KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – SECTION 16

DELEGATED DECISION TO DETERMINE APPLICATIONS FOR LISTED BUILDING CONSENT

Reference No:	2022//93303/E
Site Address:	The Old Rectory, 15, Pinfold Lane, Mirfield, WF14 9PS
Description:	Variation of condition 2 (plans) on previous permission 2022/90989 for increase roof height and alterations to detached garage (Listed Building)
Recommending Officer:	Alice Downham

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 06-Dec-2022

Officer Report

Site Description

The Old Rectory is a Grade II* listed dwelling, understood to date to the early 16th century or earlier, with extensive modernisation in the early 20th century. Although now surrounded by modern development, until the mid-20th century this building was in a semi-rural location on the edge of Mirfield and is understood to have been associated with the nearby church to the north-east. The exterior of the building is in natural stone and timber framing with a stone slate roof, and it is set within a large curtilage. There are gardens from the northeast to southeast, parking to the rear (southwest), and a detached garage to the northwest, which is the subject of this application. The detached garage is adjacent to the boundary of the site, along which runs Public Right of Way (PROW) footpath MIR/49/30.

Dwellings in the area are of various sizes, styles and forms, with stone, brick, render and cladding all being found on dwellings close to the application site.

Description of Proposal

The applicant is seeking permission to vary condition 2 (plans) on previous permission 2022/90989 for increase roof height and alterations to detached garage (Listed Building) which was approved on 1st August 2022.

Condition 2 of permission 2022/90989 relates to the approved plans and reads as follows:

"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 Policies LP1, LP2, LP21, LP22, LP23, LP24, LP30, LP35, LP51, LP52, and LP53 of the Kirklees Local Plan, the principles and guidance within the Council's House Extensions and Alterations SPD, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework."*

This Section 73 application seeks to vary the approved plans (condition 2) due to the addition of an external staircase and door. Under the original application, an internal staircase (to access the storage area on the first floor) was approved. This was demonstrated on the submitted proposed floor plans.

However, proposed floor plans, elevations, and a 3D rendering have been submitted demonstrating that the approved internal staircase would be replaced by the proposed external staircase. The staircase would be L-shaped, situated adjacent to the north-western site boundary, and would lead to a new

door at first-floor level which would provide access to the approved storage area.

History of negotiations/amendments received

The submitted plans raised significant concerns in terms of the harm that would be caused to the setting of a designated heritage asset. 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. As these issues related to the principle of development terms of harm to the listed building, no amendments were sought.

Relevant Planning History

91/03699 – Erection of extension to form hobby room (Listed Building). Conditional full permission.

2006/91197 – Change of use of part of dwelling to bed and breakfast (Listed Building). Conditional full permission.

2021/90020 – Erection of barn office (Listed Building). Withdrawn invalid.

2021/90410 – Erection of outbuilding (Listed Building). Withdrawn.

2021/91785 – Erection of outbuilding (Listed Building). Refused.

2022/90989 - Increase roof height and alterations to detached garage (Listed Building). Conditional full permission.

Publicity and Representations

The application was advertised by neighbour letter, site notice and in the press as the site is a Listed Building and is in proximity to a PROW. Publicity expiry:

- Neighbour letter – 17th November 2022
- Site notice – 24th November 2022
- Press notice – 17th November 2022

As a result of the above publicity, eight objections have been received from five properties. Objections have also been received from Kirklees Councillor Vivien Lees-Hamilton and Mirfield Town Councillor Sean Guy. The material planning considerations raised as concerns are summarised as follows:

- Overlooking/loss of privacy
- Detrimental impact on PROW
- Out of character with host property (listed building)

Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

Mirfield Town Council were consulted although no comments were received.

Officer comments will be made in section 5 of this report.

Consultation Responses

KC Conservation & Design – informal consultation, objected to proposed development. Comments addressed in report.

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.

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. The National Planning Policy Framework includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda under other matters.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways and access
- **LP 22** – Parking
- **LP 23** – Core walking and cycling network
- **LP 24** – Design
- **LP 30** – Biodiversity & geodiversity
- **LP 35** – Historic environment
- **LP 51** – Protection and improvement of air quality
- **LP 52** – Protection and improvement of environmental quality
- **LP 53** – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

Kirklees Council has adopted Supplementary Planning Documents (SPDs) for guidance on house building, house extensions, and open space, to be used

alongside existing, previously adopted SPDs. These carry full weight in decision making and are now being considered in the assessment of planning applications. The SPDs indicate 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 and the National Planning Policy Framework, requiring development to be considerate in terms of the character of the host property, street scene, and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)
- House Extensions and Alterations SPD (adopted 29th June 2021)

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 National Planning Policy Framework constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Further considerations:

The site is within Mirfield Neighbourhood Area. There is no made Neighbourhood Development Plan (NDP) within the Mirfield Neighbourhood Area at present. Furthermore, there is no emerging NDP to be considered as a material consideration in assessment of this application. Further details on the progress of neighbourhood development plans in the district can be found at:

https://www.kirklees.gov.uk/beta/planning-policy/neighbourhoodplanning.aspx

However, the Mirfield Design Statement 2002 is still of relevance and requires development to be in keeping with the area.

Assessment

The following matters are considered in the assessment below –

1) Principle of development and impact on visual amenity
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conditions
7) Conclusion

1 – Principle of development and impact on visual amenity:

When making decisions on planning applications for development that would affect a Listed Building or its setting, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged.

Policy LP35 of the Kirklees Local Plan states *"Development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm"*.

Paragraph 194 of the National Planning Policy Framework states *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting."*

No Heritage Impact Assessment was received as part of the current Section 73 application. However, as part of the original application for planning permission (2022/90989, a Heritage Impact Assessment was submitted. This provided the English Heritage listing for the Old Rectory.

Paragraph 195 of the National Planning Policy Framework states *"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."*

The KC Conservation & Design team were informally consulted. Their response highlights that the proposed external staircase would be large in scale, highly visible within the site and in relation to the designated heritage asset, and unsympathetically designed. The existing garage is in close proximity to the house, with the northeast gable (where the proposed staircase would be

located) particularly visible in context with it when entering the site from the main entrance to the north-east. The large scale of the proposed staircase does not respect, preserve, or enhance the character of the Grade II* listed house, and the design details, as such, do not sit comfortably in this sensitive setting. Officers consider that the proposal would have a harmful impact on the setting of the designated heritage asset, thereby failing to preserve or enhance the significance of the asset.

Paragraph 199 of the National Planning Policy Framework states *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."* Paragraph 200 states *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."* Paragraph 202 states *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

In this case the heritage asset is a Grade II* house of high significance. The Conservation & Design team consider that the erection of a large external staircase within the curtilage would lead to less than substantial harm. No justification or public benefits were provided to outweigh the harm.

As the proposal would lead to less than substantial harm to the setting of the Old Rectory and the applicant has not provided justification for it or provided public benefits to outweigh the harm, the application is not in accordance with Policy LP35 of the Kirklees Local Plan, or Chapter 16 of the National Planning Policy Framework. No justification or public benefits were provided to outweigh the harm. Notwithstanding this, officers cannot deduce any public benefits which would result from the scheme.

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

4 – 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 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

With regard to the House Extensions and Alterations SPD, Key Design Principle 3 states that *"extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours."* Key Design Principle 4 states that *"extensions and alterations should consider the design and layout of habitable and non-habitable rooms to*

reduce conflict between neighbouring properties relating to privacy, light, and outlook." Key Design Principle 5 states that *"extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property."* Key Design Principle 6 states that *"extensions and alterations should not unduly reduce the outlook from a neighbouring property."* Key Design Principle 7 states that *"extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals."*

Given the nature and location of the proposal, officers consider that the only neighbouring dwelling that could be materially impacted is Pinfold Lodge, 19A Pinfold Lane to the north.

Impact on Pinfold Lodge, 19A Pinfold Lane

This is the adjoining property to the north of the application site. The proposed external staircase would be closest to the south-eastern side elevation of this neighbouring property, which benefits from a single window. The proposed staircase would provide access to the first-floor storage area via an internal door. However, it would not have a recreational use (for example like a balcony) and would not be a habitable space. It is considered that time spent on the highest portions of the proposed staircase, above the height of the existing boundary wall, would be temporary and limited, given the use of the development and the space it would access. As such, it is considered on balance that this would have no significant overlooking impacts on this neighbour. It is considered that the staircase would have no significant additional overbearing or overshadowing impacts over and above the approved garage. Officers are satisfied that there would be no impacts on the residential amenity of Pinfold Lodge, 19A Pinfold Lane, which would be so significantly detrimental as to justify refusal.

Impact on inhabitants and future occupiers

The proposed development would retain an appropriately sized and useable area of private outdoor space at the property.

After assessing the above factors, officers consider that this proposal would not result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants which would justify refusal, therefore complying with Policy LP24 of the Kirklees Local Plan, Key Design Principles 3, 4, 5, 6 and 7 and the detailed guidance in the Council's House Extensions and Alterations SPD, and Paragraph 130 (f) of the National Planning Policy Framework.

5 – Impact on highway safety:

The proposed development is unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at

the site. The current parking arrangements are considered sufficient and would maintain appropriate access and off-street 'in curtilage' parking.

Therefore, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, Key Design Principle 15 of the Council's House Extensions and Alterations SPD, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

6 – Other matters:

Landfill Gas

KC Strategic Waste and KC HSE reviewed the original application (2022/90989). The consultee responses highlighted the site is approximately 150m away from two closed landfill sites (KC ref nos. 221 and 221A). Both of these former landfill sites have been developed with housing. As such, no further advice is required to ensure that the proposal complies with the aims of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Public Right of Way

Public Right of Way Footpath MIR/49/30 runs along the north-western boundary of the application site. The proposed staircase would provide access to the first-floor storage area via an internal door. However, it would not have a recreational use (for example like a balcony) and would not be a habitable space. It is considered that time spent on the highest portions of the proposed staircase, above the height of the existing boundary wall, would be temporary and limited, given the use of the development and the space it would access. Taking this into consideration, it is considered that the proposal would not have a significantly detrimental impact on the amenity of its users in this instance, according with Policy LP23 of the Kirklees Local Plan. Accordingly, the application has not been advertised as affecting the PROW.

Ecology

The site is located within a bat alert layer on the Council's GIS mapping system. After a visual assessment of the building by the officer, the building appeared to be in good order, well-sealed and unlikely to have any significant bat roost potential. It is recommended that the same informative footnote should be added to the decision notice, should permission be granted. This accords with the aims of Policy LP30 of the Kirklees Local Plan, Key Design Principle 12 of the Council's House Extensions and Alterations SPD, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.

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 would need to be adhered to as part of the construction process which would require compliance with national standards. For this reason, the proposed development is considered to comply with Policies LP51 and LP52 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

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

7 – Representations:

Eight objections have been received from five properties. Objections have also been received from Kirklees Councillor Vivien Lees-Hamilton and Mirfield Town Councillor Sean Guy. The material planning considerations raised as concerns are summarised as follows:

- Overlooking/loss of privacy
- Detrimental impact on PROW
- Out of character with host property (listed building)

These matters have been addressed in the officer report.

8 – Conditions

None as the application is recommended for refusal.

9 – Conclusion:

The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and 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 considerations.

Recommendation **Refuse**

Decision Authorisation - Delegated Powers
Application Number: 2022/93303
Officer Recommendation: Refuse
Conditions and Reasons

1. The proposed external staircase, in terms of its design, appearance and siting would not respect, preserve, or enhance the character of the Grade II* listed building. The development would cause less than substantial harm to the setting of the Grade II* listed building, with no public benefits outweighing this harm. For this reason, the principle of development is considered unacceptable and to permit such a development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan and the guidance set out within Chapter 16 of the NPPF, notably paragraphs 200 and 202.

Plans and specifications schedule:

Plan Type	Reference	Web ID	Date Received
Proposed Elevations	170902-GA04G – 3D Views	955888	11/10/2022
Proposed Elevations	170902-GA03J – Proposed Elevations & Section	955886	11/10/2022
Proposed Floor Plans	170902-GA02G	955887	11/10/2022
Plans from application 2022/90989			
Location Plan	170901-EX01A	924066	09/05/2022
Grouped Plans and Elevations	170902-GA01 - Existing	924064	09/05/2022
Conservation/Heritage Assessment	Heritage Impact Assessment	931386	09/05/2022

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.

The submitted plans raised significant concerns in terms of the harm that would be caused to the setting of a designated heritage asset. 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. As these issues related to the principle of development terms of harm to the listed building, no amendments were sought.

Report Dated: 02/12/2022