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:	**2023/62/91893/W**
Site Address:	78, Marsden Lane, Marsden, Huddersfield, HD7 6AF
Description:	Removal of existing garage and link structure and erection of two storey side extension and raised terrace
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: 21-Nov-2023

Officer Report – 2023/91893

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F91893

Site Description

78 Marsden Lane, Marsden is a random stone coursed detached property with a concrete tiled roof, built on a sloping site running from west to east.

The front elevation of the property gives the appearance of a dormer bungalow with the rear elevation having a basement therefore, three storey in appearance with access on to a raised patio area before several steps leading onto the lawn which then slopes down towards the Huddersfield Narrow canal running along the edge of the garden to the east.

Access to the property is via a long steep drive shared with No.76 located to the south of the property.

The property benefits from a detached single flat roofed garage to the south with a linked porch/entrance.

Description of Proposal

The application is for a three-storey side extension replacing the existing garage and linked porch. The extension would create a basement games room, kitchen with utility and new master bedroom with walk in wardrobe and ensuite.

The existing dormer to the south elevation will be extended into the new side extension to provide access into the master bedroom.

Both the ground & first-floor rooms will have Juliet balconies.

To the side of the extension will be a raised patio area/parking space.

The measurements of the proposed extension are as follows:

- 6.1m in projection from the host property
- 8m in depth
- Front elevation 3.7m in height to the eaves; 6.6m in overall height
- Rear elevation 6.5m in height to the eaves; 9.3m in overall height
- With the existing raised patio at 2m extended.

The measurements of the proposed raised patio area are as follows:

- Approx. 11m in depth with the corner splayed.
- 3m in width
- 5.8m max height to the top of the wall.

The proposed extension would be built from materials to match the host property in part by using a small area of natural stone, timber cladding and a concrete tiled roof.

History of negotiations/amendments received.

Negotiations have taken place with the agent due to the size and visual impact the proposal would have had on the residential & visual amenity of the area.

Amended plans have been received to delete the garage with basement garden store and lowered the height of the linked dormer.

Further amended plans have been received to reduce the parking area/patio at the side of the property with the corner spayed.

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 3.8.23, whereby two representations have been received with the summary of comments set out below:

- Works started - footings.
- Surface water drains incomplete.
- Possible damage to the trees from the proposed garage due to it being close to the boundary.

- Overlooking

- Shared drive to be kept clear for access.

Albeit the amended plans changed the proposed design with reductions it was considered appropriate to renotify the neighbours by email giving them until the 15th Nov 2023. Whereby one representation has been received, reiterating the damage to the neighbour's trees and potential overlooking.

Consultation Responses

Canal & River Trust – no objections in principle, provided no water is discharged into the canal and requested an informative footnote.

Policy

The site is within the Strategic Green Infrastructure Network on the Kirklees Local Plan and falls within an area with a known presence of bats.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development.
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity and geodiversity
- **LP 33** – Trees
- **LP 35** – Historic environment
- **LP 51** – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21st July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development.

- Chapter 4 – Decision-making
- Chapter 12 – Achieving well-designed places.
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment.

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. 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 designs principles for consideration are:

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

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

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

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

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

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 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.

79 Marsden Lane along with its neighbours were built in the 60's where the application site sits within fairly large grounds, which is predominantly lawn to the rear and slopes fairly steeply down towards the Huddersfield Canal.

The property is primarily a two-storey property with an under build at the rear which provides space for a gym in part. Along the back is a 2m raised patio area with unfinished/started work to the south of the property.

The property is accessed via a long drive owned by the applicant but shared with its neighbour No.76. therefore, there is limited view of the property from Marsden Lane, however when viewed from the rear along the canal tow path, the property is clearly visible due to its elevated position.

The proposed extension to the side of the property is 2½ storeys in height on the site of the existing garage with linked porch, providing accommodation over three floors.

The application has been reduced in size so that the extension is kept within the confines of the front & rear elevation to create a linear form of development. As stated above the property is visible from the canal however, in part is screened by the existing mature trees, which are to be retained as stated on the application form. However, these are not protected and if removed, will visually open up the site resulting in the extension clearly being visible.

The proposed materials would be a small section of stone to match the property to the front elevation with concrete tiled roof, however, the side and rear elevation along with part of the front elevation will be cladded in vertical timber boarding. Where the timber boarding is not characteristic to the style of the property, the existing dormers have horizontal timber cladding, furthermore the properties within the area have a mixed palette of materials including white render and upvc. Furthermore the property is fairly modern, and the timber cladding will be a natural material adding interest to this 60's property. Along with the installation of floor to ceiling aluminium windows replacing the white upvc. A condition would be included requiring the materials to be in keeping those set out in the submitted plans (condition 3).

With regards the SPD and side extensions, the extension will be set back from the front elevation, would allow access at the side and would be set over 4m from the shared boundary with its neighbour.

It is accepted that the extension is a large 2-storey side extension, where it could be considered that the extension is no longer subservient to the property, given the sloping site. Although there is limited scope to extend further, it would be appropriate to remove permitted development rights for alterations to the roof space, detached buildings, and raised patio areas in this case. This would prevent the overdevelopment of the site in the interests of visual amenity and the amenities of adjacent occupiers. (Condition 5)

The extension 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, 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 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.78 has two detached side neighbours, No 76 and Oakwood with no neighbours to the front or rear.

*Impact on No.*76

No 76, is the closest neighbour located to the south of the application site. Where the extension will be approx. 6m away from the shared boundary with this neighbour, furthermore there are mature conifers along this boundary providing screening at a height of approx. 4m. Therefore, it is considered there will be no overlooking from the proposed ground floor window in the south elevation. Neither would the extension have an overbearing or overshadowing effect on this property given the separation distances.

The proposed parking area to the side of the property could also be used in part as a patio area which would be over 6.6m from the shared boundary and again given the conifer hedge no overlooking would occur.

Impact on Oakwood

Oakwood is located to the north of the property, at a higher level and on the opposite side to the proposed extension. Given that the extension is within the

confines of the front & rear elevation. The proposal will have little impact on this property.

Therefore, it is considered that the proposed extensions are 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.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

In this case the property is accessed via a long drive owned by the applicant but shared with its neighbour No.76. Albeit the existing garage will be lost and the new side extension being almost the full depth of the property with a small set back of 1m which will ultimately reduce the length of the drive. An Additional raised area to the side will be created to provide a 3rd space, 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.

To ensure the new hard surfaces do not lead to an increase in flood risk, it is recommended that a condition be imposed to require permeable surfacing techniques be employed. This would also comply with Chapter 14 of the NPPF. (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.

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 albeit the extension will connect into the existing roof, the property currently has accommodation within the roof space and also appears to be well sealed and maintained with little opportunity for bats. Furthermore, given the property is located within an area of mature woodland which provides more suitable habitat for bats to roost.

However, as a precautionary 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.

Canal & River Trust – no objections in principle, where following a recent inspection of the cutting slope they identified that water runoff onto or the seepage into the slope could lead to deterioration of this asset, which would increase the long-term risk of land stability towards the canal.

To address this, prior to approval, they requested confirmation that drainage from the extension would not discharge onto the cutting slope including any from nearby soakaway structures and requested an informative footnote.

This would be in line with paragraphs 194(part e) and 183 of the National Planning Policy Framework, which states that planning decision should ensure that a site is suitable for its proposed use, taking account of risks arising from land stability.

Having discussed this with the agent, who at this stage does not know how the existing surface water is disposed of, they confirm they would be agreeable for this matter to be controlled by compliance condition requiring surface water does not drain direct to the canal. Given other drainage solutions for surface water could be undertaken, and these would be controlled by building regulations, subject to inclusion of the recommended condition (condition 6) it is considered the proposal would be acceptable in this regard.

Trees – Along the shared boundary there are a row of conifers owned by the neighbour. Concerns have been raised by the neighbour with regards to the position and impact the new raised drive will have on these trees. So that they are not damaged or have an impact on the integrity of new wall with regards the roots taking moisture from the ground.

It is accepted that the wall is close to the conifer trees however it butts up to them at right angles, with a small return along the drive. Therefore, should have a minimal effect on these trees.

The neighbour states “according to the Party Wall Act, the minimum distance between the footings for the retaining wall and the adjoining property should be no less than three metres.” Where if this is the case, it is a private matter between the applicant and neighbours however, a footnote has been included that it is the applicant’s responsibility to ensure that he or she is legally entitled to carry out the approved development. (footnote)

<u>6 – Representations</u>:

Two representations have been received with the summary of comments set out below:

- Works started - footings.
  Response: - this is noted

- Surface water drains incomplete.
  Response: - this is noted and wouldn’t require planning permission

- Possible damage to the trees from the proposed garage/retaining wall due to it being close to the boundary.
  Response: - addressed in the report

- Overlooking
  Response: - addressed in the report

- Shared drive to be kept clear for access.
  Response: - noted and controlled by condition

Albeit the amended plans changed the proposed design with reductions it was considered appropriate to renotify the neighbours by email giving them until the 15th Nov 2023. Whereby one representation has been received, reiterating the damage to the neighbours' trees and potential overlooking.

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: 2023/91893

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 and to accord with policies within Chapters 2, 4, 12, 14 and 15 of the National Planning Policy Framework.

3. The external walls, where indicated as stone upon submitted plan PL02RevF and the roofing materials of the extension hereby approved shall in

all respects match those used in the construction of the existing building. The external walls, where indicated as timber upon submitted plan PL02RevF shall be completed with natural timber. The development shall not be brought into use until completed with the materials approved by this condition 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 development shall not be brought into use until all areas indicated to be used for parking on the submitted/listed plans have been marked out and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the use specified on the submitted/listed plans for the lifetime of the development.
Reason: To ensure adequate space within the site for vehicle parking and in accordance and to ensure adequate drainage of surface water within the site in accordance with Policy LP24 of the Kirklees Local Plan, Key Design Principle 15 of the House Extensions and Alterations SPD and advice within the National Planning Policy Framework.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes AA, A, B or E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
Reason: To avoid overdevelopment of the site and retain any future extension combined with existing extensions as subservient additions to the host property. Also to preserve the amenities of nearby residential properties and to accord with LP24 of the Kirklees Local Plan and Policy in Chapter 12 of the National Planning Policy Framework.

6. No surface water drainage shall be discharged onto the cutting slope, including any nearby soakaway structures and ultimately into the adjacent Huddersfield Canal.
Reason: To minimise the risk and effect land stability on the property and infrastructure to accord with paragraphs 194(part e) and 183 of the National Planning Policy Framework.

NOTE: With reference to condition (4) above, the developer is advised to refer to Communities and Local Government 'Guidance on the permeable surfacing of front gardens' published 13th May 2009 (ISBN 9781409804864):

www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens

NOTE: The applicant/ developer is advised to contact the Trust's Works Engineering Team via email at Enquiries.TPWNorth@canalrivertrust.org.uk or via switchboard on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust's "Code of Practice for Works Affecting the Canal & River Trust"

NOTE: The granting of planning permission does not convey with it, the right to build on land not owned by the applicant. It is the applicant's responsibility to ensure that he or she is legally entitled to carry out the approved development.

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			26th June 2023
Location Plan 1:1250	181-23-PL03	B	26th June 2023
Exiting floor plans, elevations & site layout	181-23-PL01	B	25th October 2023
Proposed floor plans, elevations & site layout	181-23-PL02	F	3rd November 2023
Climate Change Statement			27th 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.

16.11.23

Report Dated:

none