

**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:	2023/62/90755/E
Site Address:	38, Lansdowne Close, Batley, WF17 0EZ
Description:	Erection of retaining wall, fence, hard surface rendered permeable to front and rear paved area
Recommending Officer:	Jennifer Booth

DECISION - REFUSED

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Emma Thompson

AUTHORISED OFFICER

Date: 15-May-2023

OFFICER REPORT

Site Description

38 Lansdowne Close is a stone built, semi detached dwelling with gardens to the front, a drive and detached garage to the side and sloping gardens to the rear.

The property has wooded land to the side and rear with similar dwellings in terms of age to the opposite side and front.

Description of Proposal

The applicant is seeking permission for the erection of a retaining wall, fence with a hard surface, permeable surface to the front, side and rear.

The retaining wall has been constructed at the rear of the property and is proposed to be retained and altered with the addition of vertically hung planting and the fence would be positioned on the southern side at a height of 2m.

Relevant Planning History

2022/93528 - works to garden including retaining walls, fencing and hardstanding - refused

History of negotiations

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. Although efforts have been made to reduce the impacts, the reason for refusal has not been overcome. Given the nature of the works, there are no amendments which could overcome the previous reason for refusal.

Representations

The application was advertised by neighbour letters, which expired on 09/05/2023

As a result of the above publicity, three representations have been received. The material considerations raised are summarised as follows:

- The appearance of the walling and the hardstanding is not in keeping with the area.

Although other matters have been raised including although not limited to the quality of the construction of the retaining wall, the number of vehicles parking on site, the possible use of the house as a HMO, the plans not matching what is on site etc. As these are not material consideration, they do not form part of the assessment.

Consultation Responses

None

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design
- **LP 30** – Biodiversity

Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

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, and 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 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

Principle of development:

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 the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extension & Alterations SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Planning permission was refused for a similar scheme last year. The current proposals have been revised to include vertical planters and as such the proposals shall be assessed below.

Impact on visual amenity:

Key Design Principle 1 of the House Extension & Alterations SPD does state 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. Furthermore, Key Design Principle 2 of the House Extension & Alterations SPD goes on to state 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 details.

The garden works under consideration result in a significant amount of the land around the property being developed with a combination of hard standing to part of the front and side as well as significant excavations to the rear resulting in the need for a substantial retaining wall. Indeed, the previous

application failed on the grounds that the level of works being across the majority of the front, side and rear were incongruous and harsh in appearance. It is appreciated that the current proposed seek to reinstate some of the lawned areas to the front and soften the appearance of the retaining wall to the rear with vertical hung planting. The surrounding properties do have a mixture of treatments within their curtilages including paved areas, lawned areas etc. However, even with the reduction of the hardstanding to the front and its replacement with lawn, the overall works to the front and side are still not acceptable. Whilst it would have been preferable to reduce the height of the retaining wall, it is appreciated that given the land banking to the rear of the site, it is appreciated that a reduction in the height would not be possible. The proposed vertical planting would do some way to reducing the harsh and sterile appearance of the retaining walling. However, the works are still not acceptable for the previous reasons.

Having taken the above into account, the works still cause significant harm in terms of visual amenity for both the host dwelling and the wider street scene, thereby failing to comply with Policy LP24 of the Kirklees Local Plan, KDP 1 & 2 of the House Extension & Alterations SPD and the aims of chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Extension & Alterations SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light and Key Design Principle 6 on preventing overbearing impact.

There are no properties directly to the south or the rear of the host property which could be affected by the works proposed.

Impact on 40 Lansdowne Close

The excavations to the rear of the dwelling together with the substantial retaining wall and the fencing on top has the potential to result in an overbearing and oppressive impact on the amenities of the occupiers of the adjoining dwelling. However, the neighbour does have their own significant extensions and large outbuilding to the rear which mitigate much of the impact. As such, the proposals would not have a significant impact on the amenities of the occupiers of the adjoining dwelling with regards to overbearing, overshadowing and overlooking.

With regards to the impact on the adjoining 40 Lansdowne Close, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact of the House Extension & Alterations SPD, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers

and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.

Impact on 35 Lansdowne Close

The works to the front of the property to provide hard standing would have no significant impact on the amenities of the occupiers of the property opposite.

With regards to the impact on the neighbouring 35 Lansdowne Close, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact of the House Extensions & Alterations SPD, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extension & Alterations SPD and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety:

The proposals will not result in any intensification of the domestic use and includes a larger parking area to the front of the dwelling which would increase the parking provision. Bin storage for the dwelling would not be moved as part of the proposals. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension & Alterations SPD.

Other matters:

Biodiversity

The development is for external alterations which have already occurred. Whilst the property is sited in area, which is known to include bat habitats, in this instance, given the nature of the works and the retrospective nature of the application, then it is considered unlikely to have an impact on the bat population.

Carbon Budget

The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

Representations:

Three representations have been received. The material considerations raised are summarised as follows:

- The appearance of the walling and the hardstanding is not in keeping with the area – *this is a material consideration as it relates to visual amenity and has been fully considered in the relevant section of this report.*

Although other matters have been raised including although not limited to the quality of the construction of the retaining wall, the number of vehicles parking on site, the possible use of the house as a HMO, the plans not matching what is on site etc. As these are not material consideration, they do not form part of the assessment.

Proposed conditions

None as the recommendation is for refusal.

Conclusion:

This application to erect a retaining wall, fencing and hard surfacing within the grounds of 38 Lansdowne Close has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extension & Alterations SPD, the National Planning Policy Framework and other material considerations.

The hard standing to the front/side, together with the substantial excavations and significant retaining wall to the rear of 38 Lansdowne Close appear incongruous in the wide area given the harsh and sterile appearance and overdevelop the property. To permit the works would be contrary to Policy LP24 of the Kirklees Local Plan, KDP 1 and KDP 2 of the House Extension Supplementary Planning Document and chapter 12 of the National Planning Policy Framework.

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. For the reasons set out above it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refuse

Decision Authorisation - Delegated Powers**Application Number:** 2023/90755**Officer Recommendation:** Refuse**Reasons for refusal**

1. The hard standing to the front/side, together with the substantial excavations and significant retaining wall to the rear of 38 Lansdowne Close appear incongruous in the wide area given the harsh and sterile appearance and overdevelop the property. To permit the works would be contrary to Policy LP24 of the Kirklees Local Plan, KDP 1 and KDP 2 of the House Extension Supplementary Planning Document and chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan	-	979467	20/03/2023
Proposed plans	-	982339	20/03/2023
Design & access statement	-	979468	20/03/2023
Climate change statement		982340	20/03/2023

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 Planning 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.

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. Although efforts have been made to reduce the impacts, the reason for refusal has not been overcome. Given the nature of the works, there are no amendments which could overcome the previous reason for refusal.

Report Dated

12/05/2023

