

**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:	2022/62/93852/W
Site Address:	39, Stile Common Road, Primrose Hill, Huddersfield, HD4 6DE
Description:	Erection of dormer to front and rear and alterations to basement to create dwelling forming annex accommodation associated with 39, Stile Common Road, Primrose Hill, Huddersfield, HD4 6DE
Recommending Officer:	John Holmes

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 21st April 2023

Officer Report – 2022/93852

Site Description

The application site relates to a part single storey, part two storey, semi detached property located in a varied street scene with part 2/3 storey dwellings to the west of the site, and dwellings of a similar design to the east.

Opposite the site are properties which appear to be older than the host property and immediate neighbouring dwellings to the east / west. There is a rear access cul de sac which allows for vehicle access to the rear of the host property and neighbouring dwellings to the east and west.

The property to which the host property adjoins (no.41) has been developed in the past with the addition of a flat roof dormer to front and large wrap-around dormer to the side / rear roof slope. It is noted this dormer has been in place for more than 4 years (analysis of aerial photographs show the development at no.41 has been undertaken at some time between 2009 and 2012) and the development of the adjoining property is considered to be lawful.

Description of Proposal

The Scheme

The applicant initially sought permission for the following development:-

‘Erection of wrap around dormer and alterations to basement to create dwelling forming annex accommodation associated with 39, Stile Common Road, Primrose Hill, Huddersfield, HD4 6DE’

Subsequent amendments have seen the description of development be required to be amended to the following:-

Erection of dormer to front, dormer to rear and alterations to basement to create dwelling forming annex accommodation associated with 39, Stile Common Road, Primrose Hill, Huddersfield, HD4 6DE

Amended drawings were submitted to address concerns raised in relation to the impact of the proposed wrap-around dormer as initially proposed. The amended plans (received 20th January 2023) being as follows:-

- 102RevB, Proposed Site Plan
- 109RevA, Rear Elevations
- 108RevA, Front and side elevations
- 110RevA, Ground Floor and Attic floor plans
- 106 RevB, Proposed sections

Initially submitted drawings (received 25th November 2022) relevant to the consideration of this application are as follows: -

- 100 Location Plan
- 103 Existing Floor Plans
- 104 Proposed Basement Floor Plans
- 107 Existing Elevations
- 101 Existing Site Plan
- 105 Existing Sections

Supporting Information

In addition to the submitted plans the following documents have been submitted to support the application

- Design and Access Statement (received 25th November 2022)
- Coal Mining Risk Assessment (received 3rd January 2023)

History of Negotiations / Amendments Received

Amendments to the scheme as proposed were requested in relation to the impact of the proposed scheme as initially applied for. In addition a Coal Mining Risk Assessment has been submitted in following the consultation response of the Coal Authority (dated 21st December 2022)

Relevant Planning History

None

As set out above, there is no planning history for the adjoining property, and previous development to this property is considered to be lawful by virtue of the passage of time.

Representations

Publication of the application has been undertaken in accordance with Table 1 of the Council's Development Management Charter (July 2015).

The application has been publicised on the Council's website & by neighbour notification. The expiry date of the publicity period was the 12th January 2023.

No third party representations have been received.

Whilst amendment to the description has been required it is considered the description as advertised adequately alerted the public to the nature of the proposal and further advertisement was not required in this case.

Consultation Responses

The following consultations have been undertaken for this application with the summarised responses listed below.

Coal Authority – No objection subject to condition

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

Allocation and Policy

The site is within the Strategic Green Infrastructure Network within the Kirklees Local Plan (adopted 2019). The site is also located within an area identified by the Coal Authority as being at risk of ground movement as a result of former mining activity and an area with a known presence of bats.

The following legislation, policy and guidance is considered relevant to the determination of this application:-

Kirklees Local Plan

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highway and Access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP51 – Protection and Improvement of Local Air Quality
- LP53 – Contaminated and Unstable land

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.

- Chapter2 Achieving sustainable development
- Chapter12 Achieving well-designed places
- Chapter15 Conserving and enhancing the natural environment

Supplementary Planning Documents

- Kirklees Highway Design Guide (adopted November 2019)
- House Extensions & Alterations SPD (adopted June 2021)
- The Biodiversity Net Gain Technical Advice Note

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.
The Conservation of Habitats and Species Regulations 2017

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

Assessment

The following matters are considered in the assessment below –

1. Principle of development
2. Impact upon the character and appearance of the area (including impact upon historic environment)
3. Impact upon residential amenity
4. Impact upon highway safety
5. Climate Change
6. Impact upon Ecology
7. Impact upon Land Stability
8. Conclusion

1 – Principle of Development

Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide. Given the proposal is to redevelop an existing residential property it is not considered that the proposal would have a detrimental impact upon the Strategic Green Infrastructure Network.

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 chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

In this case, it can be stated that the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity, as well as other matters which are discussed as follows.

2 – Impact on character and appearance of the area

Visual Amenity

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 9 states developments should use innovative construction materials and techniques, including reclaimed and recycled materials where possible.

Also of relevance to the consideration of the application are paragraphs 5.24, 5.25 and 5.26 of the House Extensions & Alterations SPD, which specifically state the following:-

- 5.24 - Roofs are a prominent and visible element of the street scene. Unsympathetic roof extensions and dormer windows can have a significant effect on the visual appearance of both the individual building and street scene. Poorly designed roof extensions and dormer windows can make a building appear top-heavy, cluttered and asymmetrical.
- 5.25 - The design of dormer windows and roof extensions should reflect the character of the area, the surrounding buildings and the age, appearance and materials of the existing house. Ideally, dormers should be located to the rear of a house and should be as small as possible with a substantial area of the original roof retained.
- 5.26 - To assess whether a dormer window is appropriate on the front elevation, consideration should be given to the surrounding buildings in the street. Traditional vertical dormer windows usually complement the

character and roof pitch of the existing house and will normally be acceptable. Modern flat roof dormers may be considered acceptable if they are well-designed, small in scale and appearance and are characteristic of the street scene.

The proposal would see a dormer to front and a dormer to the rear, with a number of external alterations also proposed to the dwelling to accommodate the creation of rooms within the roof space and also the conversion of the basement of the dwelling to accommodate an ancillary accommodation at the lower ground floor.

The amended scheme sets out that a small dormer to front would be removed, and replaced by a larger dormer. This dormer would be 3m wide and have height of 2.1m. set back from the eaves by 0.4m and set in by 1.5m at its closest point from the hipped side roofslope and 1.4m from the centre line of the property adjoining no.41. The dormer is of a flat roof design set down from the ridge by 1m.

The flat roof dormer to the adjoining, neighbouring, dwelling is set down the same amount and set away from the shared boundary by 1m. The dormer to the front of no.41 is set further back at a distance of 1m from the eaves and set away from the hipped slope of the roof by 2m at its closest point. This dormer is smaller being 2.7m x 1.2m. However, this dormer is constructed from unsympathetic materials which contrast with the host property, being white upvc cladding. The proposal would see this dormer anthracite grey cladding.

The dormer to the rear of the host property is 3.8m x 2.2m in size, set back 0.6m and set down 1m, this dormer is set in from the hipped roof slope by 0.3m at its closest point and 1.4m from the shared boundary. The proposal would see this dormer anthracite grey cladding. By contrast, other than a gap of 0.4m from the shared boundary, a dormer fills the entire rear roof slope of the adjoining property (set down 1m and set back from the eaves by 0.7m) and this also wraps around the side of the adjoining property.

A number of alterations are proposed which would see openings created / enlarged and the inclusion of solar panels on the front roofslope. The external alterations could likely be undertaken under pd rights.

The proposed dormer windows have been revised down from that as initially proposed, which sought to replicate that of the adjoining property, which has had dormers which do not harmonise with the character of the host property added.

The proposed dormers would be of a colour finish to match that of the host property, and roof slopes to the front and rear would remain in place. It is considered appropriate to include a condition requiring the dormer cheeks to be of a dark grey colour finish such that they do not contrast with the roof slope to the same degree that white upvc cladding appears to.

The alterations to the existing dwelling are not considered to significantly alter the visual impact of the dwelling and are considered to be acceptable. With regard to the dormer windows, whilst these may not be considered to be of an acceptable size and scale in their own right, particularly in regard to the dormer to front, weight is afforded the adjoining dwelling and the visual impact of the development undertaken to this dwelling. When viewed in this context it is considered that the proposed dormers, subject to condition, could be concluded as acceptable in this isolate and exceptional case having regard to the aforementioned policies and the Council's adopted House Extensions SPD.

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. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. Principle 16 goes requires that proposals maintain appropriate storage arrangements for waste.

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The alterations and the dormer windows to front and rear are not considered to lead to significant levels of overshadowing or be unduly oppressive / overbearing to neighbouring occupiers taking account of the scale / nature of these elements of the proposal.

The openings created within the dwelling to the front and rear would not protrude further forward than the front and rear elevations of the host property, as such it is considered there would not be a significant increase in overlooking created by the proposal and the development is considered to be acceptable in this regard.

With regard to the ancillary accommodation to be created at the basement level, it is considered that whilst a suitable level of amenity space would be available for occupiers of the dwelling and ancillary accommodation, were these two elements to be used independently there could be issues in relation to provision of amenity space as well as the waste storage arrangements.

It is considered appropriate that any grant of permission is subject to condition requiring that the ancillary accommodation is used solely in connection with the host property and remains in ancillary use only.

Subject to condition the proposal is considered to be acceptable in regard to residential amenity.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF 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.

The proposal would increase the amount of living accommodation within the dwelling, there is currently parking options available to the rear of the dwelling, with ample space for parking of three vehicles such that a suitable amount of amenity space can also be in place.

Taking account of the existing parking arrangements associated with the dwelling it is considered that, subject to condition the use of the basement ancillary accommodation remains ancillary to that of the existing dwelling and does not become a dwelling independent of the host property, the proposal is acceptable in terms of impact upon access and highway safety.

5. Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Considering the scale and nature of the proposed development, especially that it is for private use, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework. It is noted that the proposal includes the installation of solar panels.

6. Impact upon Ecology

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 Biodiversity Net Gain Technical Advice Note sets out that minor developments are subject to the mitigation hierarchy outlined within Chapter 2.2 and will still be required to demonstrate a net gain for biodiversity. Chapter 2.2 of the advice note details a mitigation hierarchy of avoid, mitigate, compensate, offset and finally enhance.

Taking account of the scale and nature of the proposal it is considered it would be unreasonable of the LPA to insist upon net gain measures to be incorporated in relation to this application. This conclusion is drawn from the fact there would not be a loss of soft landscaped areas as a result of the proposal and the overall impact in this regard is not considered significant given the existing use of the site which is undertaken.

In relation to bats, whilst there is potential for bats to utilise the roof space of the building, the likelihood is considered low given the roof appears a well sealed construction which would be hard for bats to ingress / egress from. Notwithstanding this, it is recommended any grant of permission is subject to informative note drawing the applicant's attention to the requirement, in law, to cease works and contact the Natural England should a bat be encountered during the construction phase of development.

7. Impact upon Land Stability

Policy LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The Coal Authority raised concerns within their initial consultation response, as a result the applicants' agent submitted the aforementioned Coal Mining Risk Assessment.

Following further consultation the Coal Authority set out the application has been submitted with an accompanying Coal Mining Risk Assessment. This has been reviewed by the Coal Authority, who advise within their response that within the submitted Coal Mining risk assessment it is identified that the site is within an area where the Coal Authority believe there is coal at or close to the surface. Appropriate recommendations have been made that in order to determine the presence or otherwise of shallow coal mine workings within influencing distance of the surface, intrusive site investigations are required.

The findings should inform the extent of any remedial and / or mitigation measures required to ensure the proposed development will be safe and stable.

They further advise that Wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented.

Two conditions are recommended, one of which is a pre commencement condition, which require submission of a scheme of intrusive site investigations and also any subsequent remediation works. In light of the comments in relation to the potential for gas to be present / encountered, it is recommended that the conditions recommended by the Coal Authority are amended to require submission of details in relation to investigations relating to gas and any mitigation measures which may be required. It is considered that the conditions can be combined into one condition rather than as two and it is recommended one condition which encompasses all the requirements of the Coal Authority is included upon any grant of permission.

The applicant's agent has confirmed they are in agreement to the condition, on the basis it is worded that the works required by the condition are only undertaken should the annexe element of the scheme be undertaken. Given that, if this application was solely for works to the roof, the proposal would be exempt from the requirement for consultation with the Coal Authority it is considered such an approach is reasonable in this case.

Taking account of the submitted detail, and response of the Coal Authority, subject to condition, it is considered that the impact of the proposal upon land stability / quality is acceptable and meets the requirements of the aforementioned policies.

8. 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, the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2022/93852

Officer Recommendation: Conditional Full Permission

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 91 of the Town and Country Planning Act 1990 (as amended).

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 to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30, LP31, LP51 & LP53 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 15 of the Council's adopted House Extensions & Alterations Supplementary Planning Document, and Policies within Chapters 2, 9, 12 and 14 of the National Planning Policy Framework.

3. The front and sides of the dormer windows hereby approved shall be of a dark grey colour finish which shall be retained thereafter.

Reason: In the interests of visual amenity to accord with Policies LP1, LP2, LP24 of the Kirklees Local Plan, Principles 1 and 2 the Council's adopted House Extensions and Alterations Supplementary Planning Document and Policies within Chapter 12 of the National Planning Policy Framework.

4. The development hereby approved shall not be used for any purpose other than as ancillary accommodation in connection with 39, Stile Common Road, Primrose Hill, Huddersfield, HD4 6DE.

Reason: In the interests of residential amenity and access & highway safety to accord with policies LP21, LP22 & LP24 of the Kirklees Local Plan and the Council's adopted Highways Design Guide.

5. Development shall not commence, in relation to alterations to the basement to create a dwelling forming annex accommodation, until the following has occurred in consecutive order:-

(i) a scheme of further intrusive site investigation works which includes an assessment of land stability and a ground gas risk assessment has been submitted to and approved in writing by the Local Planning Authority in consultation with the Coal Authority;

- (ii) the intrusive site investigation works comprising the approved scheme have been undertaken;
- (iii) a report detailing the findings arising from the intrusive site investigations and ground gas assessment has been submitted to and approved in writing by the Local Planning Authority;
- (iv) a scheme detailing any remedial works required has been submitted to and approved in writing by the Local Planning Authority;
- (v) the remedial works comprising the approved scheme have been implemented which shall thereafter be retained and
- (vi) a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure land stability and the potentially contaminated nature of the site is appropriately assessed and remediated to accord with Policy LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the National Planning Policy Framework.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan / document Type	Reference	Version	Date Received
Location Plan	100		25 th November 2022
Existing Floor Plans	103		25 th November 2022
Proposed Basement Floor Plans	104		25 th November 2022
Existing Elevations	107		25 th November 2022
Existing Site Plan	101		25 th November 2022
Existing Sections	105		25 th November 2022
Proposed sections	106 Rev B	Rev B	20 th January 2023
Ground Floor and Attic floor plans	110RevA	Rev A	20 th January 2023
Front and side elevations	108RevA	Rev A	20 th January 2023
Rear Elevations	109RevA	Rev A	20 th January 2023
Proposed Site Plan	102RevB	Rev B	20 th January 2023
Coal Mining Risk			3 rd January 2023

Plan / document Type	Reference	Version	Date Received
Assessment			
Design and Access Statement			25 th November 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. Amendments were sought to address design & land stability concerns.

Report Dated 19th April 2023

Coal – high