

**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:	2023/62/91847/W
Site Address:	37, Netherlea Drive, Netherthong, Holmfirth, HD9 3EX
Description:	Proposed additional floor to existing bungalow
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.

Teresa Harlow

AUTHORISED OFFICER

Date: 23-Oct-2023

Officer Report – 2023/91847

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F91847>

Site Description

37 Netherlea Drive, Netherthong, is a detached bungalow built from artificial stone with concrete tiled roof. The property is located in a residential area of mixed style properties including both bungalows & 2-storey properties within a cul-de-sac location.

The cul-de-sac slopes downhill as you approach the property with the properties at the head of the cul-de-sac being at a lower level. The property to the East (left) of the host property is a 2-storey dwelling and to the West (right) are two identical bungalows to the host property.

The property benefits from a long drive leading to the detached single garage to the rear of the property, where the rear garden backs on to TPO trees which overhang the rear garden/ patio area.

Description of Proposal

The proposed is to raise the roof over the whole property by 1.2m to a height of 5.6m, along with the eaves being raised by 1.2m to a height of 3.75m.

The accommodation will create a new first-floor bedroom with an enclosed balcony to the rear, having a floor area of 6.6m in length.

The new extended walls will be artificial stone to match the existing property along with the new roof.

History of negotiations/amendments received.

Negotiations have taken place with the applicant/agent due to concerns raised with regards to the impact raising the roof would have on the adjacent neighbour with regards being overbearing and overshadowing, given the position of their bedroom three.

Relevant Planning History

None

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 2.8.23, whereby no representations have been received.

Holme Valley Parish Council - Support, but with concerns about adequate parking for additional bedrooms.

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

None

Policy

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

The site also falls within the Holme Valley Neighbourhood Development Plan and is within an associated landscape character area (ref: - LCA5, Netherthong Rural Fringe).

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 51** – Protection and Improvement of Local Air Quality

Neighbourhood Development Plans:

- Holme Valley Neighbourhood Development Plan (2021-2031)
The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan.

- Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley
- Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- Policy 12: Promoting Sustainability
- Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain

The application site is within Landscape Character Area 5, Netherthong Rural Fringe

The Key characteristic of the area are the extensive views of the surrounding landscape with long distance views towards Castle Hill and Huddersfield and the valley sides afford framed views towards settlements in the valley below, with Public Rights of Way (PRoW), including the Holme Valley Circular Walk, cross the landscape providing links between settlements. Where the built-up characteristics are Vernacular buildings largely comprise farmhouses, barns and two and three storey weaver's cottages of millstone grit with stone mullioned windows.

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.

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) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

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 to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within 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 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 15: Provision for parking
- Key design principle 16: Provision for waste storage

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:

Policy 1 of the Holme Valley Neighbourhood Development Plan (HVNDP) sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA 5, detailed in the 'Policies' section of this report)

Policy 2 of the HVNDP states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

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.

The host property is detached, the end property within a row of three identical bungalows. The property to the East is a 2-storey property at a slightly lower level and set back 3.5m from the front elevation of the host property along their shared boundary. The host property is separated from this neighbour by their existing drive, likewise the occupiers of the adjacent bungalows drive separates them from the host property.

The proposal is to raise the ridge of the roof by 1.2m retaining the roof pitch by raising the existing wall height to all elevations. The first-floor will have windows in the front and rear elevations with rooflights along both roof slopes.

It is accepted that the new roof alterations will be seen from neighbouring properties within Netherlea Drive, however it is considered the increase of 1.2m retaining the roof pitch will have little impact on the street scene given the adjacent bungalow is at a slightly higher level, resulting in the new ridge being approx. 0.5m high than its neighbour No. 39. Along with the fact that the neighbour No. 35 is a two-storey property. In addition the protected trees along the rear boundary provide a substantial backdrop, reducing the impact of the buildings silhouette would have on the skyline. It is also accepted that the property is set back from the road by approx. 9.5m, albeit the front gardens are all open plan with low planting, providing limited screening the setback contributes the impact the new first-floor will have within the street scene.

With regards to the SPD and the Holmfirth Neighbourhood plan where both documents have no specific policies for this type of development (raising the roof) but Policies 1 and 2 of the HVNDP and the SPD provides core values to protect the visual amenity of the area as a whole.

Therefore, raising the roof is considered to relate satisfactorily to the host building and have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Policies 1 and 2 of the NDP, having regard to 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 2 of the HVNDP sets out that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings and prevent or reduce pollution as a result of noise, odour, light and other causes. Light pollution should be minimised, and security lighting must be appropriate, unobtrusive and energy efficient.

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.37 has two detached side neighbours No's 35 & 39, with no neighbours to the rear. The properties facing the host property No. 23 & 25 have a separation distance of approx. 23m.

Impact on No.35

No. 35 is a 2-storey detached property located to the east of the application site and albeit at a lower level, the ridge height will be raised by only 1.2m. It is considered the extension would have little impact on these neighbours with regards being overbearing or overshadowing.

With regards overlooking there are no additional windows to the side elevation, only rooflights and albeit these will be at head height, there will be limited view of the neighbour's private amenity space, as the neighbour has no windows in their side elevation. The new rear balcony is enclosed and with the applicant's garage providing additional screening therefore, again no overlooking would occur.

Impact on No.39

No 39 is an identical bungalow to the that of the host property, where there existing habitable room windows overlooking the neighbour's drive towards the host property. These windows include the only window to bedroom three and window into the kitchen. Where the greatest impact, if any, would be the bedroom window.

The current relationship is that the header of the neighbour's window is in line with the eaves of the host property. Where it is accepted that raising the eaves by 1.2m will reduce the light into this room to some degree. The separation distance of 3.6m helps reduce the impact along with the pitched roof being shallow, therefore, on balance the alteration are considered not to have a materially adverse impact on the occupiers of No 39 with regards being overbearing or overshadowing, given the existing longstanding relationship.

With regards overlooking, there are no additional windows to the side elevation only rooflights and albeit these will be at head height, there will be limited view of the neighbour's private amenity space. The new rear balcony is enclosed and with the neighbour's garage providing additional screening therefore, again no overlooking would occur.

Impact on No.23/25

These properties are at an acceptable distance not to cause any material overbearing, overshadowing or additional overlooking.

Therefore, it is considered that the proposed extension 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, Policy 2 of the NDP, 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.

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 proposed alterations to raise the ridge of the property in this case would increase the number of bedrooms from three to four, where the existing drive will be retained at a length of approx. 16m, providing sufficient space for 3 cars. Therefore, there are no highway issues as such would meet the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety and advice in Chapters 9 and 12 of the National Planning Policy Framework.

The proposed accommodation for bins would not alter, in accordance 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. Policy 12 of the NDP seeks similar goals.

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. The application is supported with a Climate Change Statement, the information in the documents – whilst limited – is noted.

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. Policy 13 of the NDP follows on from this.

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. Albeit the proposal would have an impact on the existing roof structure, the property is a bungalow which appears to be in a good state of repair. Furthermore there are more likely bat roost opportunities nearby.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote shall be attached to the permission setting out that, 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.

Trees – There are protected trees along the rear boundary of the property where the crown spread overhangs the applicants garden but doesn't overhang the host property. The rear garden is fully paved but storing materials here could impact on the tree roots. Given the close proximity, a condition should be included to protect the crown and roots of the tree with scaffolding and installing the new roof structure. (Condition 4). An informative will be added regarding the necessity for tree works applications, as no specific works to trees are permitted by this application.

An enclosed balcony and habitable room window would be created looking south towards the trees. However, given the enclosure of the balcony and the setting back of the window under the roof, tree litter and shading is unlikely

create issues that would indirectly threaten the viability of the protected trees, in accordance with Policy LP33 of the Local Plan.

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: 2023/91847

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 and LP24 of the Kirklees Local Plan, principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 15 and 16 of the Council's adopted Supplementary Planning Document on House Extensions and Alterations, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and to accord with Policies within Chapters 2, 4, 12, 14 and 15 of the National Planning Policy Framework.

3. The external walls and roofing materials of the extension 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, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and to accord with Policies within Chapter 12 of the National Planning Policy Framework.

4. Prior to development commencing protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees that overhang the site to create a construction exclusion zone. The exclusion zone shall not be used for the storage of materials, machinery or for the washing off or disposal of chemicals and the burning of site waste.

Reason: So as to protect to viability of the protected mature trees within close proximity to the application site and to accord with Policy LP33 of the Local Plan and Policy within Chapter 12 of the National Planning Policy Framework.

NOTE: Trees overhanging the rear boundary of the property are subject to Tree Preservation Order (HO3/74/a1). A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:

- cutting down
- topping
- lopping
- uprooting
- wilful damage
- wilful destruction

of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent. Failure to comply and implement the conditions above which aim to protect trees could be considered wilful damage and may lead to enforcement action.

NOTE: If tree works are required during the construction process, these will be required to be submitted to and approved in writing by the Local Planning Authority (as a separate tree works application) prior to the work being carried out. This is because no tree works were identified as being required during the course of this planning application.

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

NOTE: The Council's GIS system indicates that the property is within a bat roost area and may be present on site. Bats are a European protected

species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Application Form			21 st June 2023
Location Plan 1:1250	2461 – OS	A	28 th July 2023
Existing layout & elevations	2461 – 1	A	28 th July 2023
Proposed layout & elevations	2461 – 2	A	23 rd August 2023
Climate Change Statement			26 th June 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 requested amended plans during the process of the application to seek an amendment which would reduce the impact of the development on the amenity of nearby residents. This decision is based on the amended/additional documents submitted.

Report Dated:

20.10.23

Coal – low