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:	**2022/62/93585/W**
Site Address:	36, Pavilion Way, Meltham, Holmfirth, HD9 5QW
Description:	Erection of two and single storey rear and side extensions
Recommending Officer:	Sam Jackman

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: 16-Jan-2023

Officer Report – 2022/93585

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2F93585

Site Description

36 Pavilion Way, Meltham is a stone 3-bedroom detached property with a concrete tiled roof located on the inside of a bend, part of a residential development of similar style properties.

The property benefits from a conservatory to the rear and a detached single garage with drive.

The side garden is separated from the pavement by a boundary wall which is set back from the pavement at an overall height of 1.75m.

Description of Proposal

The application is for a 2-storey rear extension, a single storey rear/side extension and the relocation of the side boundary wall

The measurements of the proposed ground floor extension are as follows:

- 3m in projection at the rear & 2.5m from the side
- 11m the full width of the rear elevation plus the side extension
- 2.4m in height to the eaves; with a flat roof and glazed central roof lantern

The measurements of the proposed first-floor extension above the kitchen-dinner are as follows:

- 2.m in projection
- 5.2m in width
- 4.9m in height to the eaves; 6.2m in overall height with a hipped roof.

The existing boundary wall will be re-aligned closer to the back of the footpath with the pinch point being approx. 0.15m away increasing to 3.5m adjacent to the garage.

The proposed extension would be built from materials to match the host property using natural stone with a concrete tiled roof.

History of negotiations/amendments received

No negotiations have taken place with the applicant/agent due to the application being acceptable in its submitted format.

This application has been submitted following refusal of permission for a similar scheme. The proposal has been amended from that which was refused.

Relevant Planning History

98/92861 – Erection of 83no. dwellings & associated garages – Full Conditionally

Condition (17) Nothing shall be permitted to be planted or erected within a strip of land 2.0m deep measured from the carriageway edge of the adopted highway along the full frontage of the site which exceeds 1m in height above the level of the adjoining highway.

Reason (12/20) In the interests of the free and safe use of the highway.

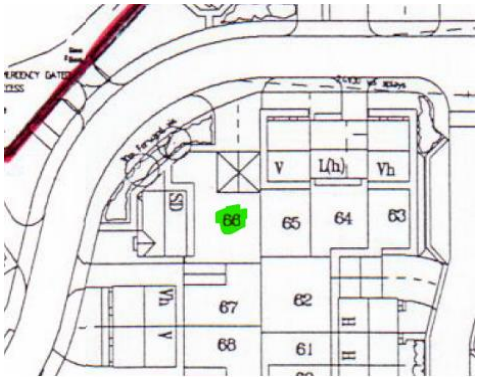
Condition (19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, permitted development rights are withdrawn for the conversion of the integral garages on plots 1-6. 11-13, 18 & 19, 25, 32, 37 & 38, 46 & 47, 49, 64, 80 & 81.

Reason (12/20) In the interests of the free and safe use of the highway.

Condition (25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no buildings or extensions shall be erected in the area of plots 1, 14, 21, 29, 33, 66 and 71 on the approved plan without the prior written approval of the Local Planning Authority.

Reason - 25 To ensure that unsatisfactory extensions do not result in close overlooking of adjoining property.

The application site is plot 66.



2022/91802 – Erection of single and two storey extensions to rear and new boundary wall over 1m high – Refused 24th October 2022 for the following reasons:-

The proposed rear extension, by virtue of its size and proximity to the neighbouring property at No. 38 Pavilion Way, would lead to an unacceptable loss of amenity to neighbouring occupiers as a result of the overbearing and oppressive impact of the development contrary to Policies LP2 and LP24 (b) of the Kirklees Local Plan, Key Design Principle 6 of the Council's adopted House Extensions and Alterations Supplementary Planning Document and paragraph 130 of the National Planning Policy Framework.

By virtue of the openings within the rear elevation, and proximity to the neighbouring property at No. 38 Pavilion Way the development would lead to unacceptable levels of overlooking to the occupiers of no.38 contrary to Policies LP2 and LP24 (b) of the Kirklees Local Plan, Key Design Principles 3 and 4 of the Council's adopted House Extensions and Alterations Supplementary Planning Document and paragraph 130 of the National Planning Policy Framework.

This is considered to be a consideration which is material to the determination of this application. The consideration as to whether this application has overcome the reasons for refusal is discussed within the assessment section of this report.

Representations

We are currently undertaking the legal 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, which expired on the 5.1.23, whereby no representations have been received.

Meltham Town Council – were consulted on the 24th Nov where no comments have been received.

Consultation Responses

K.C. Highways Development Management – no comments received, consultation sent for information as no objections were raised on the previous application.

Policy

The site is unallocated on the Kirklees Local Plan, falls within an area with a known presence of bats and also in an area at low risk of ground movement as a result of former mining activity.

The following policies are therefore considered to be applicable in the consideration of this application: -

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- House Extensions 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 21st 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 4 – Decision-making
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.

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).

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity and Conservation Area/ Listed Building
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

> "The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

In terms of extending and making alterations to a property, Policy LP24 of the Local Plan is a key material consideration when assessing such proposals, which relates to good design amongst other matters. It states good design should be at the core of all proposals in the district and should be considered at the outset of the development process. In turn proposals should ensure the form, scale and details of all development respect and enhances the character of the townscape, landscape and heritage assets.

Also, of relevance is Chapter 12 of the NPPF which strongly emphasises the importance of good design and how this can contribute to the overall quality of the area not just for the short term but over the lifetime of the development.

> *"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."*

Finally, the Supplementary Planning Document on House Extensions and Alterations (adopted June 2021), Key Design Principles 1 and 2 are relevant which state:

- Principle 1 – 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.”

- Principle 2 – 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 detail.”

With specific regard to the House Extensions and Alterations SPD the key designs principles for consideration are:

- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 7: Outdoor space
- Key design principle 9: Construction materials

The SPD refers to rear extensions which should maintain the quality of the residential environment and relate well to the neighbouring buildings. Rear extensions should generally not be visible from the street and should retain a reasonable living environment for the property being extended. This should include consideration of the following:

- Preserving a back garden of a reasonable size, with a general principle that at least half the garden area is retained;
- Being set behind the original building, and not projecting beyond the sides; and
- Maintaining external access to the rear garden.

5.2 of the Supplementary Planning Document refers to the general rules, where a rear extension should:

- respect the original house and garden in terms of its size and scale;
- use appropriate materials which match or are similar in appearance to the original house; and
- not have an adverse impact by way of overshadowing or loss of outlook of neighbouring properties.

In section 5.8 refers to two-storey rear extensions will be considered based on the extent of overshadowing, loss of privacy and outlook. Generally, two-storey rear extensions should:

- be proportionate to the size of the original house and garden;

- not normally exceed 50% of the total area of land around the original house (including previous extensions and outbuildings);
- not project out more than 3 metres from the rear wall of the original house or by 4 metres for detached properties;
- not exceed a height at the eaves of 3 metres where the extension is within 1.5 metres of the property boundary;
- be separated from the property boundary, such as a wall, fence or hedge, by at least 1.5 metre; and
- not adversely affect habitable room windows where they adjoin a neighbour's boundary

Section 5.6 of the SPD specifically refers to single storey rear extension which includes those for 2- rear extension as well as:

- retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.

In Section 5.17 of the SPD refers to the general rules, where single storey side extension should:

- not extend more than two thirds of the width of the original house;
- not exceed a height of 4 metres;
- and be set back at least 500mm from the original building line to allow for a visual break.

These policies are taken into account in the assessment of the impact of the proposal upon visual / residential amenity sections of this report.

Taking the above into account, the principle of extending residential properties in an identified settlement upon unallocated land can be considered to be acceptable.

However, careful consideration must be made in regard to the size of the plot and position of the proposed new extension in relation to its surroundings.

An assessment of this, along with all other material planning considerations, including visual and residential amenity, shall be set out below with the conclusions section of this report setting out the consideration of the proposal in regard to the principle of development.

2 – Impact on visual amenity:

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all 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…” and “
c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...”

Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council’s adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

36 Pavilion Way, Meltham is a modern detached property located within a development of similar style properties, all being 2-storey with a mix of detached, semi-detached & terraced properties. The property is built from stone with a gabled roof, along with a small front gable detail.

In this case the extension has been designed to reflect the host property with regards being built from matching materials. The design of the first-floor extension is shown with a hipped roof which itself wouldn’t match the host property, however, is considered acceptable in its design given it’s to the rear of the property and would reduce the bulk of the extension to allow it to remain subservient to the host building.

With regards the single storey extension and advice in the SPD; the extension would retain access to the rear garden, however, it would project beyond the side gable to create a small single storey wrap around extension. This extension would have a flat roof providing a modern addition to this relatively new property. Albeit the extension would be seen from the highway it would be partly screened by the relocation of the existing 1.75m high boundary wall. It is recommended any grant of permission requires the relocated boundary wall to be constructed from materials to match those of the host property and that it does not exceed 1.75m in height.

Therefore, there would be limited view from the street scene when facing the property, albeit the extension would be visible from the spine road when viewed alongside No. 38, due to the property being on the inside of the bend. However, this view is limited given the relocated boundary wall and the overall height of the ground floor extension (2.5m). With regards the first-floor, where the distance of the extension to be approx. 7m from the footpath, the proposal as a whole is not considered to have a significant impact upon the visual amenities / character of the host property or wider street scene.

Therefore, the proposal in total is considered to relate satisfactorily to the host building and have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. 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 1998 planning permission was approved for 83 dwellings and associated garages (98/92861). Condition 25 of that consent removed permitted development rights for extensions to plots 1, 14, 21, 29, 33, 66 and 71, with the reason "To ensure that unsatisfactory extensions do not result in close overlooking of adjoining property." Where the plans of the 1998 approval show property No.36 as plot 66, albeit with a deeper back garden given a double garage or 2 single garages were approved to the side of No 38, however, only a single garage has actually been built, reducing the depth of the rear garden of No 36 to approx. 8m. Therefore, the condition removing permitted development rights is considered to be relevant and consideration regarding impact on neighbour needs to be taken on board.

The previous application (2022/91802) was refused due to the proximity of the rear extension from the rear boundary, and the potential of overlooking from both the ground and first-floor rear windows due to the proximity to the rear boundary.

Also due to the position of the rear extension it was considered the extension would also have had an overbearing impact upon the neighbours at No. 38, given its distance from the rear boundary and the difference in levels.

It was also considered that the extension would have reduced the existing private garden space to the rear of the property to almost half, with the potential of being overdevelopment. However, to overcome the previous concerns the application also included the boundary wall at the side of the property being moved closer to the highway, increasing the enclosed private amenity space for the homeowner, this would have prevented overdevelopment of the property. This element remains on the revised application and therefore, would, comply with principle 7 of the household SPD.

No. 36 has two neighbours; no 34 to the side along the south facing elevation and No. 38 to the east behind the property. There are no other neighbours in close proximity to be affected by the proposal.

Impact on No.34

No 34 is to the south of the property and is set further towards the spine road than No. 36 given the staggered relationship between the properties. The proposal along this shared boundary is the 2-storey extension which would

project 2m and the ground floor having a 3m projection. Where the neighbours existing detached garage in part will screen the ground floor extension there is a good separation distance across the drive of 3.5m. Furthermore, the extension is to the north of this neighbour therefore, the extension is considered to have little impact on these neighbours with regards being overbearing or overshadowing. There are no windows in the side elevation so no overlooking would occur either.

Impact on No.38

No 38 is to the rear, north east, of the property. It is an end linked terrace property located at right-angles to the host property, where their garden runs almost the full length of the applicant's rear boundary. The garden to this property is at a slightly lower level too.

The proposed extension would look towards the garden of No 38 where the ground floor extension as amended would be approx. 5.5m away from the boundary with the first-floor at 6.5m. These distances are not ideal, however, they have overcome the previous concerns regarding the extension having an overbearing impact on the neighbours at No.38. It has been noted that the application also shows two steps down into the extension from the host property for the ground floor with the first-floor running through, in order to reduce the height, which would be 6.2m. The extension has also been designed with a hipped roof again reducing the impact on this neighbour.

With regards overlooking the separation distance would be as amended now at 6m at first-floor reduced to 5.5m at ground floor where there could be the potential on overlooking on these neighbours' amenity space / rear windows. However, the extension would be at right angles to No.38, with no direct facing windows, given the reduction in the rear extensions albeit a small reduction, the proposal has now on balance overcome previous concerns and is now considered acceptable without undue detriment to the use of the private amenity space, which is already overlooked at close quarters by a number of other properties.

Taking account of the scheme which is proposed as part of this application, and which has amended the development from that which previously sought permission (application 2022/91802) it is considered that the proposed extensions are acceptable in terms of residential amenity.

It is considered there will be no significant impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking, and the proposal would accord with the aims of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document as well as policies within chapter 12 of the National Planning Policy Framework.

<u>4 – Impact on highway safety</u>:

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.

In this case there are no highway issues as the drive / parking arrangement is not being affected by the proposal and can still accommodate 2 cars. The extension would increase the amount of liveable space in the property and enlarge an existing bedroom, however, given the current arrangements it is not considered necessary to require additional parking to be provided given the number of bedrooms would remain unaltered, as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety and advice in Chapter 12 of the National Planning Policy Framework.

It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

5 – 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 requests 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 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.

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 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 is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the fact that albeit the extension will connect into the existing roof, the property in this case appears to be well sealed and maintained with little opportunity for bats.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote shall be attached to the permission setting out that, should any bats be found using the building then works must cease and appropriate advice sought if the application was to be approved.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

6 – Representations:

None

7 – 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: 2022/91802

Officer Recommendation: Approve

Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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, to accord with Policies LP1, LP2, LP21, LP22 and LP24 of the Kirklees Local Plan,
principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 15 and 16 of the Council's adopted Supplementary Planning Document on House Extensions and Alterations, and to accord with Policies within Chapters 2, 4, 12, 14 and 15 of the National Planning Policy Framework.

3. The external walls and roofing materials of the development hereby approved shall in all respects match those used in the construction of the existing building and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan, Key Design Principles 1, 2 and 9 of the Council's adopted Supplementary Planning Document on House Extensions, and to accord with Policies within Chapter 12 of the National Planning Policy Framework.

4. The relocated boundary wall shall not exceed a height of 1.75m.
Reason: In the interests of visual amenity and to accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan, Key Design Principles 1, 2 and 9 of the Council's adopted Supplementary Planning Document on House Extensions, and to accord with Policies within Chapter 12 of the National Planning Policy Framework.

NOTE: The Council's GIS system indicates that the property is within a bat roost area and 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 to 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**
Application Form			
Location Plan 1:1250			
Existing & proposed block Plan 1:500	2218 06	A	23.11.22
Existing floor plans & elevations	2218 01		7.11.22
Proposed elevations	2218 05	A	11.11.22
Proposed floor plans	2218 07	A	11.11.22
Proposed elevations	2218 08	A	11.11.22

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 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 Case Officer did not undertake any negotiations with the applicant due to the application being acceptable in its submitted format.

Report Dated: 11.1.23

Coal – Low