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:	**2022/62/91391/W**
Site Address:	23, Rock Fold, Golcar, Huddersfield, HD7 4AD
Description:	Erection of single storey extension to rear (within a Conservation Area)
Recommending Officer:	Tom Hunt

DECISION – REFUSED

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.

John Holmes

AUTHORISED OFFICER

Date: 24-Jul-2024

Officer Report

Site Description

2022/91391 – 23, Rock Fold, Golcar, Huddersfield, HD7 4AD

The application site relates to a two-storey, detached dwellinghouse which sits at the end of Rock Fold. It was previously a garage concerted into a dwellinghouse with extensions. It is constructed of stone and slate tile to its roof and timber windows. There is a detached single storey outbuilding to its front constructed of black cladding and lean-to roof appearing to not benefit from planning permission, Permitted Development Rights or a planning history but visible on visual historic aerial maps in 2018. To the rear is a section of previously garden space extending 2.7m from the rear and to the north of the dwelling is a limited area of outside amenity space.

The site topography is within a steeping sloping hill site, falling from north to south.

It is within the Golcar Conservation Area, in the setting of several Listed Buildings to its north and south, and a PROW runs outside of but is not adjacent to the red line boundary as a footpath identified as COL/52/10 in the Kirklees Local Plan.

Description of Proposal

Erection of single storey extension to rear (within a Conservation Area)

The proposed single storey extension with a pitched roof would be erected on a steel beam with piles driven into the ground to level out the ground with a section cutting into the slope. The platform would be raised ~0.2m from ground level and be ~0.4m in thickness. The extension would have the dimensions of:

2.7m projection from the rear x ~4.5m width and a roof ridge height of ~3.7m and eaves of ~2.6m measured from the raised platform.

Due to the platform, the proposed extension's ridge would be set ~0.5m below the host ridge. It would not be the full width of the host at the rear being set back 1m from the south side elevation of the host. It would be faced in stone and slate tile with timber windows to match the host.

The extension would be to facilitate an additional bedroom making it a two-bed property. Within the host at the first floor, there would be internal alterations to have a bathroom.

History of negotiations/amendments received

During the site appraisal, it became apparent that the proposed extension would encroach on adopted Highway land (information supplied by Highways Registry with the below image setting out the highways land outlined in blue):



As such, communication was provided on the necessary stopping up and diversion of highways in order to proceed.

The Officer communicated to the agent that this was necessary again on 22/03/2023. They were invited to either withdraw the application, or to keep the application live.

Email communication to the agent on 05/06/2024 was answered with an Extension of Time for 28/06/2024. The Officer requested an update on the Stopping Up Order;

It remains that the proposal would still encroach on adopted Highways land and be unlawful without a Stopping Up Order, so Officers proceeded to determination on the basis of the submitted information to date.

Relevant Planning History

93/01719	21, Rock Fold, Golcar, Huddersfield. Erection of Detached Double Garage. *Conditional Full Permission.*
2006/94083	76 & 78 Handel Street / 21 Rock Fold, Golcar, Huddersfield. Reversion of 2 existing dwellings back to 3 no. Dwellings (Listed Building within a Conservation Area). *Conditional Full Permission.*
2006/94084	76 & 78 Handel Street/21 Rock Fold, Golcar, Huddersfield. Listed Building Consent for Reversion of 2 Existing Dwellings Back into 3 (Within a Conservation Area). *Consent Granted.*
2014/92618	adj 21, Rock Fold, Golcar, Huddersfield, HD7 4AD. Alterations and extensions to convert detached garage to dwelling (within a Conservation Area). *Withdrawn.*
2015/91100	Land Adj, 21, Rock Fold, Golcar, Huddersfield, HD7 4AD.

	Erection of extensions and alterations to convert detached garage to dwelling (within a Conservation Area). *Conditional Full Permission.*
2015/93288	adj 21, Rock Fold, Golcar, Huddersfield, HD7 4AD. Erection of extensions and alterations to convert detached garage to dwelling (within a Conservation Area). *Conditional Full Permission.*
2016/90128	adj 21, Rock Fold, Golcar, Huddersfield, HD7 4AD. Discharge condition 7 (construction traffic) on previous permission 2015/93288 for erection of extensions and alterations to convert detached garage to dwelling (within a Conservation Area). *Discharge of Condition(S) Approved.*
2023/92315	23, Rock Fold, Golcar, Huddersfield, HD7 4AD Demolition of existing shed and erection of replacement single storey front extension (within a Conservation Area). *Refused.* Appealed: APP/Z4718/D/24/3336388 *Dismissed.*

Representations

We are currently undertaking 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 press which has a final publicity expiry date of 15/07/2022.

Two representations have been received Objecting; a summary of the comments received is set out below:

- Adjacent building has landslip and subsidence with impacts on stone walls and sloping lawn in direction of proposal.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Highway Development Management – Confirmed that a “stopping up of the highway” Order needs to be in place before Highways can consider the scheme acceptable.
- Highway Structures – No objections.
- Conservation & Design – Informally consulted. No objections.

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 in the Golcar Conservation Area on the Kirklees Local Plan. It is within a Bat Alert Layer but not within a Coal Risk Area.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 30 – Biodiversity & Geodiversity
- LP 35 – Historic Environment
- LP 53 – Contaminated and unstable land

Supplementary Planning Guidance

- Highways Design Guide SPD
- House Extension 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 December 2023, 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 3 – Plan-making
- Chapter 4 – Decision-making
- Chapter 12 – Achieving well-designed and beautiful 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

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
6) Representations
7) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *"good design should be at the core of all proposals in the district".*

Key Design Principles 1 and 2 of the House Extensions and Alterations SPD have been used as a guide in considering the proposal's visual amenity impact on the streetscene and host.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

1.2 – Heritage

The site is located within Golcar Conservation Area. The site is also within close proximity to a number of listed buildings. As such, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of buildings or land within a Conservation Area. Section 66 of the Act sets out a duty for local planning authorities in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, LP35 states *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in…harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring…public benefits that clearly outweigh the harm".* This is mirrored in paragraph 208 in Chapter 16 of the NPPF.

Paragraph 203 goes on and states that Local planning authorities should consider:

> *"the desirability of sustaining and enhancing the significance of heritage assets… the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and; the desirability of development making a positive contribution to local distinctiveness"* when determining these applications.

An analysis of whether harm to the significance of these heritage assets would occur will be assessed and discussed later in the report. On the basis the development has an acceptable impact upon visual amenity, Conservation issues, residential amenity and access / highway safety considerations, as well as all other relevant considerations, the principle of development is considered to be acceptable in this case.

2 –Impact on Visual Amenity and Heritage:

In terms of visual amenity, general design considerations are set out in Policy LP02, LP24 and LP35 of the Local Plan, Key Design Principles 1 and 2 of the House Extensions and Alterations SPD, and Chapters 12 and 16 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape, heritage assets and protect amenity. LP24 also requires extensions to be *"subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details*".

Paragraphs 5.1-5.6 of the SPD (pages 23-24) provides specific advice on rear extensions and single-storey rear extensions which is used as a guide. Generally, they should preserve an external passageway to the rear garden, retain a garden of reasonable size and be set behind the original building. The proposal would comply with those requirements when considering the side amenity space.

With reference to the specific design guidance within paragraph 5.6 of the SPD (page 24), the proposal would comply with requirements to have a limited projection, be set away a minimum of 1m from the flank property boundaries and appear in keeping with the host in materials, scale and details. It would not comply with the advised height restrictions however given

its context within its steeply sloping locality and raised plot (1.4m height compared to the adjacent highway), the proposal would still appear subservient to the host as demonstrated by its limited projection, set down roof ridge height and limited width. On balance this would appear to be of an acceptable design for visual amenity.

There is a Golcar Conservation Area Appraisal setting out that the urban design of the area has small houses in small plots which typically has a lack of garden/amenity space and the village form is organic with little formal planning evident. They are built of natural stone and slate roof. The steep hillside is a feature of the Conservation Area affecting movement with paths and steep gradients affording pleasant views.

The site had previously a row of terraced housing with a stagged roofline shown on historic maps from 1893 onwards and then was cleared leaving open land subsequently occupied by a detached garage and converted to housing. The addition of the rear extension would visually appear to be a terraced style addition with a subservient roof line re-creating a staggered roofline similar to the terraced housing in the immediate area. Whilst the terraced properties' windows are orientated southwards, the south elevation of the host is blank excepting for rooflights to take advantage of daylighting. The addition of a window to the extension's south elevation would aid in giving the proposal some limited positive visual interest and be more in line with its historic setting. The Conservation & Design Officer raised no objections and considered that the proposed rockery would aid in hiding the platform beam and blend in the proposal within its setting. The proposed would therefore enhance the historic significance of the site in re-instating a form of historic built development within a cleared area of land which was revealed in land survey maps in 2004. As such, no harm has been identified on heritage grounds.

The proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policies LP02, LP24 and LP35 of the Local Plan, Policies in Chapter 12 and 16 of the NPPF and the 'House Extensions and Alterations SPD'.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan states that alterations to existing buildings should:

"…maintain appropriate distances between buildings' and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 135f) of the National Planning Policy Framework 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Key Design Principles 3-6 guide Officers to ensure high standards of residential amenity are achieved within proposals.

The proposed extension and alterations are assessed upon whether they would have a detrimental effect on residential amenity, adjoining dwellings or any occupier of adjacent land by way of overshadowing, overbearing or overlooking and also in terms of its design, size and visual amenities. The closest properties to be affected by the development are no. 80.

No. 80 Handel Street

This property is sited to the south on lower ground with a blank side elevation and a roofline just above the proposed development. There is no skylights to be affected within this unadorned roof. Given the lack of openings affected to no. 80, while there is a proposed window to the south elevation of the extension, this window would not cause any additional overlooking or loss of privacy within the property. No. 80 has an amenity space which is fenced off to a sufficient height so as to satisfactorily screen the private amenity space from the elevated window, with oblique views, and not give rise to unacceptable loss of privacy/overlooking. The set back from the highway would also adequately mitigate against undue overbearing or overshadowing impact to this neighbour.

Other Residential Properties

It is considered that the proposed development would be sited a sufficient distance away from or be at a significantly different ground level to any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

Future Occupiers

With reference to Key Design Principle 7 of the House Extensions and Alterations SPD, the proposal would still retain an adequate, outdoor private amenity space available to future and present occupiers for reasonable standards of privacy.

The proposal would therefore be in general conformance with LP24b of the Kirklees Local Plan, the Key Design Principles relating to residential amenity of the House Extensions and Alterations SPD and Chapter 12 of the NPPF.

<u>4 – Impact on highway safety</u>:

Turning to highway safety, Policies LP21 and 22 of the Local Plan and Key Design Principles 15 – Provision for parking and Principle 16 – Provision for waste storage of the adopted 'House Extension and Alterations SPD' have been considered along with the KC Highway Design Guide.

LP21 in particular sets out that All proposals shall ensure the safe and efficient flow of traffic within the development and on the surrounding highway network.

The Highways Design Guide advises that new dwellings should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited. The proposal would increase the occupancy level to two bedrooms.

For a 2-3 bedroom dwelling it should have a minimum of 2 off street parking spaces. While plans do not set out a parking layout, it appears that there are sufficient parking within the shared courtyard as confirmed by the Appeal ref: APP/Z4718/D/24/3336388. Officers have taken this into consideration. There is sufficient space within the plot for bin storage to avoid detrimental effects on bins affecting highway safety.

The response included advice that the side elevation door to the existing host should be reversed to open inwards to avoid obstruction to the highway. It is considered this matter relates to the existing building and permission to reverse the opening of a doorway would fall outside the definition of development in this case.

As highlighted within the 'History of negotiations/amendments received' section of the report, a stopping up order is required to facilitate the development. This was confirmed by the Highway Development Management within a formal response. As such, without this being forthcoming and given the lapsed time since the agent being notified, Officers have moved to determination of this case.

Officers are unable to condition the development be undertaken following successful completion of the process to ensure a stopping up Order is in place given such a process has the potential to fail and therefore such a condition would not meet the requirements of the 6 tests set out in the NPPG.

The proposed development is within the adopted highway. In the absence of the submission of the necessary Highways Stopping Up Order, it has not been demonstrated that the proposal would avoid encroaching on the adopted highway and therefore it is considered the impact of the proposal upon access and highway safety would be unacceptable in the absence of the land having been subject of a successful stopping up order.

As the situation currently stands, the proposal would not ensure the safe and efficient flow of traffic on the surrounding highway network.

The proposal would therefore conflict with LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework. Therefore, the proposals are not considered to be acceptable in this regard.

5 – Other matters:

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 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.

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Biodiversity

Paragraphs 180, 186, 187 and 188 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.

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. An informative would have been provided however, should permission be granted, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward.

Contaminated and unstable land

The site is not identified as potentially contaminated land and it is not within a Coal Risk Area. Highway Structures were formally consulted and did not raise any concerns regarding the highway in relation to land stability.

Policy LP53 states that: *"Development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment."*

Reference is made to developments identified at risk of instability and that the Council has a clear responsibility to ensure that this "*does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted."*

In relation to Land Stability, it is a material planning consideration and there is significant public interest in ensuring the land stability being sited close to the current residential developments, the heritage assets within the Conservation Area and Listed Buildings and the Public Right of Way nearby.
While the National Planning Policy Framework states that under paragraph 190:

> *"Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."*

the Local Planning Authority's policies and decisions is also required to consider land stability under the Planning Practice Guidance 'Land Stability' and under paragraph 189 of the NPPF to ensure that:

> *"a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation); and*
> *c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."*

With regard to third party representation being received, should the application be otherwise considered acceptable considering the very limited scale of development proposed, Officers recommend any grant of permission be subject to informative advising that the responsibility for achieving a safe development would be a private matter for the developer/applicant.
The proposal would therefore comply with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6 – Representations:

Two representations had been received and the concerns raised are considered within section 5 of this report.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that 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.

The proposed development is within the adopted highway. In the absence of the submission of the necessary Highways Stopping Up Order, it has not been demonstrated that the proposal would avoid encroaching on the adopted highway and therefore cannot be lawfully carried out. Interference with the highway without such permission is an offence which could lead to prosecution. The proposal would therefore conflict with LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework. Therefore, the proposals are not supported.

Recommendation **Refuse**

Decision Authorisation - Delegated

Application Number: 2022/91391

Officer Recommendation: Refuse

Reason

1. The proposed development is within the adopted highway. The impact of the development, in the absence of an agreement to stop up this section of highway, would be detrimental to the operation of this part of the highway having a significant impact upon access and highway safety contrary to policy LP21 of the Kirklees Local Plan and policies within Chapter 9 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location, Existing and Proposed Floor and Elevation Plans.	Drawing no. 2208-01.	Unamended	25/05/2022

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. During the site appraisal, it became apparent that the proposed extension would encroach on adopted Highway land. Communication was provided on the necessary stopping up required in this case.

Report Dated: 17/07/2024