

**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:	2023/62/91410/W
Site Address:	10, Mallard Way, Slaithwaite, Huddersfield, HD7 5JL
Description:	Erection of two storey side extension (within a Conservation Area)
Recommending Officer:	Sam Jackman

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.

John Holmes

AUTHORISED OFFICER

Date: 08-Nov-2023

Officer Report – 2023/91410

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F91410>

Site Description

10 Mallard Way, is a newly built end terrace of three close to Slaithwaite town centre and within Slaithwaite Conservation Area. The property is on a sloping site, built over three floors utilising the attic space. Where the front elevation gives the appearance of a dormer bungalow albeit with high eaves with the rear elevation being two storey with roof lights. The property backs onto the historic mill race associated with Colne Mills, which has since been demolished and replaced with an Aldi store.

The property is sited, in relation to its neighbour No. 12, by approx 3.2m at the pinch point, providing external access to the rear garden via steps at the side of the property. Within the rear garden is a culvert that runs from east to west connecting into the now pond to the rear. To the side of the property at the garden level is an existing detached shed.

Along the front of the row of terraced properties is parking in the form of two spaces per property.

Albeit not within the application site there are two protected trees within the neighbour's garden No. 12 that overhang the applicant's garden.

The properties to the west are also split level where they have the appearance of a true bungalow when viewed from Mallard Way and two storey at the rear. These are again a row of three terraced properties which are firstly at a lower level than the host property and are set further forward and only provide parallel parking spaces with only a strip of land in front of the property and larger rear gardens.

Description of Proposal

The proposal is for a two-storey side extension replacing the existing shed with a storeroom and garage above.

The measurements of the proposal are as follows:

- 3.1m in projection from the gable
- 6m in depth with set back from the front elevation of approx. 0.7m
- 5.5m in height to the eaves; 6.8m in overall height with a hipped roof.

The garage has internal measurements of 2.8m by 5.4m

The proposed extension would be built from materials to match the host property using natural stone with a blue slate tiled roof.

History of negotiations/amendments received.

The proposal original was submitted with a two-storey side extension which included a dual pitched roof with an overall height of 7.7m and depth of 6.7m which included internal steps, providing access to the ground floor storeroom.

Concerns were raised on the basis of the impact of the proposal upon No. 12, with regard to overbearing and overshadowing impacts. However, the case officer was unable to suggest amendments that would overcome these concerns given the accommodation sought, which is primarily the garage for an additional vehicle.

However, amended plans have been received firstly to show a hipped roof rather than the gabled dual pitched roof, followed by the garage being reduced in length by removing the internal staircase.

The agent has also been informed that there are two protected trees within the neighbour's garden which overhang the application site in the direction of the proposed extension, where additional information was requested to fully understand the potential impact these trees would have on the extension and vice versa. The agent confirmed he was waiting for comments from a tree consultant, but no additional was received.

The agent was also informed that the reserved matters application 2016/93304 and outline application 2016/90017, followed by a Discharge of Conditions application. Where Condition 9 refers to bin store which has been approved and has to be retained for the lifetime of the development, this is located in front of the proposed garage, along with the approved landscaping scheme. Therefore, there is a conflict between the agreed bin store location, landscaping scheme and the new access into the garage.

Relevant Planning History

2016/90017 Outline application for erection of 3 dwellings (within a Conservation Area) - Conditional Outline Permission - 22.8.2016

Permitted development rights have been removed for extensions and other openings: -

Condition 9. Details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be provided before the development is brought into use and shall be so retained thereafter free of obstructions and available for storage thereafter. Reason: In the interests of amenity and highway safety and in accordance with Policy T10 of the Kirklees Unitary Development Plan and the National Planning Policy Framework

Condition 13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended

(or any Order revoking or re-enacting that Order), no buildings or extensions falling within Classes A-E of Part 1, Schedule 2 of the order shall be undertaken without the prior written consent of the local planning authority.

Reason: *To prevent overdevelopment of the site, so as not to detract from the amenities of adjoining properties, in the interests of safeguarding the amenities of future occupants of the development hereby approved, in the interests of visual amenity and to accord with Policies D2 (criteria ii, v, vi, vii), BE2 and BE5 of the Kirklees Unitary Development Plan and policies within the National Planning Policy Framework.*

Condition 14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the western side elevation of plot 3 of the dwellings hereby approved.

Reason: *So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy D2 of the Kirklees Unitary Development Plan.*

2016/93304 Reserved matters application pursuant to outline permission no. 2016/90017 for erection of 3 dwellings (within a Conservation Area) - Approval of reserved matters - 25.11.2016

2017/91832 Discharge conditions 5, 6, 7, 9 on previous permission 2016/90017 for outline application for erection of 3 dwellings (within a Conservation Area) - Discharge of Condition(s) Approved 23.06.2017.

Representations

We are currently undertaking the legal 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, site notice and newspaper advertisement, which expired on the 29th June 2023, whereby no representations have been received.

The amended plans were considered to make marginal changes to the proposal's design (reductions) and as such were not publicised on the basis it was considered the plans as advertised adequately alerted the public to the nature of the proposed development.

Consultation Responses

K.C. Arboricultural officer – Informal discussion, additional information requested

Policy

The site is within Slaithwaite Conservation Area, as indicated within the Kirklees Local Plan, and also falls within an area with a known presence of bats.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development.
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 33** – Trees
- **LP 35** – Historic environment
- **LP 51** – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21st 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 12 – Achieving well-designed places.
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment.
- Chapter 16 – Conserving and enhancing the historic environment.

Legislation

The Town & Country Planning Act 1990 (as amended).

The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990

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 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).

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity and Conservation Area/ Listed Building
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is enshrined in policy LP1 of the Kirklees Local Plan. This policy stipulates those proposals that accord with policies in the Kirklees Local Plan will be approved without delay unless material considerations indicate otherwise.

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...”

The site is designated within Slaithwaite Conservation Area. Policy LP35 requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that the proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

In terms of national planning Policy Chapter 16 of the NPPF, Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, in this case the Slaithwaite Conservation Area, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 requires that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 201 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act requires that the Local Planning Authority shall pay special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area in discharging its planning functions.

The adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – 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.”
- Principle 2 – 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 detail.”

With specific regard to the House Extensions and Alterations SPD the key design principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact.
- Key design principle 7: Outdoor space
- Key design principle 9: Construction materials
- Key design principle 12: Natural environment
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage

With specific regard to the proposed development the SPD states that in terms of side extensions, the SPD states:

In Section 5.19 of the SPD refers to side extensions and the potential impact they could significantly have on the character of the original house and the street. Adequate space between buildings should be retained to provide a sense of space which is important to the character of an area. 5.20 states two-storey side extensions should:

- not take up all or most of the space to the side of a house;
- maintain a 1 metre gap to the side boundary to ensure the building is not too close to a neighbouring property;
- and be set back at least 500mm from the front wall of the house.

5.21 includes first-floor side extension which indicates how spaces between houses, are important in providing a sense of space, local character and attractive appearance of an area and should be retained.

Taking the above into account, careful consideration must be made in regard to the size of the plot and position of the proposed new extension in relation to its surroundings. An assessment of this, along with all other material planning considerations, including visual and residential amenity, shall be set out below with the conclusions section of this report setting out the consideration of the proposal in regard to the principle of development.

2 – Impact on visual amenity and Conservation Area:

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 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

As the site is within a conservation area the impact of the development will need also to be assessed against national policy in Chapter 16 of the NPPF and the general duty in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that "in the exercise of (of planning functions), with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

The property is a modern newly built end terraced property of three, close to the main high street in Slaithwaite, albeit there are residential properties close by to the west & south. These include traditional Victorian terraces and modern properties to the west.

The extension has been designed to be built from matching materials using natural stone with blue slate roof which is considered to be acceptable. The extension has been designed with a hipped roof and albeit doesn't reflect the gabled roof of the host property.

With regards the SPD for side extensions, the extension will be set back approx. 0.7m from the front elevation and wouldn't be the full depth of the property, complying in part with the SPD. However, it would be built up to the shared boundary, utilising all the space to the side, therefore, wouldn't retain a 1m gap to the boundary.

These details are in place in order to protect spaces between properties as they are important in providing a sense of space, local character and attractive appearance of an area and should be retained. In addition, the proposal would prevent the completion of the development in accordance with the scheme approved for the distance of condition 9 of the original consent for the dwelling (discussed in the 'planning history' section of this report) this would further erode the character of the locality by creating further parking / areas for vehicles to the front.

It is considered that the proposal would lead to a small scale level of harm within the Conservation Area, given the nature of the proposal it is not considered that there are public benefits in place which outweigh this identified harm.

By virtue of the reduction of the space between the host property and neighbouring dwellings, and resultant loss of soft landscaping, the proposal would have an unacceptable impact on visual amenity, contrary to the requirements of policies LP1, LP2, LP24 & LP35 of the Kirklees Local Plan, principles 1, 2, 7 and 9 of the Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

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.

No. 10 has two side neighbours; the attached neighbour no. 8 and the detached no. 12, there are no neighbours to the front & rear.

Impact on No.8

This property is the attached neighbour, a middle terrace property where the proposal is on the gable of the host property and confined within the front & rear elevations. Therefore, the extension will have little impact on these neighbour with regards overlooking, overbearing or overshadowing.

Impact on No.12

The property to the west is both set lower and forward of the host property, as well as being over two levels, unlike the host property being over three floors. Therefore, given the topography of the area and the proposal being a two-storey side extension, the proposal is overbearing to a degree, in relation to this property. With regard to overshadowing the extension would be kept within the front and rear elevations of the host property, however, would be

built almost on the shared boundary therefore, reducing the gap between the two properties. Therefore, given the orientation of the two properties and the relationship between them both it is considered that the extension would have an overshadowing effect as well as being overbearing given the height and topography of the area and the mass of walling so close to the boundary.

It is accepted that the application has been amended to reduce its depth and bulk by replacing the gabled roof with a hipped roof. However, this does not overcome the concerns of the impact of the proposal by being overbearing / leading to overshadowing.

With regards overlooking the proposed extension is a garage & store below, with no windows on the ground floor and only 2 small windows to the rear of the garage therefore, unlikely to create undue overlooking in this case.

Therefore, it is considered that the proposed extension is unacceptable in terms of residential amenity. It is considered there will be significant impact on neighbouring properties, as a result of the level of overshadowing created overbearing impact of the development. The proposal is therefore concluded to be contrary to policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles, 5 and 6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document as well as policies within chapter 12 of the National Planning Policy Framework.

4 – 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 & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

In this case the parking arrangements are being extended by the creation of a new garage, as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety.

However, the reserved matters application shows that the area to be used as access into the new garage is for the storage of bins as well as providing landscaped area in the form of raised beds, which haven't been installed and albeit the homeowner uses this area for storage of bins and there is limited space for these to be relocated, once the garage is built.

The visual impact of this area being given over to parking, is assessed in section 2 of this report, in this case whilst the proposal would lead to bins being re located to another area to the front, it is considered this would not significantly alter the existing situation and refusal on this basis could not be substantiated in this case.

5 – Other matters:

Climate Change

Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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 pre-dates 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.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Trees

With regard to trees Policy LP33 of the Kirklees Local Plan is of relevance and states the following:-

'The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity'

The Council's Arboricultural Team have been consulted in relation to two protected trees close to the proposed development (ref: 10/80T1 & T2). The summary of informal discussions being the following:

K.C. Arboricultural officer – Informal discussion, where the trees are a material consideration of any nearby extension therefore, some information needs to be submitted to fully understand the potential impact to them and vice versa. However, based on the available information, the proposal wouldn't be supported from a tree's perspective.

Given that no further information has been provided in relation to the impact of the proposal upon trees, it is considered that there is a lack of information in

this case to allow for an informed decision to be made in this regard and refusal on this ground is therefore recommended.

Biodiversity

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 application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the fact that the extension wouldn't connect into existing roof, therefore, would be in accordance with the aims of Chapter 15 of the National Planning Policy Framework,

6 – Representations:

None

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 development proposals do not accord with the development plan and/or the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation

Refuse

Decision Authorisation: Delegated Powers

Application Number: 2023/91410

Officer Recommendation: Refuse

1. The proposed extension, by reason of its position, overall scale and proximity to neighbouring properties, would result in an unacceptable degree of harm to the amenities of the occupiers of the adjacent dwelling No. 12 Mallard Way in terms of being overbearing, leading to loss of light and overshadowing. The proposal therefore fails to comply with Policy LP24(c) of the Kirklees Local Plans, policies within Chapter 12 of the NPPF and Principles, 5 and 6 of the Kirklees House Extensions and Alterations Supplementary Planning Document.

2. The proposed side extension given its relationship with its neighbour, reducing the separation distance between the two properties, and creating a vehicular access over an area intended for soft landscaping would have a harmful impact on the visual amenity of the area, street scene and Slaithwaite Conservation Area. The proposal therefore fails to comply with Policies LP24 (a & b) & LP35 (3a & b) of the Kirklees Local Plan, principles 1, 2, 7 and 9 of the Supplementary Planning Document on House Extensions (SPD) and policies within Chapters 12 & 16 of the National Planning Policy Framework.

3. Insufficient and inadequate information has been submitted to enable a full assessment of the impact of the development upon protected trees and demonstrate compliance with policy LP33 of the Kirklees Local Plan.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Application Form			15 th May 2023
Location Plan 1:1250			15 th May 2023
Existing layout & elevations			15 th May 2023
Proposed layout & elevations	23-017-04	B	20 th October 2023
Climate Change Guidance			15 th May 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 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. The Case Officer informed the agent that the application was unacceptable and was unable to recommend a solution that would overcome concerns. Following this amended plans have been submitted to show a hipped roof and the internal staircase removed in order to reduce the size of the garage. However, these amendments were insufficient to overcome concerns.

Report Dated:

3.11.23

Coal none