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:	**2023/62/91085/W**
Site Address:	3, Raygate, Mount, Huddersfield, HD3 3TF
Description:	Excavate part of garden and erection of retaining wall and external alterations (retrospective)
Recommending Officer:	Lucy Taylor

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: 09-Aug-2023

Officer Report.

Reference: 2023/91085

Location: 3, Raygate, Mount, Huddersfield, HD3 3TF

Proposal: Excavate part of garden and erection of retaining wall and external alterations (retrospective)

Site Description.

3 Raygate is a three-storey terrace property located in Mount, Huddersfield. The external walls of the property are faced in stone, with a tiled gable roof above. The principal elevations of No. 3 and the adjoining terraces properties face southwards, with outdoor garden amenity space also located to this elevation.

The property is located within a semi-rural residential area, designated Green Belt in the Kirklees Local Plan.

A public footpath (HUD/421/20) runs adjacent to the rear elevation of the site.

Description of Proposal.

Planning permission is sought for the excavation of part of the garden and the erection of a retaining wall and external alterations (retrospective).

Previous to the works being carried out, the area of excavation was a flat flagged area, with a small lightwell. The works have been carried out to create a larger lightwell to the basement of 3 Raygate.

The excavation works and erection of a retaining wall have been carried out to the southern elevation of the host property.

The excavation works have a depth of 2.25 metres and a width of 2.4 metres. The retaining walls in conjunction with the excavation have a render finish.

The basement window on the southern elevation has been replaced by a set of glazed doors.

Above the lightwell, to the eastern side, steel guarding and railings have been installed, to a height of 1.1 metres.

Above the lightwell, to the western side, concrete posts and a timber fence have been installed, to a height of 1.6 metres.

History of Negotiations.

No negotiations have taken place and no amended plans have been sought or submitted.

Relevant Planning History.

No relevant planning history to the host property or to neighbouring properties.

Representations.

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on 7th June 2023.

Whilst officers note the presence of a public footpath is relatively close proximity to the site, in this instance, it was not considered necessary to advertise the application within the press or via a site notice with regards to this. This is because of the principle of the proposed development, it's separation from the public footpath and the fact that it would not impact upon the function or continuity of its use.

In response to publicity, one representation was received, which raised the following concerns:

- The 6ft fence with concrete posts, and the stark appearance is detrimental to the character of the area.
- It is unattractive and out of keeping with the character and surrounds, and unavoidably overlooked from the first floor of the neighbouring properties.

Consultation Responses.

KC Highways Structures (formal) – have no objection to the scheme with the inclusion of two conditions regarding the submission of further information.

Whilst the officer notes that the conditions within the formal consultation response from KC Highways Structures, it is noted that the works would not affect the public highway as the development affects the southern elevation of the dwelling. The imposition of conditions, therefore, would not meet the 6-tests.

Policy/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).

The application site is designated Green Belt.

A public footpath (HUD/421/20) runs adjacent to the southern elevation of the site.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP23 – Core Walking and Cycling Network
- LP24 – Design
- LP51 – Protection and improvement of local air quality
- LP53 – Land Stability
- LP57 – The Extension, Alteration or Replacement of Existing Buildings

Supplementary Planning Documents:

Highways Design Guide SPD (2019)

House Extensions and Alterations SPD:
The Kirklees House Extension and Alterations SPD, adopted on 29 June 2021, has been prepared to help householders, developers, agents and architects who are planning and designing an extension or alterations (householder development) to an existing residential property, including conservatories and outbuildings, such as garages. It provides detailed guidance regarding the standard of development that will help achieve a well-designed house extension or alteration required by the Council.

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, together with Circulars, Parliamentary 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 13 – Protecting Green Belt Land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment.

The following matters will be considered as part of the assessment of the proposal. These considerations will be looked at in detail individually:

1) Principle of Development and Green Belt
2) Impact on Visual Amenity
3) Impact on Residential Amenity
4) Impact on Highway Safety
5) Other Matters
6) Representations
7) Conclusion

1) Principle of Development and Green Belt

Sustainable Development:

Chapter 2 of the NPPF states that: *"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*

Chapter 2 of the NPPF goes onto further state that objectives should: *"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*

Policy LP1 goes further and states: *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

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 instance, it can be stated that the principle of development in this application could be acceptable, subject to the assessment of impacts to the Green Belt and on visual and residential amenity, as well as highway safety and any other impacts that may arise. These will be discussed below.

Green Belt:

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in Paragraphs 149 and 150.

Paragraph 150 (b) of the NPPF sets out that engineering operations are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.

Further to this, Policy LP57 of the Kirklees Local Plan states that development in the Green Belt will normally be acceptable provided that:
c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard surfacing, curtilages and enclosures and means of access; and
d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting."

The proposal is to excavate part of garden and erect retaining walls to create a larger lightwell into the basement of 3 Raygate. Given the nature of the works, they are considered to constitute 'engineering operations' as set out within Paragraph 150 (b) of the NPPF. In the instance of this planning application, the engineering operations described are considered to be appropriate development in the Green Belt, as they would preserve its openness and would not conflict with the purposes of including land within the Green Belt designation. They are confined to a domestic garden area in a landscape where changes in levels are evident. There is a similar development at the neoghbouring property. Whilst the works undertaken are stark at present, this will soften once the operations are complete and the remaining garden area is landscaped.

The proposal would not result in a greater impact on openness in the treatment of outdoor areas. Other than the resultant lightwell, no other operations have been carried out within the garden of 3 Raygate that would detract from the openness of the Green Belt. The existing area of development is originally a 'flagged area', meaning that it was already hard-surfaced prior to the commencement of this development. The proposed fencing is likely to constitute a form of permitted development.

When taking into account the visual appearance of the overall works, it is considered that the excavation works and retaining walls would visually be in keeping with their external setting to the principal elevation of 3 Raygate and the adjoining terrace properties. The development would not materially detract from its Green Belt setting by virtue of design or materials.

For these reasons, the proposal is considered acceptable in principle in accordance with Chapter 13 of the NPPF and Policy LP57(c & d) of the Kirklees Local Plan.

1) **Impact on Visual Amenity**

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 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."*

Paragraph 130 of the NPPF is of relevance, in particular the following parts:-
- *'b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping'*
- *'c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'*

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.

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, heritage assets and landscape…'*
- *'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.

The proposal is for excavation works to the garden and the installation of retaining walls to create a larger lightwell to the basement of 3 Raygate. Given that no additional built form is proposed, the works remain subservient to the host property, with the original principal elevation remaining to be read as such. The application of a render finish to the retaining walls is considered to be visually appropriate within the external domestic garden environment of 3 Raygate, harmonising acceptably with existing features along the southern elevation of the row of terrace properties. The installation of glazed doors is considered to be an appropriate contemporary addition. It is acknowledged that the features do appear somewhat stark at the present time, but this is a consequence of the engineering operations having been recently undertaken.

The erection of steel guarding and railings and concrete posts and a timber fence are considered to be appropriate forms of boundary treatment either side of the lightwell. It should be noted that these forms of boundary treatment have previously been established within the gardens of neighbouring properties along the row of terrace buildings.

It should be noted that these forms of boundary treatment could likely be erected without the need to attain planning permission from the Local Authority, with 3 Raygate benefitting from full Permitted Development Rights. Both forms of boundary treatment would not be located next to a highway used by vehicles and would not exceed two metres in height.

Upon undertaking a site visit, the case officer noted a similar lightwell design to the southern elevation of No. 5 Raygate, which directly neighbours the application site to the west.

Conclusively therefore, it is considered that the proposal would not cause detrimental harm to the visual amenities of the host property of wider locality and is considered to comply with Chapter 12 of the NPPF, policy LP24 of the Kirklees Local Plan and Key Design Principles 1 and 2 of the House Extensions and Alterations SPD.

2) 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.

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 accordance with Key Design Principle 7 of the House Extensions and Alterations SPD, the proposal would see the retention of an appropriate extent of outdoor amenity space at 3 Raygate.

Given the principle of development, excavation works and retaining walls, it is concluded that the proposal does not result in undue levels of overbearing or overshadowing for the occupiers of any neighbouring properties. In addition, given the position of the glazed doors, these would not result in detriment to neighbouring privacy with regard to overlooking.

The railings and fencing are installed adjacent to the front access doors of No.'s 1 and 5 Raygate. Therefore, given their position, they do not pose detriment of been overbearing. It should also be noted that these forms of boundary treatment could likely be erected under Permitted Development Rights.

With regard to the amenity of the occupiers of No. 3 Raygate, the creation of a larger lightwell is considered to have a positive benefit, providing a greater extent of natural light within the basement of the property.

For these reasons, the proposal at 3 Raygate is not considered to cause undue harm to the residential amenities of neighbouring properties. It is therefore considered that the proposed development complies with Chapter 12 of the NPPF, policy LP24 of the Kirklees Local Plan and Key Design Principles 3, 4, 5, 6 and 7 of the Council's adopted House Extensions and Alterations SPD.

3) 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 and Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

The proposal will not directly increase the domestic function of No. 3 Raygate (i.e. no additional bedrooms), nor will it alter the existing parking arrangements on site or access to and from the property in conjunction with the highway. Therefore, the proposal is considered to be acceptable from a highway safety perspective.

In turn, the proposal would appropriately accord with Chapter 9 of the NPPF, Policies LP21 and LP22 of the Kirklees Local Plan and Key Design Principle 15 of the House Extensions and Alterations SPD.

4) Other Matters

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 small-scale 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. The proposed development would therefore comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Public Footpaths:

Given that the proposal to 3 Raygate does not prejudice the function, continuity, or implementation of footpath HUD/421/20 as a walking or cycling network, the proposal is considered to appropriately comply with LP23 of the Kirklees Local Plan. In turn, footpath HUD/421/20 will be protected.

5) Representations

In response to publicity, one representation was received. The representation is set out below, accompanied by an officer response.

- The 6ft fence with concrete posts, and the stark appearance is detrimental to the character of the area.
- It is unattractive and out of keeping with the character and surrounds, and unavoidably overlooked from the first floor of the neighbouring properties.

Response: The proposal is considered to be acceptable visually with regards to the character of the host property and it's wider surroundings/setting. Further details are set out within Assessment section 2 of this report – 'Impact on Visual Amenity'. Significant weight is also afforded to the permitted development fallback position.

6) Conclusion

The NPPF has introduced 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: 2023/91085
Officer Recommendation: Approve

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 Policies LP1, LP2, LP21, LP22, LP23, LP24, LP51 & LP57 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8

& 15 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 9, 12, 13, 14 & 15 of the National Planning Policy Framework.

Plans and Specifications Schedule:-

Plan Type	Reference	Version	Date Received
General Arrangement	2023/018/01	A	24.4.23
Location Plan	LP01	-	12.4.23
Climate Change Statement	-	-	14.4.23

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. No negotiations took place, and no amended plans were sought or submitted.

Report Dated: 8.8.23