

**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:	2022/62/92050/W
Site Address:	112, Dewhurst Road, Fartown, Huddersfield, HD2 1BN
Description:	Erection of replacement garage
Recommending Officer:	Lucy Taylor

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.

John Holmes

AUTHORISED OFFICER

Date: 26th September 2022

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Officer Report.

Reference: 2022/92050

Location: 112, Dewhurst Road, Fartown, Huddersfield, HD2 1BN

Proposal: Erection of replacement garage

Site Description.

112 Dewhurst Road is a two-storey terrace property located in Fartown, Huddersfield. To the rear of the site, the property benefits from a detached garage structure although this is in a poor state of repair. An adopted highway runs adjacent to the rear boundary of curtilage, between the property of 112 Dewhurst Road and the detached garage structure. Several other detached garages are located to the northern side of this adopted highway, which works to provide access to the rear of 2-124 Dewhurst Road.

The detached garage structure in conjunction with 112 Dewhurst Road is in a state of decay, originally constructed from wooden cladding with a felt roof. Both the materials appear damaged.

The property of 112 Dewhurst Road and the site of the detached garage are not specifically Allocated in the Kirklees Local Plan; however, it has been acknowledged that a Public Right of Way (HUD/377/10) runs between the two.

Description of Proposal.

Planning permission is sought for the erection of a replacement garage.

The replacement garage will have the same width (3.5 metres), length (5.3 metres) and height (3.3 metres) as the original detached garage structure and will be erected in the same position within the streetscene.

The walls of the replacement garage will be faced in artificial stone and the new gable roof will be infilled with concrete tiles.

The only form of fenestration detailing proposed is a garage door to the front elevation of the proposed replacement garage. This garage door will be constructed from steel.

Some of the existing foliage around the existing detached garage structure is to be cleared away to facilitate the erected of the replacement garage.

History of Negotiations.

No negotiations took place, and no amended plans were sought or submitted.

Relevant Planning History.

- **2019/90551** – Erection of single storey rear extension and front and rear dormers. *Granted Conditional Full Permission in 2019.*

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 within the newspaper and via neighbour notification letters and a site notice, which collectively expired on 29 July 2022 – one representation was received.

The received representation set out the following concern:

- Object to the granting of permission to 112 replacement of garage because it belongs to a different property.

Consultation Responses.

KC Trees – raised no objection to this proposal because the most notable trees are on the other side of the stream and won't be affected by the replacement of this garage.

No responses were received from the Council's Highways Team or Public Rights of Way Team following consultation about this application, sent on 22nd June.

Policy/Legislation.

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 property of 112 Dewhurst Road and the site of the detached garage are not specifically Allocated in the Kirklees Local Plan; however, it has been acknowledged that a Public Right of Way (HUD/377/10) runs between the two built forms.

In addition, the site falls in an area with a known presence of bats and within an area identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

The site of the detached garage is located in both Flood Zone 2 and 3 as identified upon the Council's adopted Strategic Flood Risk Assessment and by the Environment Agency flood maps.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP23 – Core Walking and Cycling Network
- LP24 – Design
- LP27 – Flood Risk
- LP30 Biodiversity and Geodiversity
- LP51 – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

Highways Design Guide SPD (2019)

House Extensions and Alterations SPD:

The Kirklees House Extension and Alterations SPD, adopted on 29 June 2021, has been prepared to help householders, developers, agents and architects who are planning and designing an extension or alterations (householder development) to an existing residential property, including conservatories and outbuildings, such as garages. It provides detailed guidance regarding the standard of development that will help achieve a well-designed house extension or alteration required by the Council.

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, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 12 – Achieving Well-Designed Places
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and Enhancing the Natural Environment

Assessment.

The following matters that will be considered as part of the assessment of the proposal are set below. These considerations will be looked at in detail individually:

1) Principle of Development

- 2) Impact on Visual Amenity
- 3) Impact on Residential Amenity
- 4) Impact on Highway Safety
- 5) Other Matters
- 6) Representations
- 7) Conclusion

1. Principle of Development

Chapter 2 of the NPPF states that: *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions...”*

Chapter 2 of the NPPF goes on to further state that objectives should: *“support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment...”*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *“...the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.”*

Policy LP1 goes further and states: *“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*

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”*.

In this instance, it can be stated that the principle of development in this application could be acceptable, subject to the assessment of impacts on visual and residential amenity, as well as highway safety and any other impacts that may arise. These will be discussed below.

1. Impact on Visual Amenity

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby paragraph 126 provides a principal consideration concerning design which states: *“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 130 of the NPPF is of relevance, in particular the following parts:-
- *‘b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping’*

- 'c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

- 'a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...'*
- 'c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...'*

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.

The Council's House Extensions and Alterations SPD further states that detached garages should:

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

The proposed replacement detached garage in conjunction with No. 112 Dewhurst Road is considered to appropriately comply with the key design criterion of the SPD as set out above.

The proposed detached garage is to replace an existing detached garage structure, in the same location within the streetscene and of the same dimensions with regard to footprint and height. Therefore, the principle of the replacement detached garage in conjunction with property No. 112 Dewhurst Road is considered acceptable from a visual amenity perspective.

In addition, given the current state of the detached garage structure, which is in a state of decay, the replacement is considered to provide an improvement to the visual amenities of the wider streetscene. The use of stone to face the replacement garage will be in keeping with the external appearance of the terrace properties located adjacent and the gable roofing style is in keeping with the original design of the garage, infilled with concrete tiles, which will also match the visual appearance of the roofs to the adjacent terrace properties.

Other garages which front this street are typically of a flat roof / concrete pre-fabricated design. The proposal would be an improvement in terms of design quality by comparison to other garages in this locality.

In turn, it is concluded that the replacement detached garage will not be obtrusive and will sympathetically complement the established architectural style of the wider locality.

For all of the reasons outlined above, it is considered that the proposal would not cause detrimental harm to the visual amenities of the locality. The proposed development is considered to comply with Chapter 12 of the NPPF, LP24 of the Kirklees Local Plan and Key Design Principles 1 & 2 of the House Extension and Alterations SPD.

2. Impact on Residential Amenity

Section B and C of LP24 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 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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.

In accordance with Key Design Principle 7 of the SPD, the proposal will not see a reduction in the extent of outdoor amenity space at the property of 112 Dewhurst Road.

The proposed site of erecting the replacement garage is located over 3 metres away from the boundary of any surrounding property. In turn, this separation distance in conjunction with the replacement style of development leads to the conclusion that the proposal will not result in any increased impacts to residential amenity.

The replacement garage will have the same footprint, height and structural design as the original detached garage and be located in the same location within the streetscene. As a result the replacement garage will not result in an increased impact with regard to overbearing or overshadowing. Given the scale of the proposal and distance from neighbours it is considered the impact in this regard would not be significant in any case.

In addition, the garage proposes only one garage door with regard to fenestration detailing, therefore, the proposal will not result in any increased

potential of overlooking. An appropriate level of residential privacy is therefore considered to be retained as a result of development.

For these reasons, the proposed development is not considered to cause undue harm to the residential amenities of neighbouring properties. It is therefore considered that the proposed development complies with Chapter 12 of the NPPF, LP24 of the Kirklees Local Plan and Key Design Principles 3, 4, 5, 6 and 7 of the Council's adopted House Extensions and Alterations SPD.

3. 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.

Following the erection of the replacement garage, it can be concluded that an additional off-street parking space could be created for the occupiers of 112 Dewhurst Road. At present, the existing detached garage structure, in a state of decay, provides no use with regarding to parking provision. Therefore, the erection of a replacement garage is considered an improvement in terms of creating additional off street parking.

In turn, erecting the proposed replacement garage would appropriately accord with Chapter 9 of the NPPF, LP21 and LP22 of the Kirklees Local Plan and Key Design Principle 15 of the House Extensions and Alterations SPD.

4. 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 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.

Considering the small-scale of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the NPPF, Policy LP51 of the Kirklees Local Plan and Policy 12 of the Holme Valley Neighbourhood Development Plan.

Trees:

Policy LP33 of the Kirklees Local Plan states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

The proposal would see the removal of some bushes / trees as part of the redevelopment of the site. The Council's Tree Officer has been consulted and has stated they have no objection to the proposal.

Taking account the age of the foliage to be removed and response of the Tree Officer it is considered that the proposal would not have a significant impact due to the removal of the bushes / trees at site.

Bats:

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.

The application site lies within the bat alert layer on the Council's GIS system. The proposal would see the removal of the existing dilapidated structure and also the removal of trees / foliage which has the potential to provide foraging opportunities for bats.

Given the state of the structure it is considered unlikely to provide a suitable roosting opportunity for bats. Furthermore, as the foliage at site is not protected and can be removed in any event it is considered that it would be unreasonable of the LPA to insist upon submission of a bat survey in this case.

Even so, as a cautionary measure, in the event of any grant of permission a note would be added to the decision notice, stating that if bats are found development shall cease and the advice of a licensed bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF.

Flood Risk:

Chapter 14 of the NPPF and LP27 of the Kirklees Local Plan set out that a sequential risk-based approach should be taken when assessing the location of development – taking into account all sources of flood risk and the current and future impacts of climate change.

With regard to this particular proposal, it is important to note that a water feature runs adjacent to the north, namely Blackhouse Dike. However, given that the proposal of development is for a replacement structure, which will function as a garage and therefore be non-habitable, it is concluded that the replacement detached garage will appropriately comply with the aims of Chapter 14 of the NPPF and LP27 of the Kirklees Local Plan.

This conclusion with relevant national and local planning policies is on the basis the proposal would not introduce a more vulnerable use to the land plot.

Public Rights of Way:

Policy LP23 of the Kirklees Local Plan relates to cycling / walking network and sets out that proposals that may prejudice the function, continuity or implementation of the core walking and cycling network will not be permitted.

Given that the proposed replacement detached garage does not prejudice the function, continuity, or implementation of footpath HUD/377/10 as a walking or cycling network, the proposal is considered to appropriately comply with LP23 of the Kirklees Local Plan.

In turn, footpath HUD/377/10 will be protected following the erection of the proposed replacement detached garage.

5. Representations

As a result of publicity, one representation was received. This representation raised the following concern:

- Object to the granting of permission to 112 replacement of garage because it belongs to a different property.

Response: The records held by the Council's show that the land is currently owned by Kirklees Council and the applicant's have served notice upon the Council providing notice of the application for re-development of the land and signed the correct Certificate of the application form. Therefore, in terms of validity, the application is considered valid with regard to land ownership. Notwithstanding this, a footnote that been included within the final decision

notice for this application, setting out further details of right to develop land not within their ownership.

6. 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: 2022/92050

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 & LP51 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 15 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 12, 14 & 15 of the National Planning Policy Framework.
3. The external walls and roofing materials of the replacement detached garage approved shall in all respects be in accordance with those as annotated on Dwg No. 01 and be thereafter retained.
Reason: In the interests visual amenity and to accord with Policies LP2 & LP24 of the Kirklees Local Plan, Principles 1 and 2 of the Council's adopted House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.

Note: The application site is located in a low risk coal area.

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.

Plans and Specifications Schedule:-

Plan Type	Reference	Version	Date Received
Proposed Replacement Garage Plans and Elevations	01	-	22.6.22

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No negotiations took place, and no amended plans were sought or submitted.

Report Dated: