

**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:	2023/62/91591/W
Site Address:	6, Grimscar Avenue, Birkby, Huddersfield, HD2 2TU
Description:	Erection of single storey rear extension and installation of dormer windows to the front and rear (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: 25-Oct-2023

Officer Report – 2023/91591

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91591>

Site Description

6 Grimscar Avenue, Birkby is an unlisted semi-detached house in a prominent location on Grimscar Avenue and situated within the Birkby Conservation Area. The pair of properties were built in the mid-20th century, constructed from red brick with slate roofs, and the façades are symmetrical with arched head doorways and pairs of windows on each floor.

The property is located on a sloping site resulting in the rear elevation being 2 ½ stories providing external access to the basement, along with the properties to the east being at a lower level and at right angles to the host property, where the host property faces towards the rear gardens of these properties. These properties are separated from the host property by a path providing access to the rear gardens for properties along Bleasdale Avenue and Grisedale Avenue.

The property to the North is one half of a pair of semi-detached properties having a similar footprint to that of the host properties and are also at a lower level than the application site.

Description of Proposal

The application is a resubmission for a similar refused scheme, an appeal submission was submitted late to the planning inspector and was returned.

The application is for a single storey rear extension, relocating of the basement entrance as before however, the application now includes a front and rear dormer.

The measurements of the proposed single storey rear extension, which are unchanged from the previous application, are as follows:

- 5m in projection
- 3.2m in width

- 3.75m in height to the eaves; 4.54m in overall height with a shallow hipped roof

The extension would create a new larger kitchen and ground floor bathroom.

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

The measurements of the proposed front dormer are as follows:

- 2.95m in projection
- 2.8m in width
- 1.75m in height

The measurements of the proposed rear dormer extension are as follows:

- 3.75m in projection
- 5.25m in width
- 2.1m in overall height with a shallow pitched roof

No details of the dormer cladding have been included with the application.

History of negotiations/amendments received.

No negotiations have taken place given the discussions undertaken as part of the previous refused application, the applicant was made aware of the recommendation prior to determination.

However on the previous application the scheme originally included a first-floor extension over part of the ground floor extension where the ground floor projected 5.6m the full depth of the rear garden.

Amended plans were requested to remove the first-floor extension and reduce the projection to 3m but would be acceptable at the full width of the rear elevation.

Amended plans were submitted but not as requested, therefore, were not considered to overcome all concerns raised, subsequent discussions are detailed as follows.

A supporting document was submitted stating that the extension would cover less than 50% of the garden and that the SPD regarding single storey rear extension should fall within permitted development rights.

In this case the proposed extension would project 5m with an overall height of 4.5m, and as No.8 is at a lower level as well as located due north of the extension. The applicant's agent was subsequently advised it is considered that the extension would have an overbearing and overshadowing effect on these neighbours.

With regards the extension covering 50% of the garden, it was agreed the extension would meet this. It was further advised that in this case the rear garden is fairly small where the impact on an extension leaving 19m² may be considered acceptable provided that the remaining space is considered to be reasonable and usable amenity space. It was advised that the strip of land adjacent to the extension and rear boundary wall would likely be unusable given its depth and length, furthermore the remaining rear garden would also in part be used for steps and walkway, reducing the amenity space further therefore, the remaining garden is less than 50%, which would be thin and narrow, providing limited residential amenity space for the homeowner.

The case office also understands that there is the front garden which does provide some quality space but is unlikely to be used as private amenity space in this case. Given the above, the supporting document is not considered to overcome officers concerns.

During the processing of the previous application, the applicant's agent was recommended to give consideration to reducing the projection of the proposal, increase the wide across the rear elevation and potentially undertake internal alterations to the host property to enable the desired additional level of accommodation to be achieved.

The agent was given the opportunity to further amend the scheme as proposed, but confirmed the applicant wished the application to be determined on the basis of the plans submitted amending the scheme from a two storey to single storey development.

Relevant Planning History

2021/92571 – single storey rear extension- refused Appeal submitted but missed the deadline and was rejected by the planning inspectorate.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2F92571>

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 3rd Aug 2023, whereby no representations have been received.

Consultation Responses

None

Policy

The site is within Birkby Conservation Area as identified within the Kirklees Local Plan.

The property also falls within an area at low risk of ground movement from former mining activity as identified by the Coal Authority and within an area with a known presence of bats.

The following policies are therefore considered to be applicable in the consideration of this application: -

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 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 5th September 2023, 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

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 that proposals that accord with policies in the Kirklees Local Plan will be approved without delay unless material considerations indicate otherwise.

The site is designated within Birkby Conservation Area. Policy LP35 of the Kirklees Local Plan 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.

Policy LP24 of the Kirklees Local Plan requires that the form, scale, layout and details of all development “*respects and enhances the character of the townscape, heritage assets and landscape...*”

Paragraph 199 of the NPPF states: “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...*”. Chapter 16 further details that an assessment has to be made in relation to the level of harm (if harm accrues) and that any harm must be outweighed by public benefit of the proposal.

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.

With regards to the House Extensions and Alterations Supplementary Planning Document (SPD), Key Design Principles 1 and 2 are considered to be of particular relevance along with principles 3, 4, 5, 6, 7, 8, 9, 10, 15 & 16 in this case. Of note:

- Principle 1 – states 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 – states 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.*”
- Principles 3-6 – refer to the matter of the amenity of neighbouring properties, including privacy, outlook, light overshadowing and overbearing.
- Principle 7 – requires development to ensure an appropriately sized and useable area of private outdoor space is retained.
- Principle 15 – Extensions and alterations should maintain appropriate access and off-street ‘in curtilage’ parking.
- Principle 16 – Extensions and alterations should maintain appropriate storage arrangements for waste.

In Section 5.1, followed by 5.2 of the Supplementary Planning Document, it refers to the general guidance, where a rear extension should:

- Preserving a back garden of a reasonable size, with a general principle that at least half the garden area is retained;
- Being set behind the original building, and not projecting beyond the sides; and
- Maintaining external access to the rear garden.
- respect the original house and garden in terms of its size and scale;
- use appropriate materials which match or are similar in appearance to the original house; and
- not have an adverse impact by way of overshadowing or loss of outlook of neighbouring properties.

In Section 5.6 of the Supplementary Planning Document, it specifically refers to single storey rear extensions and notes these should:

- be in keeping with the scale and style of the original house;
- not normally cover more than half the total area around the original house (including previous extensions and outbuildings);
- not exceed 4 metres in height; not project out more than 3 metres from the rear wall of the original house for semi-detached and terraces houses or by 4 metres for detached properties;

- where they exceed 3m in length the eaves height should generally not exceed 2.5 meters; and
- retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.

Paragraphs 5.24, 5.25, 5.26 and 5.27 of the House Extension SPD relate to the provision of dormers. Given roofs are a very prominent and visible element of the majority of properties, development affecting the roof, such as dormer extensions need to be carefully considered in terms of their appearance and scale in order to be considered acceptable in terms of LP24 of the KLP, policies 1 & 2 of the House Extension SPD and chapter 12 of the NPPF.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

2 – Impact on visual amenity and Conservation Area:

The property is a brick 1930's semi-detached located within Birkby Conservation Area, surrounded by mixed style properties which are both stone terraced properties and brick semi-detached.

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.”*

Impact on the Conservation Area and wider street scene

The proposed rear extension would be built of matching materials using brick with blue slate which are considered to be acceptable materials.

Conservation Area officers have not been consulted in relation to the new application, although it is considered the LPA is still able to undertake an assessment of the proposal, having regard to the comments initially received on the previous application. It is considered that due to the projection of the rear extension with a shallow dual hipped roof will change the characteristics of the design of the house by adding a roof pitch which is out of character with the form of the surrounding buildings and the host building itself. Therefore, would have an impact on character of Birkby Conservation Area.

Paragraph 200 of the NPPF requires clear and convincing justification to be provided for harm to the significance of a conservation area, and Paragraph 202 requires public benefits to be demonstrated to outweigh such harm.

In addition, Policy LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset, in this case the Birkby Conservation Area, to preserve or enhance the significance of the asset.

The proposed extension does not preserve or enhance the character of the conservation area as it introduces a dominant extension given its height and projection and with a shallow hipped roof. The scale of the extension does not respect the surrounding character or street scene and is considered overbearing.

The application also includes a front & rear dormer to the property, where very few front dormers exist within the immediate area, therefore, consideration to its design and size is paramount in order to protect the character of the property and area within Birkby Conservation Area.

The front dormer would be set back from the gutter approx. 0.6m and approx. 0.3m from the ridge both measured in the vertical plane. The dormer would have a pitched roof and centrally located within the roof space covering just over 50% of the width of the roof. Where centrally located dormers are preferred, in this case the dormer may be more acceptable if off-set to the right so that it sits above with the existing windows and the roof light is moved to the opposite side. However, this would impact on the internal layout of the room, given the position of the staircase. Finally, materials haven't been specified, these could be conditioned if the proposal was considered to be acceptable.

However, it is considered, on balance, that the front dormer would be not be an acceptable addition in this location, with regards its size and design. This conclusion is drawn on the basis that the roofscape in this locality does not see dormer features within the roof slopes. Given that dormers cannot be installed within roof scapes under permitted development, and the prominence if the site / this proposed element of the scheme, it is concluded that the proposed front dormer would have a detrimental impact to the character of the Conservation Area leading to less than substantial harm.

With regards to the rear dormer which would in some cases be permitted development, given that the property is within a Conservation Area, the rear dormer requires planning permission. In addition rear dormers are more likely to be less visible from the street, however, in this case given that Bleasdale Avenue runs adjacent to the gable of this pair of semi-detached properties the rear dormer will be clearly visible from the public viewpoints.

The rear dormer is set down from the ridge and back from the gutter. It is set in from both sides but would extend almost 90% of the roof width, again has a pitched roof but a shallow one, which is not in keeping with that of the pitch of the roof slope of the host property. Again no materials have been specified, which could be conditioned if the dormer was considered to be acceptable.

The heritage statement submitted with the application mainly refers to Conservation Areas in general and that they preserve the historic character of

an area. The statement goes on to state the materials will match the host property. However, apart from stating that “In conclusion the location & design of the existing property would allow the proposed design to have a minimal impact on the Conservation Area”. There is no explanation to why or gives any justification to demonstrate that the design would have little impact on the Conservation Area. Therefore, limited weight is given to the heritage statement, with no public benefit of the proposal considered to be demonstrated.

It is concluded that the proposed front dormer would have a detrimental impact to the character of the Conservation Area leading to less than substantial harm.

Impact on the host property

Policy LP24 of the Kirklees Local Plan requires the form, scale, layout and details of all development to respect and enhance the character of the townscape, heritage assets and landscape. It also notes that extensions should be subservient to the original building and in keeping with the existing buildings in terms of scale, materials and details.

The rear elevation of the proposed ground floor extension has been designed with a blank gable to prevent overlooking of the rear gardens to Bleasdale Avenue which would be acceptable regarding overlooking, however, from a design point of view given its overall height adds no benefit to the character of the extension or enhances the features of the host property but would dominate it. This is exacerbated by the fact that the north facing elevation is also a blank wall.

The introduction of the hipped roof with a lower pitch reduces the potential bulk of the extension but doesn't reflect the steep roof slope of the host property. Albeit it is accepted a steeper pitch may not be achievable due to the first-floor windows, this doesn't justify the design being acceptable in this case.

However, as noted above, it is considered that the proposed extension at No 6 Grimscar Avenue would be an overly prominent feature within the street scene given the sloping site, the overall scale of the extension and its proximity from the rear boundary, thereby causing detrimental harm to the visual amenities of the locality. Furthermore, it is considered by virtue of its overall scale (notably length) and its very shallow roof, it would appear as an incompatible feature with the existing dwelling.

With regards the dormers referred to above, the front dormer would introduce a dormer feature to the front roof slope, where there are no such features in the area and wider street scene. The rear dormer is considered to be large in scale and would dominate the roof slope given its width. The shallow pitched roof would also not reflect or harmonise with the host property.

Therefore, it is considered that the proposed extension and dormers would not respect the character of the immediate area. Their form, siting, scale and external appearance would not harmonise with the host property and would create discordant structures, which will have a detrimental impact to the visual amenity and cause less than substantial harm to the significance of the Birkby Conservation Area.

Furthermore, and as alluded to above, the host property and its associated curtilage are of a very modest in size and, given the size of the rear extension proposed and its position, the property would have limited meaningful private amenity space remaining to the rear. As such, the scale is considered not to be acceptable and would result in a contrived and cramped form of development, which would constitute an incongruous feature in the locality.

Having taken the above into account, the proposed extension & dormers would cause significant harm in terms of visual amenity for both the host dwelling and would cause less than substantial harm to the significance of the Birkby Conservation Area. The application, therefore, fails to comply with Policy LP24 of the KLP (parts a & c), policy LP35 of the KLP and policies within Chapters 12 and 16 of the NPPF. No public benefits have been demonstrated to outweigh such harm to the Birkby Conservation Area.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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.

Principle 3 of the Kirklees Householder Extensions and Alterations SPD sets out that extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours. In addition, Principle 4 notes 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. Furthermore, Principle 5 states that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property and recommends that a horizontal 45-degree line from a neighbouring habitable room window is not breached. Principle 6 states extensions and alterations should not unduly reduce the outlook from a neighbouring property.

No.6 has two side neighbours; the attached neighbour no.4 to the south of the host property and the detached neighbour no. 8 to the north of the property

with No 30 Bleasdale Avenue to the east and located at right angles to the application site.

Impact on No.4 Grimescar Avenue

This property is attached to the host dwelling, where the extension would be approx. 2.5m away from their joint boundary and almost directly north of this neighbour. Taking into the account that albeit the extension provides accommodation to the ground floor of the host property the extension is almost 1½ stories high given the topography of the area. Regardless of this, given that the extension is set away from the boundary and its orientation (due north) to No 4, it is considered there will be no overbearing impact or overshadowing of this property.

With regards overlooking of this property, the proposal includes a window overlooking the amenity space of no.4. Therefore, given that the window is only 2.5m away and as already stated is higher due to the changes in levels than if to a flat site. No adequate screening could be provided to prevent overlooking, it is noted this is to a non-habitable room however, once built the layout could change by the bathroom not been included allowing for a larger dining kitchen which would be a habitable room.

Therefore, overlooking would occur both of the garden area and due to the angle and relationship between the proposed window and neighbours' property, there would be overlooking of the neighbours ground floor window.

With regards the dormers they are both set in from the shared dividing wall and are unlikely to create any overbearing or over shadowing of this property given the size and position of the dormers.

With regards overlooking the dormer windows face due East & West, again preventing any overlooking of No 4.

Impact on No.8 Grimescar Avenue

This property is located due north of the host property, where in this case the proposed extension would be built on the boundary almost the full depth of their garden. Given the topography of the area the extension is 4.5m high. Therefore, given the height and depth of the extension built on the shared boundary, it is considered the extension would have an overbearing and overshadowing effect on the occupiers of this property when using their outside space.

There would be less of an impact on the internal space given the elevated position of the neighbour's window, however, the extension still wouldn't comply with the 45° rule of the SPD, reducing daylight and have an overbearing impact. The windows close to the proposal, in the rear of no.8 would be most impacted upon by the proposal and it is considered the scale of the proposal would have a harmful impact to the occupiers of this property.

With regards the dormers they are both set in from the shared boundary, where it is accepted that No 8 is at a lower level and north of the host property. It is considered the front dormer is unlikely to create any overbearing or over shadowing of this property given its size and the same with regards the rear dormer albeit the dormer is larger, the additional impact is considered to be minimal.

With regards overlooking the windows face due East & West, again preventing any overlooking of No.8.

Impact on No. 30 Bleasdale Avenue

This property is to the east, an end terraced property located at a right-angle to the host property with the extension facing the rear garden of this property, albeit there are no windows in the rear elevation so no overlooking would occur. There is potential of the extension being overbearing due to its height and proximity to the shared boundary with No 30.

Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate. In the case of this application where the properties are already in close proximity to one another the separation distance of approx. 3m is considered acceptable so that no undue overbearing effect would occur.

However, along the rear boundary there is an existing path serving the rear gardens of 12 properties along Bleasdale Avenue & Grisedale Avenue. Due to the proximity of the rear elevation to the rear boundary it is considered that the extension would have an overbearing effect on the users of this path creating a narrow and oppressive access to the rear gardens.

Finally it should be stressed that Principle 7 of the Householders Extensions and alterations SPD states that extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. It goes on to states that normally at least half the garden area should be retained as part of the proposals.

In this case the rear garden is fairly small already where the supporting document states that the extension once built would leave 19m² which may be considered acceptable provided that the remaining space is considered to be reasonable and usable amenity space. With regards this property it is considered that the strip of land sandwiched between the extension and rear boundary wall is unusable and part of the remaining rear garden would be used for steps and walkway, reducing the amenity space further therefore, the remaining garden is less than 50%, which would be thin and narrow, providing limited residential amenity space for the homeowner.

It is noted that there is a small front garden which does provide some quality space but is unlikely to be used as private amenity space in this case. Given the above, the

Proposal would fail principle 7 of the SPD and result in the overdevelopment of the rear garden.

Having reviewed the above, the proposals would have a significantly adverse impact upon the amenities of the occupiers of the adjacent property No. 8 Grimscar Avenue in terms of overbearing, loss of light and overshadowing. Along with overlooking for the attached neighbour No. 4 Grimscar Avenue. Therefore, the proposal fails to comply with Policy LP24(b) of the KLP in terms of the amenities of neighbouring properties, Chapter 12 of the NPPF and Principles 5 and 6 of the Kirklees House Extensions and Alterations SPD.

Given that limited amenity space would be provided to the rear too, it is considered that the proposal would provide a poor standard of amenity for existing and future occupiers of No.6, contrary to Policy LP24(b) of the Kirklees Local Plan, Chapter 12 of the NPPF and Principle 7 of the Kirklees House Extensions and Alterations SPD.

With regards to the rear dormer which would be visible from the rear gardens of these properties along Bleasdale Avenue, however, with a separation distance of 8.5m it is considered there would be no undue overbearing or overshadowing of these properties. With regards overlooking, it is accepted the rear dormer window would look in the direction of these properties but given the topography of the area, the view would be over the roof tops therefore, limited overlooking would occur in this case. Therefore, the domers would comply with policy LP24, Chapter 12 of the NPPF, as well as principles 5 and 6 of the Kirklees House Extensions and Alterations SPD.

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.

The extension in this case would increase the amount of liveable space in the property, however, given the current arrangements it is not considered necessary to require additional parking to be provided as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety and advice in Chapter 12 of the National Planning Policy Framework.

There is ample space within the site for the storage of bins in compliance with KDP 16 of the SPD.

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.

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 requested in this instance. This is due to the fact that it was considered an unreasonable request given the principle of the application was unacceptable, adding unnecessary expense for the applicant.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote should be attached to the permission if the application was minded to be approved, should any bats be found using the building then works must cease and appropriate advice sought.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal

Authority regarding development within the “Development Low Risk Area”, instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority’s standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 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: 2023/91591

Officer Recommendation: REFUSE

Reasons for Refusal

1. The proposed rear extension, by reason of its siting, form and overall projection would represent a cramped form of development and incongruous addition to the host property and wider the street scene. The extension would not be subservient to the host property and would be a dominant and incongruous feature in the locality, detrimentally harmful to the character of the host property and the visual amenities of the locality. The proposal would lead to less than substantial harm to the significance of the Birkby Conservation Area. The proposal would therefore be contrary to Policies LP24

(a) and (c) and LP35 of the Kirklees Local Plan, Principles 1 and 2 of the Kirklees House Extensions and Alterations Supplementary Planning Document and Chapters 12 and 16 of the National Planning Policy Framework.

2. The proposed rear 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. 8 Grimscar Avenue in terms of overbearing, loss of light and overshadowing and No.4 Grimscar Avenue in terms of overlooking at close quarters. Given that limited amenity space would be provided to the rear too, the proposal would provide a poor standard of amenity for existing and future occupiers of No.6 Grimscar Avenue. The proposal therefore fails to comply with Policy LP24(b) of the Kirklees Local Plans, Chapter 12 of the NPPF and Principles 3, 4, 5, 6 and 7 of the Kirklees House Extensions and Alterations Supplementary Planning Document.

3. The proposed dormer windows, by reason of their siting, design and scale would represent incongruous additions to the roof scape of the host property and wider the street scene. They would be a dominant feature in the locality, detrimentally harmful to the character of the host property and the visual amenities of the locality, leading to less than substantial harm to the significance of the Birkby Conservation Area. The dormer windows would therefore be contrary to Policies LP24 (a) and (c) and LP35 of the Kirklees Local Plan, Principles 1 and 2 of the Kirklees House Extensions and Alterations Supplementary Planning Document and policies within Chapters 12 and 16 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Application Form			31.5.23
Location plan			31.5.23
Existing layout & elevations	2126/01		21.7.23
Proposed layout & elevations Location Plan 1:1250 /Block Plan 1:500	2126/02	F	25.7.23
Heritage Statement			21.7.23
Climate statement			13.6.23

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 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 didn't requested amendments given the previous refusal.

Report Dated:

5.10.23

Coal – low