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:	**2022/62/92803/E**
Site Address:	5, Osborne Terrace, Batley, WF17 0LZ
Description:	Conversion of existing garage to living accommodation including external alterations, erection of single storey side extension, boundary fence, pergola, bin store and stepped access following demolition of existing timber outbuilding and steps (within a Conservation Area)
Recommending Officer:	Nicole Helliwell

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 25-Oct-2022

Officer Report

Reference No. 2022/62/92803/E
Site Address: 5, Osborne Terrace, Batley, WF17 0LZ
Proposal: Conversion of existing garage to living accommodation including external alterations, erection of single storey side extension, boundary fence, pergola, bin store and stepped access following demolition of existing timber outbuilding and steps (within a Conservation Area)

Site Description
The application relates to 5 Osborne Terrace, a two-storey end terrace property located in a residential area in Batley. The dwelling incorporates a dual pitched roof and is predominately faced in red brick with stonework to the front elevation. The property benefits from off road parking sited to the rear, a detached garage and gardens to the front and rear. The neighbouring properties are of residential use and comprise two storey dwellings of varying materials and architectural styles.

Description of Proposal
The application seeks planning permission for the construction of a single storey side extension, the conversion of the existing garage to living accommodation with external alterations, the erection of a boundary fence, pergola, bin store and stepped access. The existing timber outbuilding and steps would be demolished to allow for the proposed works. The proposed single storey extension would project approximately 2.62m from the side elevation of the detached garage. The enlargement would feature a maximum height of approx. 3.05m and a height to eaves of approx. 3.05m.

Relevant Planning History
91/02347: Erection of double garage. Planning application details | Kirklees Council
90/02543: Outline application for extension to existing garage. Planning application details | Kirklees Council

Representations
The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 14th October 2022. As a result of the above publicity, one representation has been received. A summary of the neighbour's comments can be found under the 'Representations' section of the Officer's report.

Consultation Responses
KC Conservation & Design

The application site falls within the setting of the Upper Batley Conservation Area. Although the proposed development would constitute poor design, it would be sited to the rear of the dwellinghouse and would maintain a substantial distance to the highway. On this basis, it is considered that the proposal would not harm the significance or detract from the character of the Conservation Area, in accordance with Policy LP35 of the KLP and Chapter 16 of the NPPF.

KC Environmental Health

We have reviewed 2022/92803 and make the following comments and recommendations.

The proposal involves repurposing and extending an existing garage into residential/office accommodation, this could expose sensitive receptors to possible land contamination risk. The site of the proposed development is close to land identified as contaminated (site ref: - 82/5), circa 70m to the south, described as a landfill site. The site also appears to be in an area with a coal mining legacy. We therefore recommend contaminated land conditions.

A commercial building lies directly behind the proposed development which may give rise to loss of amenity by way of noise. We therefore recommend a condition to assess the noise associated with this building to protect the amenity of future occupiers. Construction noise can also give rise to loss of amenity to neighbouring noise sensitive receptors, for this reason a condition is necessary to limit the hours of operation for the site.

KC Trees

The proposals will not affect the rooting area of the adjacent protected trees due to the ground level difference and existing structures present. It is worth noting however that the raised garden area to the rear of the building is currently not useable due to low hanging branches etc. It would be necessary to prune trees and potentially remove some establishing self-set trees. As no details have been provided, consent for these proposals could result in unsympathetic pruning or excessive clearance of trees in the immediate vicinity, which would be harmful to the setting of the area.

The proposals will not only require pruning to facilitate the construction but may also result in an increase in pressure to prune or fell nearby trees. To the north of Osborne Terrace is an establishing belt of trees, all of which fall within the Conservation Area and some are protected by TPO 23/77. Development on north side of the street for living accommodation will impact upon the development of the trees and vegetation between Osborne Terrace and the Ethos Academy which would be a negative impact on the setting of the Conservation Area.

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 UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies
- **LP 1** - Achieving sustainable development
- **LP 2** - Place shaping
- **LP 21** - Highways and access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 33** - Trees
- **LP 35** - Historic Environment

Kirklees Council adopted supplementary planning guidance on house extensions on 29th 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 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** - Achieving sustainable development
- **Chapter 12** - Achieving well-designed places
- **Chapter 15** - Conserving and enhancing the natural environment

Assessment

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 Extensions and Alterations SPD and Chapter 12 of the NPPF, regarding design.
In this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety.

Visual amenity

Key Design Principle 1 of the House Extensions & Alterations 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 SPD goes on to 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.

Pergola
The pergola would be constructed in timber and would be of a simple lightweight design. The structure would measure approximately 2.6m above ground level and would appear subservient in relation to the existing detached garage. Therefore, given that the pergola would be of an appropriate scale and style, it is considered acceptable in terms of visual amenity.

Boundary Fence
The fencing would border the paved rear garden and would replace the existing boundary treatment on site. It is noted that the close boarded fence would be constructed in timber and would measure 1.8m above the existing boundary wall. Although the fencing would have an elevated position and would have some visibility from public vantage points, given that it would sit well within the setting of existing trees and vegetation, it is considered that the proposal would not have a significant impact on the character and appearance of the surrounding area.

Raised Patio & Stepped Access
The raised patio and steps would be located to the rear of the application site. Although, the patio would be sited on higher ground than the shared driveway, it is considered that the proposal would be of an appropriate scale and would be acceptable with regard to visual amenity.

Single Storey Side Extension and Garage Conversion
The proposed single storey extension would project approximately 2.62m from the side elevation of the existing detached garage. The side extension would be modestly proportioned, set back from the front elevation of the detached garage and would not exceed 4m in height.

Additionally, the existing detached garage would be converted to living accommodation as part of the proposal. The plans confirm that the height of the garage would be raised by approximately 0.6m, the garage door would be replaced with fenestration and a new opening would be installed to the side elevation. However, it is noted that the fenestration proposed would be large in size and would not be in keeping with the style of the original dwellinghouse.

Furthermore. the design and material palette of the proposal would give the appearance of a shipping container rather than a domestic outbuilding. Both the existing garage and the proposed single storey side extension would incorporate a flat roof and would be faced in black timber cladding. Although, the proposed development would be set away from the highway, it is noted that the flat roof form would be at odds with the host property which has a pitched roof and would constitute poor design. This visual harm would be further exacerbated by the use of black timber cladding which would present a harsh exterior against the red brick terrace row. On this basis, it is considered that the proposed works would form an incongruous and discordant addition which would detract from the character and appearance of the host property and wider street scene.

Summary
Having taken the above into account, the proposed development would cause significant harm to the visual amenity of the host property and the wider street scene, therefore failing to accord with Policy LP24 of the Kirklees Local Plan (a), KDP 1 & 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

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 submitted plans confirm that the buildings to the rear of the application site would not be affected by the proposed works.

Impact on 6 Osborne Terrace
6 Osborne Terrace is a two storey detached property sited south-east of the application site. Due to the offset relationship between the host dwelling and the neighbouring property, it is considered that the proposed development would not have a significant impact on the neighbour's residential amenity in terms of overbearing, overshadowing or overlooking.

Impact on 4 Osborne Terrace
4 Osborne Terrace is a residential property located west of the application site. Although it is noted that the proposed single storey side extension would be positioned in close proximity to the common boundary shared with 4 Osborne Terrace, the plans confirm that the enlargement would not contain any fenestration and would border the neighbour's driveway. On this basis, it is considered that the proposal would have an acceptable impact on the neighbouring occupant's amenity.

Furthermore, it is noted that the paved garden would have an elevated position and would create a viewing platform. However, it is considered that the neighbouring occupants would not experience any further harm to their residential amenity given that the outlook would largely remain the same.

Occupier Amenity
The plans confirm the provision of light to all habitable rooms and that sufficient outdoor amenity space of a functional layout would be retained at the site. On this basis, it is considered that the proposed works would ensure an acceptable standard of amenity for existing and future occupants.

Summary
Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extensions and Alterations SPD and Paragraph 130 (f) of the National Planning Policy Framework.

Highway Safety

Paragraph 4.40 of the House Extensions and Alterations SPD states that proposals need to ensure that they maintain appropriate access and parking to ensure that highways are not affected by development. Whilst the proposal would not intensify the domestic use at the dwelling, it would affect the existing parking arrangements on site. At present, the detached garage and driveway to the rear of the property provides off road parking for three vehicles. However, the proposed works would displace all three parking spaces, such that there would be an under provision of off road parking on site. This would lead to an increase in on street parking which would have a detrimental impact on highway safety. For this reason, the development would fail to accord with Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF, Principles 15 and 16 of the Kirklees House Extensions and Alterations SPD and the Highways Design Guide SPD.

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.

There are no other matters relevant to the determination of this application.

Representations

One representation was received following the statutory publicity. The submitted comments were in favour of the proposed development and expressed that the building works would improve the appearance of the dwellinghouse and the surrounding area.

Negotiations

No amendments were sought or received during consideration of the application.

Conclusion

This application for the construction of a single storey side extension, the conversion of the existing garage to living accommodation with external alterations, the erection of a boundary fence, pergola, bin store and stepped access to 5 Osborne Terrace has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House

Extensions and Alterations SPD, the National Planning Policy Framework and other material considerations.

The proposed development by reason of its design and materials would constitute poor design and would result in an incongruous and discordant addition that would unduly harm the visual amenity of the host property and wider street scene. To permit the development would be contrary to Policy LP24 of the Kirklees Local Plan, Key Design Principles 1 & 2 of the House Extensions and Alterations SPD and the aims of Chapter 12 of the National Planning Policy Framework.

Furthermore, the proposed works would displace the existing off road parking spaces on site and would have a detrimental impact on parking provision and highway safety. To permit the proposal would be contrary to Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF, Principles 15 and 16 of the Kirklees House Extensions and Alterations SPD and the Highways Design Guide SPD.

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. For the reasons set out above it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation: Refuse

Decision Authorisation - Delegated Powers
Application Number: 2022/92803
Officer Recommendation: Refuse
Reasons for refusal

1. The proposed development, by virtue of its design and materials, would result in an incongruous and unsympathetic addition which would detract from the appearance of the host property and would fail to respect the character of the area. To permit the proposal would be contrary to Policy LP24 of the Kirklees Local Plan, KDP1 and KDP2 of the House Extensions and Alterations SPD and advice within chapter 12 of the National Planning Policy Framework.

1. The proposed development would displace the existing off road parking spaces on site and would have a detrimental impact on parking provision

and highway safety. To permit the development would be contrary to Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF, Principles 15 and 16 of the Kirklees House Extensions and Alterations SPD and the Highways Design Guide SPD.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
OS_Plan	100	B	31/08/2022
Existing_Floor_Plans	110		22/08/2022
Proposed_Floor_Plans	210		22/08/2022
Heritage Statement	-		22/08/2022
Design and Access Statement	-		23/08/2022

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 submitted plans raised significant concerns in terms of the developments impact on the visual amenity and character of the host property and wider area and in relation to off road parking provision on site. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. In this instance, the alterations required would be beyond the scope of the application. As such, no amendments were sought thereafter.

Report Dated: 07/10/2022