

**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:	<b>2022/62/91293/E</b>
Site Address:	7, Ellison Grove, Birkenshaw, BD11 2DL
Description:	Erection of single storey rear extension
Recommending Officer:	Elenya Jackson

**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.**

Emma Thompson

***AUTHORISED OFFICER***

**Date: 07-Jun-2022**

## **OFFICER REPORT**

### **Site Description**

7, Ellison Grove, Birkenshaw, BD11 2DL is a two storey detached dwelling which benefits from its own garage and a private rear garden. The property also has the garage of no.5 attached to it.

The property is constructed in buff brick, matching dwellings within the cul-de-sac.

The dwellings that form the street scene are similar in appearance and scale and the area is residential in nature.

The site resides within a coal referral area.

### **Description of Proposal**

This application has been received for a single storey extension to the rear elevation of the existing dwelling which would adjoin the existing garage on site. The proposal is currently under construction and the shell of the extension has been fully completed.

The proposal is also to convert an integral garage to a habitable space. There are no alterations shown to the principal elevation of the dwelling.

The proposed porch extension would extend 3.4m beyond the rear elevation of the existing dwelling and have a width of 11.4m.

The proposal would feature a flat roof, with a height of 3.m (not including roof lantern)

The proposal would be constructed with facing brick matching the existing dwelling with aluminium framed windows.

### **Relevant Planning History**

No relevant planning permission

### **Representations**

The application was advertised by neighbour letters, which expired on 27/05/2021

Three representations were received which objected to the proposal for the following reasons:

- The removal of a hedgerow and vegetation prior to submission
- The erection of a boundary fence in land not owned by the applicant
- The proposals construction being started prior to receiving a notification

### **Consultation Responses**

The Highway Authority: requested additional clarification on parking  
Environmental Health: identified as a potentially contaminated land site and conditions requested.

### **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 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees local plan

On 12<sup>th</sup> 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 predates 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.

### **Kirklees Local Plan Policies**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design

Kirklees Council adopted supplementary planning guidance on house extensions on 29<sup>th</sup> June 2021 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 20<sup>th</sup> July 2021, and the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 the Green Belt

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Negotiations
- 7) Conditions
- 8) 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.

These issues along with other policy considerations will be addressed below.

#### 2 –Impact on visual amenity:

Key Design Principle 1 of the House Extension & Alteration 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.

The proposal would not be visible from the street scene as it relates to the rear of the existing dwelling. The proposal would be single storey, the materials of the proposal would be in keeping with the host dwelling and it would not extend significantly beyond the rear elevation of the existing dwelling.

Having taken the above into account, the proposed extension 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 extension would form a subservient addition to the property in keeping with the existing building.

### 3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light, Key Design Principle 6 on preventing overbearing impact and Key Principle 7 for outdoor space.

The size of the extension would cover some of the amenity space of the application property. It is considered that, the proposal would not take up a significant amount of useable amenity space and sufficient amenity space would be retained if the proposal was to receive permission. Therefore, the proposal would be acceptable in terms of the residential amenity of future occupiers of the dwelling.

9 Ellison Grove: adjoins the application property to the west. The rear amenity space of the two dwellings is currently separated by a 1.8m fence.

Overlooking: The proposal would not feature any side facing windows

Overshadowing/loss of light: The proposal would not reside within the 45 degree visibility splay of any habitable rooms at no.9 and therefore no significant issues would arise regarding overshadowing/loss of light.

Overbearing: The proposal would be single storey and set off the shared boundary between the two dwellings. Therefore, no significant issues would arise regarding overbearing.

Due to the scale and location of the proposal, no other properties would be affected by the proposal.

### 4 – Impact on highway safety:

The proposals would result in some intensification of the domestic use of the property. The site has had its permitted development rights removed for Classes A-G, this prevents external alterations to the dwelling such as the removal of the garage door, but would not prevent the conversion of an integral garage to a habitable space. The reason for this condition was related to the protection of trees on the site and not highway safety. Therefore, the conversion of the garage could be completed as permitted development. The agent for this application has also confirmed that the garage is not currently used for parking allocation by the applicant.

Therefore, the proposal 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*

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.

##### **Bats**

The site is in an area recorded as a bat alert area. Bats are protected species and the NPPF requires planning authorities to take account of priority species within planning policies. On the basis of an external viewing would appear to have no bat roost potential as a result, no survey is required. However, a precautionary footnote shall be added to the decision notice to comply with the aims of chapter 15 of the NPPF.

##### **Contaminated land**

The site has been identified as being in close proximity to a former quarry (224/2) and therefore is potentially contaminated. Therefore, a condition is deemed necessary should contamination be identified during the course of development.

#### 6 – Representations:

Three representations were received objecting to the proposal for the following reasons:

The removal of a hedgerow and vegetation prior to submission which does not belong to the applicant

Response: The damage of property caused by construction would be a civil matter between the applicant and owners. This would not be a reason for refusal as it is not controlled by the planning system.

The erection of a boundary fence in land not owned by the applicant

Response: A planning application does not permit the transfer of land between separate parties. This would require an application with Land Registry and would be a civil matter between relevant parties

The proposals construction being started prior to receiving a notification  
Response: Whilst it is regretful that construction commenced prior to the application/notification from the local planning authority, a full assessment of the proposal has subsequently been conducted and found the proposal to be acceptable.

#### 7 – Negotiations:

No alterations requested

#### 8 – Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, ground works are to cease, and a remediation strategy is required.

#### 9 – Conclusion:

This application to erect a single storey rear extension to 7, Ellison Grove, Birkenshaw, BD11 2DL has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Design SPD, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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.

As set out above, 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:** 2022/91293

**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 with Policy LP24 of the Kirklees Local Plan, Key Design Principles of the House Extension SPD and the aims of the National Planning Policy Framework.

3. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required.

The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise

approved in writing by the Local Planning Authority, No part of the site shall be brought in to use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

**Reason:** In the interests of mitigating hazards associated with land contamination and to prevent pollution, in accordance with the requirements of Policy LP53 of the Kirklees Local Plan (2019) and Chapter 15 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.

**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:** All contamination reports shall be prepared in accordance with Model Procedures for the Management of Land Contamination – Contaminated Land report 11 (CLR11), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

**NOTE:** Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**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 13.00hours, 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 can 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: -

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Site Block Plan	S21336 P102 REV:B	19.04.2022
Location Plan	S21336 P101 REV:B	19.04.2022
Proposed Ground Floor Plan	S21336 P105 REV:A	12.04.2022
Proposed Elevations	S21336 P106 REV:A	12.04.2022
Existing Floor Plans	S21336 P103 REV:A	12.04.2022
Existing Elevations	S21336 P104 REV:A	12.04.2022

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.

The proposal has had no alterations since submission.