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:	**2023/62/91224/E**
Site Address:	Acorn House, 35, Church Lane, Mirfield, WF14 9HX
Description:	Formation of raised decking to rear
Recommending Officer:	Edward Cheseldine

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 13-Jul-2023

Officer Report

2023/91224 - Acorn House, 35, Church Lane, Mirfield, WF14 9HX

Site Description

35 Church Lane is a detached, two-storey dwelling in Mirfield. The dwelling is constructed with red-brick exterior walls, with a cross-hipped roof. Within the curtilage of the dwellinghouse is one outbuilding. There is a generous amount of outdoor space within the curtilage of the land, especially to the rear of the house. The boundary treatment for the dwelling is predominately thick shrub rows, which shield the dwelling when viewed from Church Lane. Land of the site slopes from east to west.

The application site rests in close proximity to St Mary's Church, a Grade II* Listed building. The application site has sufficient mitigation as for the protection of the character and setting of the church to be unaltered, given the terrace will be constructed to the rear, the distance from the church, type of development, boundary treatment and typography of the land. Protected trees lie between St Mary's church and the dwellinghouse further shielding the terrace from sight.

Proposal Description

The applicant is seeking permission to erect a terrace and steps, to the rear of the dwellinghouse.

The terrace will project 5.00m from the rear of the house, to a length of 15.50m, including the stairs to the side. The terrace will have a maximum height of 2.0m when measured from the lowest ground point. Wooden safety balustrades will be added to the sides of the terrace.

Flooring materials for the terrace will be wood in a natural colour.

Relevant Planning History

None

History of negotiations

In this instance, Planning Officers raised concern over the size, scale and colour of the terrace. Amendments to the initial plans were made, scaling back the side of the terrace so it does not protrude past the side elevation of the dwelling. The material of the terrace was also confirmed to be timber, which will be kept in a natural colour. This will be set as a condition of the planning permission.

Representations

None

Consultation Responses

No consultation has been required.

Policy

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

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
- **LP 35** – Historic environment

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 HEASPD 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
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

1) Principle of development
2) Impact of visual amenity
3) Impact of residential amenity
4) Impact on highway safety
5) Other matters
6) Conclusion

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 Extensions & Alterations Supplementary Planning Document 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.

Impact on visual amenity:

Extensions and alterations that effect outdoor areas should relate to the style, shape and architectural appearance of the host dwelling and its surroundings. Development should leave adequate, usable outdoor space.

Policy complying with designed is entrenched within the English planning system. National guidelines, found within the National Planning Policy Framework (2021), forms policy regarding design. Chapter 12, Achieving well-designed places, ensures planning decisions take into consideration how development will add to the overall quality of the area, provide a visual attractiveness and is sympathetic to development's current surroundings.

Additionally, local policy, directed through the Kirklees Development Plan (2019), reinforces the weight given to design. Policy LP 24 states 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;

The terrace is situated in a prominent position on high ground immediately to the rear of the dwelling. Materials for the balustrades will be constructed from timber which will give a traditional appearance matching the dwellinghouse style. Although the chosen material is not present on the building, the natural appearance will not be out of character with its setting due to the high amount of shrubbery / trees present in the area.

Currently there is a stone constructed patio to the rear of the house with associated steps to the lower section of the garden. This sets a precedent that parts of the rear outdoor area can be a terrace area.

The terrace is situated on an elevated constructed platform that was used to host the previous patio. The height will be raised 0.60m from the existing patio which is visually acceptable as the structure does not appear unnatural and is necessary due to the slope.

In terms of size, the patio leaves adequate green space and is relatable to the size of the host dwelling and garden.

Protected trees are a sufficient distance away from the terrace so not to be affected by the construction of the terrace.

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 Extensions & Alterations SPD goes into further detail with respect to outlining principles:

- Key Design Principle 3 states, '*extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours'*.

Impact on 33 Church Lane

No. 33 is situated to the south-east of the application site and is the adjacent dwelling. In terms of privacy, the terrace will create a usable platform adjacent to No. 33's outdoor space. Land to the south-east has a similar ground height.

The shrub border treatment is present on this boundary. Due to these factors, the construction of the terrace will not cause the neighbour to be overlooked. Such a development will not block light or overbear the neighbour.

Impact to 3 Vicarage Meadows

3 Vicarage Meadows is situated to the west of the application site. There is an estimated 14.75m from the end of the terrace to the property boundary. Again, thick shrubbery borders the boundary. No. 3 is on a lower ground level to the application site. In terms of privacy, due to distance and the boundary treatment there will not be a material change to current privacy levels. Such a development will not block light or overbear the neighbour.

There are no other properties to consider.

Impact on highway safety:

The proposals will result in some intensification of the domestic use through extensions to the existing outdoor space. However, the parking to the front of the property would not be affected by the proposed extension and is considered to represent a sufficient provision. Bin storage for the dwelling is to the front of the house and 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 Extensions & Alterations SPD.

Biodiversity

The proposal is for the replacement of a terrace which will not affect the roof of the existing dwelling. As the site is situated in an area that is known to include bat habitats, care should be taken if construction was to commence. As such, if signs of bat habitats were found, expert advice should be taken and the advice of a licensed bat worker sought.

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.

Conclusion

This application to erect a terrace at 35 Church Lane has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extensions & Alterations SPD, the National Planning Policy Framework and other material considerations. Given the acceptable

design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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.

As set out above, 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**

Conditions and Reasons

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.

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 ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. The material of the decking shall be constructed with a wood material, which is to be kept in a natural brown colour, such as RAL 8025 or an alternative colour that shows a similar resemblance.
   Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Key Design Principles of the Kirklees House Extensions and Alterations SPD (2021) and the aims of chapter 12 of the National Planning Policy Framework.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally 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 bats are present or not. If bats are discovered on site, development shall cease, and the applicant is advised to contact Natural England for advice.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays 08.00 and 13.00hours, Saturdays, with no working Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate.

Plans and specifications table: -

Plan Type	Reference	Version	Date Received
Proposed elevations	A	2	10/07/2023
Proposed elevations	B	1	02/05/2023
Proposed elevations	C	1	02/05/2023
Block Plan	BP	2	10/07/2023
Location plan	LP	1	02/05/2023

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 has, 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 draw the terrace back to an appropriate scale, as well as to confirm the material type and colour of the terrace.