

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	2022/70/93625/W
Site Address:	Cherry Tree Cottage, 35-37, Town Gate, Upperthong, Holmfirth, HD9 3UX
Description:	Variation of condition 2. (plans) on previous permission no. 2018/93680 for Erection of single storey and two storey rear extensions with associated works (Within a Conservation Area)
Recommending Officer:	Laura Yeadon

DECISION – APPROVE VARIATION OF CONDITION

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.

Julia Steadman

AUTHORISED OFFICER

Date: 01-Nov-2023

Officer Report

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93625>

Site Description

33-37 Cherry Tree Cottage is a terraced dwelling which is two storeys in height which has a stone frontage and a rendered rear elevation with a slate roof. The property is accessed via a courtyard to the front of the building with garden areas to the rear. Within the cluster of building where the site sits is 39/41 Town Gate which are classified as a Grade II Listed Building. The wider area consists of mainly residential properties of varying designs and constructed predominantly from natural stone.

Description of Proposal

Permission is sought to vary condition 2 (plans) on previous permission 2018/93680 for erection of single and two storey rear extensions with associated works. The site is within the Upperthong Conservation Area.

The proposal specifically relates to the height of the balustrade above the single storey link extension.

The proposed dimensions of the extensions would be retained as previously approved.

In terms of the balustrade, this was previously approved at a height of 0.8 metres to the rear and side elevation. It is proposed that the rear elevation balustrade would be raised to 0.9 metres with the side elevation balustrade raised to height of 1.8 metres with a slanted panel which would be located on the side elevation of the 1.2m projecting section of extension.

The submitted details indicate that the side elevation screen would be obscurely glazed.

History of negotiations/amendments received

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

Relevant Planning History

1989/05198 Erection of conservatory
Refused

2018/93680 Erection of single storey and two storey rear extensions with associated works (within a Conservation Area)

Conditional Full Permission

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, site notice and newspaper advertisement.

Final publicity date expired 23rd December 2022

Holme Valley Parish Council – no observation

As a result of the public consultation period one representation has been received with the summary of comments set out below:

- Entirely reasonable that the applicant should look to achieve privacy especially in the light of the advice to do so by Kirklees planning officers.

Consultation Responses

None required

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) and Holme Valley Neighbourhood Development Plan.

The site is within the Upperthong Conservation Area on the Kirklees Local Plan.

The site also falls within the Holme Valley Neighbourhood Development Plan and is within an associated landscape character Area 4, the River Holme Settled Valley Floor.

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 24** – Design
- **LP 35** – Historic environment

Neighbourhood Development Plans:

- Holme Valley Neighbourhood Development Plan (2020-2031)

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan.

- Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley
- Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

The application site is within Landscape Character Area 4, the River Holme Settled Valley Floor.

The key landscape characteristics of the area are:

- Framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park.
- Boundary treatments comprised largely of millstone grit walling. The stone walling which runs parallel with Upperthong Lane is representative of local vernacular detailing.
- A network of Public Rights of Way (PRoW) including the Holme Valley Riverside Way which follows the River Holme from Holmbridge through Holmfirth and downstream. National Cycle Route no. 68 follows minor roads through Upperthong towards the centre of Holmfirth before climbing the opposing valley slopes.
- Mill ponds reflect industrial heritage and offer recreation facilities

The key built characteristics of the area are:

- Mill buildings, chimneys and ponds, including Ribbleden Mill with its chimney, associated mill worker houses and ashlar fronted villas link the area to its industrial and commercial heritage and are a legacy of the area's former textile industry.
- Terraced cottages and distinctive over and under dwellings feature on the steep hillsides with steep ginnels, often with stone setts and narrow roads.
- Narrow winding streets with stepped passageways, stone troughs and setts characterise the sloping hillsides above Holmfirth town centre.
- Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage.
- There are mixed areas of historic and more recent residential and commercial developments.

Supplementary Planning Documents:

- 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 12 – Achieving well-designed places
- Chapter 16 – Conserving and enhancing the historic environment

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
- 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.

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- 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 other 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 12: Natural environment
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage
- Key design principle 17: Access for all users

The principle of extending the property has already been established with a full assessment undertaken as part of the original application under number 2018/93680. The submitted details within the application form and on the submitted plans indicate that the only alteration to the scheme is the balustrade on the balcony to provide more privacy and compliance with building control.

2 – Impact on visual amenity and heritage considerations (Conservation Area and nearby Listed Buildings):

Policy 1 of the Holme Valley Neighbourhood Development Plan (HVNDP) sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA 7, detailed in the ‘Policies’ section of this report)

Policy 2 of the HVNDP states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

Policy LP24 of Kirklees Local Plan and 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.

The site is within the Upperthong Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Chapter 16 of the National Planning Policy Framework and also LP35 of the Kirklees Local Plan. Furthermore, the application site is within close proximity to listed buildings (as identified in the 'site description' above).

The application seeks to vary the plans under condition 2 of the previous application reference 2018/93680. The only variation noted on the plans are the height of the balustrade. It appears that this would be retained as a glass balustrade with the height increased slightly on the rear elevation to 0.9 metres with a 1.8 obscurely glazed screen on the side elevation facing the attached neighbour.

In terms of visual amenity, the alterations to the balustrade in this location would not have a significant impact on the character and appearance of the street scene and is not considered to impact on the heritage asset in terms of the Conservation Area or the nearby listed buildings.

The extensions were previously considered on balance, to be acceptable to visual amenity subject to a condition relating to the finishing construction materials. Photographs submitted by the Agent indicate that the works to the extension are substantially complete and therefore there is no requirement to reimpose this condition.

3 – Impact on residential amenity:

Policy 2 of the HVNDP sets out that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings and prevent or reduce pollution as a result of noise, odour, light and other causes. Light pollution should be minimised and security lighting must be appropriate, unobtrusive and energy efficient.

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 this case No. 47 sits at right angles to the application site and has first floor openings which face the approved balcony area. The approved plan demonstrated that the balustrade would be a height of 0.8 metres to all elevation. The plans now seek to increase the height of the balustrade to 0.9 metres on the rear elevation and 1.8 metres to the side elevation facing No. 47. The plans also indicate that the side elevation screen would be obscurely glazed. As this would increase privacy to both the users of the balcony and the neighbouring property, it is considered that this alterations to the plan is acceptable.

A condition can be attached to the decision stating that the privacy level should be Grade 4 privacy level or equivalent.

In terms of overshadowing or being overbearing, as the balustrade would be set in from the shared boundary, it is not considered that there would be significant harm in terms of the presence of the increased screening.

It is therefore considered that the proposal is acceptable in terms of its impact on residential amenity, complying with Key Design Principles 3, 4, 5 and 6 of the SPD, Policy LP24 of the Kirklees Local Plan and advice within the NPPF.

4 – 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.

There are no plans demonstrating any alterations to the existing parking arrangements and therefore the proposal is considered acceptable.

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 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 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.

This is due to the fact the extension would have no impact on the existing roof structure of the host property as works are complete/partially completed.

6 – Representations:

One letter in support has been received – no comments to add

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: 2022/91625

Officer Recommendation: Approve

Conditions:

1. 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, LP24 and LP35 of the Kirklees Local Plan, Key Design Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 15, 16 and 17 of the Council's adopted Supplementary Planning Document on House Extensions and Alterations, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and to accord with Policies within Chapters 12 and 16 of the National Planning Policy Framework.

2. The hereby approved roof terrace shall not be used until the glass balustrades measuring 1.8 metres in height from the floor level of the western side of the roof terrace and 0.9 metre in height on the south side of the roof terrace have been erected in full accordance with details shown on approved plan ref: (20)001 rev D. The balustrades shall be constructed from obscure glazing which shall be equivalent to or more obscure than Pilkington Glass grade 4 privacy level. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (or any Order revoking or re-enacting that Order) the balustrades shall be thereafter retained with the same obscure glazing privacy level.

Reason: In the interests of residential amenity, to avoid overlooking or loss of privacy for the neighbouring residents, and to accord with Policy LP24 of the Kirklees Local Plan, Key Design Principles 4 and 5 of the House Extensions and Alterations SPD and advice within the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	(EX)002		7 th November 2018
Existing elevations and floor plans	(EX)001		7 th November 2018
Proposed elevations and floor plans	(20)001		8 th November 2023
Existing and proposed site plans	(20)002 -Rev: B		7 th June 2019
Heritage Statement			15 th November 2018

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:

31st October 2023

Coal – none