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:	**2023/62/91733/W**
Site Address:	Mulberry House, 8, Hungerford Road, Edgerton, Huddersfield, HD3 3AL
Description:	Erection of detached building to create dwelling forming annex accommodation associated with Mulberry House, 8, Hungerford Road, Edgerton, Huddersfield, HD3 3AL (within a Conservation Area)
Recommending Officer:	Sam Jackman

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.

John Holmes

AUTHORISED OFFICER

Date: 20th October 2023

Officer Report – 2023/91733

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F91733

Site Description

8 Hungerford Road, Egerton is a newly built two storey 8-bedroom property, with accommodation over three floors including the attic space. The property is built from stone with a blue slate roof, located within a medium size plot.

The site itself has been levelled at the time of the new build and now sits below the road, with the flat rear garden set down by several steps from the rear patio area, across the whole of the rear elevation.

The eastern site boundary is formed by a short track leading to a substation, which separates the property from the adjacent Listed Building. The property is also with Edgerton Conservation Area.

Description of Proposal

The proposal is to build a detached building to create in the short term an office and a separate residential unit for the applicant's parent incorporating a bedroom, lounge, kitchen & WC in the future.

The measurements of the proposal are as follows:

- 4.4m in depth
- 11.5m in width
- 2.25m in height to the eaves; 3.25m in overall height

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

History of negotiations/amendments received.

Negotiations have taken place with the applicant/agent to show the eaves lower and the building to be set in 0.5m from the boundaries, in order to reduce the impact on the adjacent Listed Building and to allow maintenance of the building due to the adjacent protected trees and leaf fall.

Relevant Planning History

2019/90346 - Demolition of existing dwelling and erection of detached dwelling (within a Conservation Area) – Conditional Full permission

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F90346

Permitted development rights removed – Condition 9.

> Notwithstanding the provisions of section 55(2) (a) (ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification including paragraph A.1(ea)), no extensions shall be erected within the land edged in red on the approved location plan without full planning permission having been first obtained from the Local Planning Authority.
> **Reason:** So as to retain adequate planning control over the site in the interests of preventing future extensions which could harm the setting of the adjacent grade 2 Listed Building, and to accord with the aims of Policy PLP24(a) (as modified) and PLP35 (as modified) of the Local Plan and the National Planning Policy Framework part 16.

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 3.8.23, 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 Conservation and Design – Informal consultation with no objections in principle provided the building was set away from the boundary by 0.5m. in order to provide additional separation from the adjacent Listed Building.

K.C. Arboricultural officer – Has no objection to the proposal from an arboriculture perspective. Reccommends a condition for facilitation tree works/pruning to be agreed in writing and an informative about the presence of the TPOs and CA.

Policy

The site is unallocated on the Kirklees Local Plan, falls within Edgerton Conservation Area, within an area with a known presence of bats, with Protected trees in close proximity and also an area at low risk of ground movement as a result of former mining activity.

<u>Kirklees Local Plan:</u>

- **LP 01** – Achieving sustainable development.

- **LP 02** – Place shaping
- **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 02 – Achieving sustainable development.
- Chapter 04 – 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).

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas.

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. Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

> "The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations Policy LP24 requires that the form, scale, layout and details of all development "respects and enhances the character of the townscape, heritage assets and landscape…"

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 Edgerton 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 Edgerton 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 Kirklees Supplementary Planning Document on House Extensions, 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.”

- 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.

With specific regards to the proposed development the SPD states that in terms of
outbuilding/annex s, section 5.6 outbuilding/annex should normally:

- be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuilding/annex s;

- be set back behind the building line of the original building so that they do not impact on the street scene; and
- preserve a reasonable private amenity space appropriate to the potential number of occupants of the house and follow a general principle that no more than 50% of garden space should be lost.

The above listed policies and guidance within the House Extensions and Alteration SPD are taken into account within the 'Impact on Visual Amenity' and 'Impact on Residential Amenity' sections of this report. On the basis the proposal is considered to be acceptable in terms of visual amenity, residential amenity and all other relevant matters it is considered the development could be concluded acceptable in principle.

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 newly built two storey detached property with accommodation over three floors. The property is within Edgerton Conservation Area and adjacent to a Listed Building No.4 Hungerford Road.

The proposal is to build a detached building within the grounds of the property built from matching material using stone with blue slate roof which, located along the eastern boundary adjacent to the access track to the existing substation located to the rear of the property.

The outbuilding/annex will be set down lower than the rear patio area and set in from the two adjacent boundaries by 0.5m. In this case the outbuilding/annex is considered to sit comfortably within its surrounding and is not considered to be overdevelopment retaining sufficient amenity space and therefore, is considered to be subservient to the host property.

Therefore, given the location of the outbuilding/annex set back from the highway and built from matching materials, the development is considered to be in accordance with Policy LP24 of the Kirklees Local Plan.

In addition, the development would accord with Policy LP35. The development would maintain and reinforce local distinctiveness and conserve the significance of designated heritage asset. The outbuilding/annex would have a neutral impact on the character and appearance of the conservation area due to its scale and appearance and would not result in harm to its significance.

It is therefore considered that the development accords with the aforementioned policies and is acceptable in this regard.

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. 8 has two detached side neighbours; No. 4 & No.10. the neighbours to the front and rear are both over 40m from the proposed outbuilding/annex, so will not be affected by the proposal with regards overlooking, overshadowing or being overbearing in this case.

Impact on No.4 Hungerford Road

No 4 is located to the east of the property and will have an initial separation of almost 5m from their boundary due to the access track to the substation separating the two properties, with an overall separation of 15.5m between the outbuilding/annex and neighbours' property. therefore, there would be no overbearing or overshadowing of this property. With regards overlooking there would be one window in the elevation facing the neighbour's boundary, where this is to a WC which will be obscurely glazed and if the internal layout changed where this room became part of the open plan layout it is considered to be still acceptable due to the boundary fence and overall separation distance. Therefore, no overlooking would occur and no requirement for this window to be conditioned obscurely glazed.

Impact on No.10 Hungerford Road

No 10 Hungerford Road is located due west of the host property where the proposed outbuilding/annex would be approx. 18.5m from the shared boundary and albeit there are windows in the west facing elevation of the outbuilding/annex, overlooking the applicants garden towards No 10, given the separation distance and boundary fence. It is considered there would be no overlooking of this property, neither will there be any overbearing or overshadowing of this property.

Therefore, it is considered that the proposed outbuilding/annex is acceptable in terms of residential amenity. It is considered there will be no significant impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking, and the proposal would accord with the aims of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles 3, 4, 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.

With regards the impact the annex would have on No 8 and visa versa.

The proposed outbuilding is initially for additional office space for the homeowner which later would be used as a separate annex accommodation for the applicant's parent. The proposed annex would be to the rear of the property behind the families open plan kitchen/breakfast/ garden room which has direct access onto the patio and within 5m of the proposed annex, where the patio is raised above the annex and runs along the whole of the rear elevation of the host property.

The proposed annex will be self-contained, with its own bedroom, living area, kitchen and WC, which is considered to be acceptable provided that it remains within the use of a family member. This is due to the fact no private amenity space has been associated with the new unit. It is therefore considered that a separate stand-alone residential unit in this location would not be acceptable, and this is due to the limited private amenity space that could be provided leading to poor living conditions. A condition is recommended to be attached to any approval restricting the use to someone associated with No.8 (condition 4).

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 proposal would increase the amount of liveable space and subsequently a separate residential unit. However, in this case the there are no highway issues as the drive / parking arrangement is not being affected by the proposal and can still accommodate 2/4 cars to the front, plus 2 cars in the garage 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.

However, given that the proposal creates a separate residential unit with its own facilities and entrance. Although the site has adequate parking for both properties if ancillary to each other it is considered there would-be parking

conflict if the annex was sold or let separately, therefore a condition is recommended to be added to retain the annex as ancillary. Condition 4.

It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 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.

Trees - The proposed development site is constrained by a few protected trees that are subject to a Tree Preservation Order. These are the established trees that overhang the site from 8, Hungerford Road, Edgerton, Huddersfield, HD3 3AL, 7 Halifax Road to the North and 7 Thornhill Road to the North-east.

The site is also within the Edgerton Conservation Area. Trees in a conservation area that have stem diameters of 75mm or greater and are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local planning authority, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6-week period if the local planning authority gives consent. This notice period gives the authority an opportunity to consider whether to make an Order on the tree.

From the information due to existing structures it is reasonable that the Root Protection Areas of the adjacent trees are more asymmetrical (i.e. the sub-station to the north and the access to it) are obstructing the spread somewhat. However, during construction caution is advised as roots still could be present. Roots smaller than 25 mm diameter may be pruned back, making a clean cut with a suitable
sharp tool (e.g. bypass secateurs or handsaw), except where they occur in clumps. Roots occurring in clumps or of 25 mm diameter and over should be severed only following consultation with an arboriculturist, as such roots might be essential to the tree's health and stability.

This is because it is in the applicant interest to keep the trees healthy and stable, and they may be liable if the trees become unstable/are heavily damaged as a result of the works.

There is still going to be overhang of the canopies and seasonal debris often blows wherever the wind does. So the gutters and sky lights of the annex should be design/positioned to be easily accessed in order to clean etc. This is because future tree works applications to the neighbouring protected trees in order to try and reduce overhang/seasonable debris are unlikely to be supported.

Overall, there is no objection to the proposal from an arboriculture perspective.
Please include a condition for facilitation tree works/pruning to be agreed in writing and an informative about the presence of the TPOs and CA mentioned above. (Condition 5 & footnote)

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 application is for a new detached outbuilding/annex.

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 would constitute sustainable development and is therefore recommended for approval.

Recommendation **APPROVE**

Decision Authorisation - Delegated Powers

Application Number: 2023/91733

Officer Recommendation: Approve

Conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24 and LP35 of the Kirklees Local Plan, principles 1, 2, 3, 4, 5, 6, 7, 9, 12, 15 and 16 of the Council's

adopted Supplementary Planning Document on House Extensions and Alterations and to accord with Policies within Chapters 2, 4, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. The external walls and roofing materials of the outbuilding/annex hereby approved shall in all respects match those used in the construction of the existing building and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan, Key Design Principles 1, 2 and 9 of the Council's adopted Supplementary Planning Document on House Extensions, and to accord with Policies within Chapter 12 of the National Planning Policy Framework.

4. The residential annex accommodation hereby approved shall be used solely for purposes ancillary or incidental to the enjoyment of the existing dwellinghouse known as 8 Hungerford Road and shall at no time be sold or rented as a separate residential unit.
Reason: For the avoidance of doubt as to the development permitted, in the interests of residential amenity and highway safety to accord with Policies LP21 & LP24 of the Kirklees Local Plan, Principle 7 of the House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.

5. During construction roots smaller than 25 mm diameter may be pruned back, making a clean cut with a suitable sharp tool (e.g. bypass secateurs or handsaw), except where they occur in clumps. No roots which occur in clumps, or of 25 mm diameter and over, shall be severed until a scheme has first been submitted to, and approved in writing by, the Local Planning Authority which details all roots to be severed and the extent to which they would be removed. Construction of the development hereby approved shall be undertaken in accordance with this condition and any approved scheme(s).
Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Local Plan and advice within the National Planning Policy Framework

Footnote:

The site is within the Edgerton Conservation Area. Trees in a conservation area that have stem diameters of 75mm or greater and are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local planning authority, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6-week period if the local planning authority gives consent. This notice period gives the authority an opportunity to consider whether to make an Order on the tree.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received

Plan Type	Reference	Version	Date Received
Application Form			20th June 23
Existing Location Plan 1:1250 & site plan 1:500	TR-A23-0504-005		20th June 23
Proposed Location Plan 1:1250 & site plan 1:500	TR-A23-0504-001	A	25th August 23
Proposed layout	TR-A23-0504-002	A	25th August 23
Proposed elevation	TR-A23-0504-003	A	25th August 23
Proposed 3D renderings	TR-A23-0504-004	A	25th August 23
Heritage, Design & Access Statement	TR-A23-0504-004	2	30th June 23
Climate Change statement			14th June 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 requested amended plans during the process of the application to seek an amendment which would reduce the impact of the development on the adjacent Listed Building and protected trees. This decision is based on the amended/additional documents submitted.

Report Dated: 18.10.23

Coal – low