

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:	2022/62/94073/W
Site Address:	94B, New North Road, Edgerton, Huddersfield, HD1 5QP
Description:	External alterations including changes to fenestration [within a Conservation Area]
Recommending Officer:	Luke Walstow

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: 09-Nov-2023

OFFICER REPORT

Application Reference: 2022/94073

Site: 94B, New North Road, Edgerton, Huddersfield, HD1 5QP

Site Description

94B New North Road is a detached dwelling located within the residential area of Edgerton, Huddersfield. The dwelling is located within a court yard with listed buildings within the immediate area. 96 and 98 New North Road are grade 2 listed, located to the southwest and 92 New North Road is a grade 2 listed building located to the south of the application site. An access track runs to the north / east of the application site but is not within ownership of the applicant. The site falls within the Greenhead Park/New North Road Conservation Area.

Description of Development

The applicant is seeking planning permission for external alterations including changes to fenestration.

The proposed development would see the following:

- Addition of a roof light to the north west facing roof slope.
- Addition of a roof light on the south west roof slope and addition of small window above the existing window and door within this elevation
- Addition of two roof lights to the south eastern roof slope and increasing the height and amendment of the design of the windows in this elevation.
- Insertion of two roof lights to the north eastern elevation and alteration of windows in this elevation at the first floor level. At the ground floor level a door and two windows would be replaced by two patio doors.

History of negotiations/amendments sought

No amendments have been sought in the processing of this application as it was considered acceptable as submitted. Talks with the agent to confirm whether the building falls within the curtilage of listed buildings. A statement has been submitted by the planning agent in relation to whether the property should be considered a listed building.

Planning History

Relevant Planning History:

2008/91632. Erection of decking, stairs and fence (Within a conservation area). *Refused – 08/08/2008.*

Publicity and Representations

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters, press advert and a site notice, due to being located within a conservation area.

Final publicity date expired 17 February 2023 – two letters of representation have been received making the following, summarised, objections:

- Building is curtilage listed with surrounding listed buildings
- Heritage Statement not to a standard to allow the LPA to undertake its duties
- Likely to result in 2 or 3 flats in the future
- Proposal appears to be for change of use to intensify the residential use of the building
- Subsequent impacts upon parking if the use intensifies
- Issues regarding the right of access from the openings to the back lane
- Likely the back lane is intended to be used by the applicants despite them having no right of access
- The reference in the heritage statement to repair existing external timber steps as required is irrelevant as these have been removed
- Proposed development would involve more than the suggested proposed external works
- Application cannot lawfully be granted in current state and without necessary information could leave any permission liable to legal challenge

The matters raised in objection to the proposal are addressed within the following report.

Consultation Responses

KC Conservation Team – Informal consultation in which they raise no objection subject to condition in relation to windows. Asked for further detail to establish that the building is not curtilage listed with surrounding listed buildings.

Planning Policy Background

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 within the Greenhead Park/ New North Road Conservation Area

Kirklees Local Plan

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping

- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 35** – Historic Environment
- **LP 51** – Protection and Improvement of Local Air Quality

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 12** – Achieving Well-Designed places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment
- **Chapter 16** – Conserving and Enhancing the Historic Environment

Other Material Considerations

Kirklees Highway Design Guide (November 2019)
House Extensions and Alterations SPD (June 2021)

Legislation

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

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 historic environment)
3. Impact upon residential amenity
4. Impact upon highway safety
5. Other matters (including climate change and biodiversity)

- 6. Representations
- 7. Conclusion

1 – Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan (KLP) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy 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 KLP 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, the principle fenestrations could be acceptable, but this is subject to an assessment against the applicable material planning considerations, which shall be discussed below:

2 – Impact on character and appearance of the area

The site is located within the Greenhead Park/ New North Road Conservation Area. Section 72 of the Planning (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.

Section 72 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, Policy LP35 states that: “*Development proposals affecting a designated heritage asset 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.*”

At paragraphs 199 – 202 the NPPF is clear, that where development leads to substantial harm, this is necessary to achieve substantial public benefits that outweigh that harm or, in the case of less than substantial harm this should be weight against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

In addition, the NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable 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.”

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also 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.

Policy 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...”

Key Design Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.

With specific regard to the proposed development the SPD states that in terms of Conservation Areas under paragraph 2.10 that:

‘If your home is listed or located in a Conservation Area, additional design criteria will usually apply, and it is recommended you submit a formal preapplication enquiry to the council. A carefully considered and detailed design approach will be required where the proposed development would impact on a designated heritage asset, falls within the curtilage of a listed building, or affects a positive contributor to a Conservation Area.’

The proposed development involves the replacement of existing windows with elongated windows and the insertion of roof lights. The Southwest elevation will see an existing window be replaced by a slightly larger window and the inclusion of a rooflight. The southeast elevation would see the replacement of 3 existing windows with 3 elongated windows. These would be in the same position and keep the same consistency as per the current appearance of the building. Two roof lights will be inserted on this elevations roofline.

The northeast elevation will see the replacement of first floor windows for a new windows in the same position and two rooflights within the roof. This elevation will also see the removal of two ground floor windows and be replaced by two glazed doors. The proposed fenestration changes are not considered to result in significant changes to the external appearance of the dwelling. By keeping

the proposed windows in largely the same position as existing windows, the structure remainin keeping with the character of local surroundings and not harm the characteristics or appearance of the conservation area.

The Council's Conservation Team have been consulted, and have advised that they consider the proposal acceptable subject to condition requiring the roof lights to be of a Conservation style and which requires the submission of further details in relation to the windows. In particular they set out that as the existing windows are not historic, they have no objection to their replacement with new timber windows, however they raise concerns about their design. They recommend that all lintols are retained in their existing positions with the new transoms between floor levels recessed and designed as part of the timber window frames rather than as inserted stone lintols, so that the historic openings can be understood.

Although within close proximity of listed buildings, this building is not curtilage listed. In this case it is concluded the proposal would have no harm upon this building subject to inclusion of the recommended conditions. It is therefore concluded that the proposal would therefore be acceptable in terms of impact upon the setting of the nearby listed buildings and wider Conservation Area.

The external alterations will have negligible impact on the setting of the adjacent listed buildings and Birkby Conservation Area and will preserve the character of the Greenhead Park/New North Road Conservation Area. The public benefit of repairing and maintaining an historic building outweighs the slight harm caused by the external alterations. The proposal therefore complies with Section 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Paragraph 199 and 202 of the NPPF and Policies LP24 and LP35 of the Kirklees Local Plan.

The Conservation Team also confirm within their response the building is not curtilage listed.

3 – Impact on residential amenity

Section B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

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 House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposal's impact on residential amenity, which state:

- Principle 3 – that: *“extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours.”*
- Principle 4 – 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.”*
- Principle 5 – that: *“extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.”*
- Principle 6 – that: *“extensions and alterations should not unduly reduce the outlook from a neighbouring property.”*
- Principle 7 – 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.”*

Due to the nature of the proposals neighbouring dwellings would not have access to natural light reduced or their outlook impacted upon to any greater extent than the existing building does already. The proposed changes to windows do not add additional outlook onto neighbouring dwellings.

The addition of rooflights is not considered to significantly impact upon privacy of neighbouring occupiers given they are at an oblique angle, within the roof, of the proposal. Whilst one roof light is proposed at a low level in the roof to serve a bedroom, to the south western roof slope, it is considered that the existing relationship between the nearest building (no.98) and the nature of this window being at an oblique angle is such that the impact would not be significantly greater than that of the existing situation with a main habitable window being in this elevation

Principle 7 seeks to maintain adequate outdoor space to ensure a dwelling has sufficient amenity space for the current and future occupiers. The nature of the development does not impact the outdoor space for current and future occupants of this dwelling.

It is therefore considered that in terms of residential amenity, the proposal would comply with Policy LP24 of the Kirklees Local Plan, Principles 3, 4, 5, 6 and 7 of the Council’s adopted House Extensions and Alterations SPD and Government guidance contained within Chapter 12 of the National Planning Policy Framework.

4 – Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Policies within 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 Council's adopted House Extensions and Alterations SPD which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

Given the nature of the proposals being a replacement windows and that there are no changes proposed to the existing access or parking arrangements, it is considered that the proposal would have a neutral impact upon highways safety.

It is considered that waste storage and collection arrangements would remain as existing, and that the proposal would also be in accordance with Principle 16 of the House Extensions and Alterations SPD too.

It is therefore considered that in terms of access and highway safety / parking the proposal would comply with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 15 and 16 of the House Extensions and Alterations SPD and Chapter 9 of the National Planning Policy Framework.

5 – Other matters/Climate Change

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.

Principles 8-11 of the House Extensions and Alterations SPD also relate to combatting climate change and they state the following:

- Principle 8 (Energy Efficiency): Extensions and alterations should, where practicable, maximise energy efficiency.
- Principle 9 (Construction Materials): Extensions and alterations should seek to use innovative construction materials and techniques, including reclaimed and recycled materials where possible.
- Principle 10 (Renewable Energy): Extensions and alterations should consider the use of renewable energy.
- Principle 11 (Water Retention): Extensions and alterations should consider designing water retention into the proposals.
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Considering the modest nature of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency.

Biodiversity

Principle 12 of the 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.” Given the nature of the proposal, it is not considered reasonable to require biodiversity enhancements in this case.

6 – Representations:

Insofar as they are not addressed elsewhere in this report, the representations received are addressed as follows:

- Building is curtilage listed with surrounding listed buildings

The applicant has submitted documents showing the building is not associated with the listed building and is therefore not curtilage listed. The evidence submitted has been shared with the council's Conservation Officer, who is satisfied with the information.

- Heritage Statement not to a standard to allow the LPA to undertake its duties

The information submitted is considered to be sufficient to enable the LPA to determine this application.

- Likely to result in 2 or 3 flats in the future
- Proposal appears to be for change of use to intensify the residential use of the building
- Subsequent impacts upon parking if the use intensifies

The application being considered does not seek change of use to intensify the residential use of the building and in the event of such an occurrence planning permission would be required.

- Issues regarding the right of access from the openings to the back lane
- Likely the back lane is intended to be used by the applicants despite them having no right of access

Any grant of permission would not override existing covenants or convey any right of access over land outside of the ownership of the applicant.

- The reference in the heritage statement to repair existing external timber steps as required is irrelevant as these have been removed

This point is noted.

- Proposed development would involve more than the suggested proposed external works

This application is considered against the submitted detail.

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

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2022/94073

Officer Recommendation: Conditionally 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 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 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, LP24, LP30, LP35 and LP51 of the Kirklees Local Plan, Principles 1-17 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 9, 12, 14, 15 and 16 of the National Planning Policy Framework.
3. All roof lights shall be of a Conservation design and thereafter retained
Reason: In the interests of visual amenity of the locality, to preserve the significance of the Conservation Area and nearby Grade II listed buildings to accord with Policies LP24 and LP35 of the Kirklees Local Plan, policies within Chapters 12 and 16 of the National Planning Policy Framework.

Framework and Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document.

4. No window and / or door shall be installed until a scheme for that window and / or door has first been submitted to, and approved in writing by, the Local Planning Authority. The submitted scheme shall include 1:20 elevations and 1:5 sections of the proposed window(s) and / or door(s). The submitted scheme shall include details of the lintols and transoms between floor levels. All window(s) and door(s) shall be installed in accordance with the approved scheme, and retained thereafter.

Reason: In the interests of visual amenity of the locality, to preserve the significance of the Conservation Area and nearby Grade II listed buildings to accord with Policies LP24 and LP35 of the Kirklees Local Plan, policies within Chapters 12 and 16 of the National Planning Policy Framework and Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing and Proposed Plans and Elevations and Site Location Plan	22.008(2-)-001	C	21 December 2022
Heritage Statement			06 January 2023

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Officers had concerns whether the dwelling would fall in the listed building curtilage of the other listed buildings in the immediate area. Further information was subsequently submitted to address these concerns.

Report Dated: 08/11/2023

Coal – High