Council – not applicable

Consultation Responses

None required.

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 without notation on the Kirklees Local Plan however the western (rear) boundary forms the boundary with the Edgerton Conservation Area.

Kirklees Local Plan:

- **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
- **LP 35** – Historic environment
- **LP 51** – Protection and improvement of local air quality
- **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 4 – Decision Making
- Chapter 9 – Promoting Sustainable Transport
- 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
- Chapter 16 – Conserving and enhancing the historic environment

Supplementary Planning Documents (SPD's)

- Highways Design Guide SPD
- House Extensions and Alterations Supplementary Planning Guidance

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.

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity and Conservation Area
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 of the Kirklees Local Plan 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. Policy 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."

With specific regard to the House Extensions and Alterations SPD the key designs principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 7: Outdoor space
- Key design principle 8: Energy efficiency
- Key design principle 9: Construction materials
- Key design principle 10: Renewable energy
- Key design principle 11: Water retention
- Key design principle 12: Natural environment
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage

In terms of dormer windows, Section 5.4 provides specific advice on these the SPD stating the following:

"Roofs are a prominent and visible element of the street scene. Unsympathetic roof extensions and dormer windows can have a significant effect on the visual appearance of both the individual building and street scene. Poorly designed roof extensions and dormer windows can make a building appear top-heavy, cluttered and asymmetrical.

The design of dormer windows and roof extensions should reflect the character of the area, the surrounding buildings and the age, appearance and materials of the existing house. Ideally, dormers should be located to the rear of a house and should be as small as possible with a substantial area of the original roof retained…

…Dormer windows should:

- *Relate to the appearance of the house and existing roof;*
- *Be designed in style and materials similar to the appearance of the existing house and roof;*
- *Not dominate the roof or project above the ridge of the house;*
- *Be set below the ridgeline of the existing roof and within the roof plane; and*
- *Be aligned with existing dormer windows on neighbouring properties in the same roof plane where relevant."*

The site shares a boundary with the Edgerton Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Chapter 16 of the National Planning Policy Framework and also Policy LP35 of the Kirklees Local Plan.

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, as well as other relevant material consideration which shall be discussed below.

2 – Impact on visual amenity and the Conservation Area:

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 and 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 and Alteration SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

In terms of visual amenity, the dormer would be located on the northern side of the property within a previously approved extension. Given the extent of works already approved and implemented at the site and those under construction, it is not considered that the cumulative impact of the works would be subservient to the original house. The proposed dormer extension, due to its size and scale and position at the upper part of the roof slope would introduce a large stark feature with little detail in terms of fenestration which is clearly visible from neighbouring properties and within the street scene, contrary to Key Design Principle 1 of the SPD.

Whilst it is noted that the dormer would be finished in an anthracite grey colour to match the existing roof tiles, it would dominate the extended roof slope lying flush with its ridge. It is also noted that the design of the dormer is such that it replicates that within the southern elevation however the location of that dormer is more discreet and not as visible from public vantage points as the proposed dormer subject to this application. There are dormer extensions to properties within the locality however these appear to be small in scale and not dominate the roof scape as the proposed dormer would, thereby being incongruous.

The large flat roofed dormer would not meet the criteria of sub-paragraph 5.26 of the SPD and due to its size and scale in conjunction with the approved south-facing dormer extension would have the appearance of a partially flat roofed dwelling which would not respect or enhance the character of the property. The SPD states that modern flat roof dormers may be considered acceptable if they

are well-designed, small in scale and appearance and are characteristic of the street scene. In addition, they should not dominate the roof should be set below the ridgeline of the roof. The proposal is not considered to meet these points of the SPD. Instead, it is considered that by virtue of its siting, scale and form, the dormer would poorly relate to the appearance of the house and would dominate the extended roof and would cause detrimental harm to the visual amenities of the locality, contrary to Key Design Principles 1 and 2 of the SPD, Policy LP24 (a and c) of the Kirklees Local Plan and Policies within Chapter 12 of the NPPF.

In terms of the impact on the setting of the Conservation Area, the proposal is set back from the boundary with the Conservation Area, it is considered that the proposal would have a neutral impact on the setting of the Conservation Area by being set back from the Conservation Area boundary and the dormer is separated from the boundary of the Conservation Area to the north by the properties on Daisy Lea Lane. As such, it is considered that the proposal would comply with Policy LP35 of the Kirklees Local Plan and advice within the NPPF.

3 – Impact on residential amenity:

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.

The northern side elevation of the property would face the rear elevation and garden areas of the properties on Daisy Lea Lane at close proximity. The side elevation of the application property is set in from the shared boundary with No. 50 Daisy Lea Lane by approximately 1.2 metres and would be clearly visible from No's. 50 and 52 Daisy Lea Lane and No. 6 Southway. The proposed dormer would dominate the roof slope and would be a large structure which would have an oppressive impact on the elevations and amenity rear space which would face the application site. This would be contrary to Key Design Principle 6 which states that dominance and outlook relate to how an extension will change the outlook from a neighbour's window. It goes on to say that proposals which would result in a poor or reduced outlook from neighbouring properties are unlikely to be acceptable. It is considered that in this instance the presence of such a large structure would be overbearing on the occupiers of the neighbouring properties (from the dwellings and neighbouring amenity spaces).

The proposal would be to the south of the properties on Daisy Lea Lane and therefore, due to the increase in mass and built form of the development in addition to the proximity to the boundary, it is considered to be an oppressive and overbearing feature which would be unneighbourly. Due to its close proximity, its scale and orientation to the south, it is also considered likely to result in a significant amount of additional overshadowing for gardens belonging

to the properties to the north, but more specifically No.50 Daisy Lea Lane directly to the north of the proposed dormer, contrary to Principle 5 of the SPD

There is one small opening proposed within the dormer which would be to an en-suite bathroom and it is acknowledged that the proposal would exceed the 12 metres required within Key Design Principle 3 in relation to loss or privacy. The ensuite window can also be conditioned as fixed shut and obscurely glazed so as to prevent undue overlooking into neighbouring gardens to the north, although there would likely be the perception of overlooking from these neighbouring gardens, more specifically No.50.

It is therefore considered that the proposal fails to accord with Key Design Principles 5 and 6 of the SPD and Policy LP24 (b) of the Kirklees Local Plan and Policies within Chapter 12 of the NPPF in terms of being overbearing.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

There are no proposed alterations to the existing/approved parking provision for the property and no additional bedrooms are proposed beyond what has already been approved and therefore, the proposal would have no further impact on parking provision and would therefore comply with Policies LP21 and LP22 of the Kirklees Local Plan and advice within Key Design Principle 15 of the SPD. It is not anticipated that the works would displace the storage of bins and there is adequate remaining amenity space for the storage of bins and is therefore compliant with Key Design Principle 16 of the SPD.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Coal – LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation. The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. In addition, it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan

Biodiversity - 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. Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity. Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest and therefore considered unlikely that the proposals would have an impact on the bat population. In addition, a Bat Survey was not requested as part of the recent approval of planning permission to which the works have commenced and included works to the roof. It is not considered proportionate to ask for biodiversity enhancements in relation to this proposal.

6 – Representations:

6 letters of representation have been received and the objections relating to this specific application are addressed below. The comments raised are addressed below, but the issues raised regarding unauthorised works are dealt with separately via the Compliance Team:

- Work carried out far exceeds the plans and raises the roofline so now the property is clearly visible and rises above the adjacent properties.

Response: This forms part of the enforcement investigation.

- Overlooking into neighbouring homes and gardens and badly affects neighbours and is approximately 1 metre from the Conservation Area boundary.

Response: This has been addressed within the above assessment.

- Impact on saleability and value of neighbouring properties.

Response: This is not a material planning consideration that the Local Planning Authority can assess.

- The proposed anthracite panels do not match the colour of the existing tiles and conflict sharply with surrounding forms and colours.

Response: This form part of the enforcement investigation.

- There are no similar features in nearby properties or in the setting of the adjoining Conservation Area.

Response: This has been addressed within the above assessment.

- The terms of the previous planning consents have been broken such as the dormer window which are not in the consented plans.

Response: This forms part of the enforcement investigation.

- Application form incorrect as the works have already commenced and there are trees within falling distance of the proposed development.

Response: Noted but Officers had enough information to make a recommendation.

- South dormer is bigger than shown on the plans creating increased privacy and light problems.

Response: This forms part of the enforcement investigation.

- A fascia not shown on plan has increase the height and the width of the dormers which has also created a greater overshadow for surrounding properties.

Response: This form part of the enforcement investigation.

- Fascia is white in contrast to the back of the dormers which damages the overall appearance of the construction as the roof overhangs the dormers on all sides increasing the overall size.

Response: This forms part of the enforcement investigation.

- Impact on view

Response: The right to a private view is not a material planning consideration that the Local Planning Authority can assess. The impact of the proposal on the occupiers of neighbouring properties has been assessed above including impact on outlook.

- No regard to the conservation of the environment and is at odds with most of the houses in the area.

Response: The impact of the proposal on the Conservation Area has been assessed above.

- Original plan for a skylight seemed far more appropriate.

Response: Noted.

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 proposals do not accord with the development plan and/or the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation **REFUSE**

Decision Authorisation - Delegated Powers

Application Number: 2022/91226

Officer Recommendation: Refuse

Reasons

1. The proposed development, by reason of its siting, scale, massing and form, would dominate the host building and not result in a subservient addition to the host building when assessed cumulatively against the original property, and would also result in an incongruous addition to the host dwelling that would constitute an injurious visual intrusion within street scene. The proposal would therefore cause detrimental harm to the visual amenities of the locality and character and appearance of the area, contrary to Policy LP24 (a and c) of the Kirklees Local Plan, Key Design Principles 1 and 2 within the House Extensions and Alterations SPD and Policies within Chapter 12 of the National Planning Policy Framework.

2. The proposed rear dormer extension, by virtue of its large scale, siting and close proximity to neighbouring properties to the north, would be a dominant feature that would cause undue harm to the amenities of No. 6 Southway and No's. 50 and 52 Daisy Lea Lane in terms of the creation of an oppressive overbearing and overshadowing impact upon the gardens of these neighbouring properties, which would be contrary to Key Design Principles 5 and 6 of the House Extensions and Alterations SPD, Policy LP24 (b) of the Kirklees Local Plan and Policies within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan, existing site layout, elevations and floor plans	22186 - 01	-	21st April 2022
Existing and proposed site layout, existing and proposed elevations (as previously approved)	22186 – 01	A	21st April 2022
Proposed site layout, elevations and floor plans	22186 – 02	A	21st April 2022
Proposed site layout, elevations and floor plans	22186 – 03	-	21st April 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. No amendments were sought as it was considered that the proposal was unacceptable, and the works were in situ at the time of the site visit. Following concerns being raised by neighbouring occupiers, clarification from the applicant's agent was sought that the works were being carried out in accordance with the approved plans. Email confirmation was received on 19th May 2022 that the works, other than the dormer subject to this application were being carried out in accordance with the approved plans.

Report Dated:	28th July 2022

Coal – low