

**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:	2023/62/92059/W
Site Address:	23, Dirker Bank Road, Marsden, Huddersfield, HD7 6AR
Description:	Erection of detached building to create dwelling forming annex accommodation associated with 23, Dirker Bank Road, Marsden, Huddersfield, HD7 6AR
Recommending Officer:	Lucy Taylor

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 18th December 2023

Officer Report.

Reference: 2023/92059

Location: 23, Dirker Bank Road, Marsden, Huddersfield, HD7 6AR

Proposal: Erection of detached building to create dwelling forming annex accommodation associated with 23, Dirker Bank Road, Marsden, Huddersfield, HD7 6AR

Site Description.

23 Dirker Bank Road is an end of terrace property located in Marsden. The external walls of the property are faced in brick, with a tiled hipped roof above. Within the wider curtilage, the site benefits from a on site parking amenity space and outdoor amenity space to the front and rear.

Within the wider streetscene, a strong sense of similarity is established, with the other properties located along Dirker Bank Road sharing the same style of design and construction and faced in matching exterior materials.

The rear boundary of the site adjoins with land Allocated in the Kirklees Local Plan as Green Belt and the properties located to the rear of the site are Listed.

Description of Proposal.

Planning permission is sought for the erection of a detached building to create dwelling forming annex accommodation associated with No. 23 Dirker Bank Road.

The annex would be located on rising land to the rear of the site, within the outdoor amenity space of the property. The front elevation of the detached annex building would face towards the host property of No. 23 Dirker Bank Road at an elevated height.

The detached building would have the following dimensions:

- Length (front and rear elevations) – 9.5 metres
- Width (side elevations) – 3.5 metres
- Maximum height – 3.1 metres

The external walls of the building would be faced in a cladding material and the roof would be constructed from EPDM.

Fenestration detailing would be erected to only the front elevation of the detached building, consisting of windows and glazed doors.

The annex would include: one bedroom, an ensuite bathroom and a kitchen/living area.

In conjunction with the annex building, raised decking would be erected to its front elevation. This raised decking would be raised 0.5 metres above the level of the garden.

Relevant Planning History.

No relevant planning history.

History of Negotiations.

The case officer contacted the applicant/planning agent via email to raise concerns regarding the proposed detached annex building, including impacts of being overbearing and overlooking neighbouring properties.

The case officer provided opportunity for amended plans to be submitted. However, no response was received from either the applicant or planning agent.

As such, the overall determination of this application is based on the original plans as submitted 17/07/23.

Representations.

We are currently undertaking 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, a site notice and within the newspaper.

Final publicity date expired 16 October 2023.

No representations were received.

Consultation Responses.

KC Highways Development Management – The proposals are considered acceptable to Highways Development Management. A condition would be required to ensure that the proposed annex remains ancillary to the main dwelling and cannot become a separate independent dwelling.

KC Trees – No objection to the proposed from a tree's perspective and at the moment it isn't necessary to include tree related conditions.

KC Conservation and Design (informal) – No comment, however, if to support would want a sedum roof to the annex building.

Planning Policy.

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).

Whilst the rear boundary of curtilage at the site adjoins with land Allocated as Green Belt in the Kirklees Local Plan, given that the proposal seeks permission for a detached outbuilding within the confines of the Unallocated rear amenity space of 23 Dirker Bank Road, it is not considered necessary to conduct any further assessment of impacts to the Green Belt.

The properties located to the rear of the site are Listed.

The application site is located within the River Colne Corridor Strategic Green Infrastructure Network.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP31 – Strategic Green Infrastructure Network
- LP33 – Trees
- LP35 – Historic Environment
- LP51 – Protection and Improvement of Local Air Quality
- LP57 – The Extension, Alteration or Replacement of Existing Buildings

Supplementary Planning Documents:

Highways Design Guide SPD (2019)

House Extensions and Alterations SPD: 2021

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, together with Circulars, Parliamentary 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 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places

- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment.

The following matters will be considered as part of the assessment of the proposal. These considerations will be looked at in detail individually:

- 1) Principle of Development
- 2) Impact on Visual Amenity and Historic Environment
- 3) Impact on Residential Amenity
- 4) Impact on Highway Safety
- 5) Other Matters
- 6) Representations
- 7) Conclusion

1) Principle of Development

Chapter 2 of the NPPF states that: *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions...”*

Chapter 2 of the NPPF goes onto further state that objectives should: *“support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment...”*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *“...the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.”*

Policy LP1 goes further and states: *“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *“good design should be at the core of all proposals in the district”*.

1) Impact on Visual Amenity and Historic Environment

Visual Amenity:

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby paragraph 126 provides a principal consideration concerning design which states: *“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates*

better places in which to live and work and helps make development acceptable to communities.”

Paragraph 130 of the NPPF is of relevance, in particular the following parts:-
- *‘b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping’*
- *‘c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change’*

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

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, heritage assets and landscape...’*
- *‘c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...’*

The application is to provide a new building associated with 23 Dirker Bank Road, to provide annex accommodation. The House Extensions and Alterations SPD is of general relevance for visual amenity purposes.

Key Design Principles 1 and 2 of the Council’s adopted House Extensions and Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.

Paragraph 5.30 of the House Extensions and Alterations SPD states that outbuildings should normally:

- be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings;
- 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.

It is considered that the proposed annex building would be set within a prominent and obtrusive position within the curtilage of No. 23 Dirker Bank Road. Given the topography of the site, the annex building would be located on land raised approximately 1.4 metres above the land level of the host dwelling and the land level of the neighbouring properties 17, 19 and 21 Dirker Bank Road. Furthermore, the proposed structure would be large in scale, in terms of both footprint and height, further impacting on its obtrusive

appearance in the context of the existing dwelling and the neighbouring properties.

The host property of No. 23 Dirker Bank Road has a footprint of approximately 50sqm (including the single storey side extension). The proposed outbuilding would have a total footprint of approximately 33.25sqm. Therefore, it is concluded that the annex structure would not be read as subservient to the host dwelling and would be separated from the built form of the host property by only approximately 8 metres, increasing its obtrusive appearance. In addition, the annex structure would be separated from the existing detached garage structure by less than one metre (approximately 0.75 metres), reducing the openness of the rear amenity space and increasing the detrimental impact of additional built form within the curtilage of the site.

Additionally, the proposed annex building would retain a separation of only 0.6 metres from the shared boundary with No. 21 Dirker Bank Road and would be located only approximately 8 metres from the rear boundary of this neighbouring property. Resultantly, the proposed outbuilding is concluded to reduce the openness of the site and wider area, impacting on the relationship between No. 23 Dirker Bank Road and the neighbouring terrace properties, particularly No. 21 Dirker Bank Road.

The blank side elevation of the proposed outbuilding, facing towards the rear amenity spaces of the neighbouring terrace properties, would further increase the extent to which it would be read as imposing visually. Introducing a new blank, solid elevation of a significant size/scale.

The introduction of raised decking as part of the development and the surfacing to be laid around the annex structure present further negative impacts visually. They increase the extent to which the annex building would not appear as subservient and present further urbanised forms within a currently open rear amenity space of No. 23 Dirker Bank Road.

Having taken the above into account, the proposed annex and associated works would, by reason of their size/scale, siting and design, form an incongruous feature which would cause significant harm to the visual amenity of both the host dwelling and the wider character and appearance of the area, thereby failing to comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and the aims of Chapter 12 of the National Planning Policy Framework.

Historic Environment:

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that, for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 66 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Policy LP35 of the Kirklees Local Plan states that: *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm.”*

As part of the determination of this application, KC Conservation and Design were informally consulted. KC Conservation and Design assessed the proposal and raised no objection to the scheme, particularly because of the outbuilding erected within the curtilage of one of the Listed Buildings itself, Dirker Barn. An outbuilding has been previously approved within Curtilage Listed Dirker Barn, with this outbuilding closer to the Listed Building than the outbuilding proposed to No. 23 Dirker Bank Road.

However, KC Conservation and Design did state that, if the application were to be approved, they would want to see a sedum roof form above. This could be secured by condition if the application were to be recommended approval.

With the inclusion of a condition regarding a sedum roof form, the proposed development at 23 Dirker Bank Road is considered to have an acceptable impact with regard to the heritage significance of the Listed Buildings located to the rear of the site (i.e. it would avoid harm to the significance of these designated heritage assets). Therefore, it is concluded that the proposal complies with policies within Chapter 16 of the NPPF and Policy LP35 of the Kirklees Local Plan.

2) Impact on Residential Amenity

Section B and C of LP24 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.

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.

Whilst the proposed annex building would see a significant reduction in the extent of outdoor amenity space at No. 23 Dirker Bank Road, it is considered

that an adequate amount would be retained in accordance with Key Design Principle 7 of the House Extensions and Alterations SPD.

It is considered that the properties most likely to be affected by the proposed development are those which directly neighbour the site.

No.'s 19 & 21 Dirker Bank Road:

These properties neighbour No. 23 Dirker Bank Road to the west, with No. 21 Dirker Bank Road adjoining the application site.

It is considered that the proposed annex building and raised decking would result in undue levels of overlooking to the rear amenity spaces of these neighbouring properties, with the only form of boundary treatment erected low wooden fencing. In addition, it is considered that the annex building and raised decking would overlook the property of No. 21 Dirker Bank Road, especially with regard to the glazing which is considered to serve habitable rooms to the rear elevation of this neighbouring property.

In addition, the proposed annex building would pose an overbearing effect to No. 21 Dirker Bank Road, separated from the shared boundary by only approximately 0.6 metres and from the rear elevation of the property by approximately 8 metres. This separation, together with the 3.1-metre-high solid side elevation, would pose an overbearing effect. It should be noted that the proposed annex would be considerably higher than the boundary treatment between No. 21 and 23, which comprises of low wooden fencing.

It is considered that the proposed building would be a sufficient distance away from any other properties to prevent undue harm to residential amenity in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing affect.

In conclusion, it is considered that the proposed development would be likely to have an overbearing effect on the neighbouring property of No. 21 Dirker Bank Road and negatively detriment the neighbouring privacy of both No. 19 and 21 Dirker Bank Road. Therefore, the proposal would be contrary to the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Amenity of Future Occupiers of the Annex:

The submitted floor plans for the annex indicate a one-bedroom unit with a double bed. The building would have an internal floor area of approximately 33.25 sqm, with the bedroom providing approximately 9.25sqm.

The proposed annex fails to comply with the Nationally Described Space Standards for a single storey one bedroom unit when used by either one or two occupiers. The minimum space standards for one occupier would be 39sqm and for two occupiers would be 50sqm. In turn, the annex would not provide a good standard of living for any future occupiers, if deemed a dwellinghouse. It is important to note that the NDSS is not adopted as a

Policy within the Kirklees Local Plan. However, new build dwellings – and in this case the annex is clearly capable of independent occupation – should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out the NDSS, these are not currently adopted in the Kirklees Local Plan. The council will seek to adopt such a policy in the future in accordance with evidence and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Officers note however, that the proposal is for an annex associated with No. 23 Dirker Bank Road. Although the structure might be under no obligation to be used ancillary to the host dwelling, officers are aware that upon any grant of approval, a condition could be implemented regarding the ancillary use of the annex. In this case given the siting and access arrangements to the building, it is difficult to see how it could realistically be accessed or occupied independently.

The building is considered to be of a form and design that could possibly function completely independently from No. 23 Dirker Bank Road. Officers conclude that the unit as a separate residential property would provide a substandard level of amenity for any future occupiers and that the outdoor amenity space would be inadequate, with only a small, decked area. If permission was to be granted, it would be necessary to impose a condition that it remain ancillary to no. 23. In the interests of residential amenity. This would be in accordance to LP24b of the Kirklees Local Plan and Chapter 12 of the NPPF.

3) 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.

Upon formal consultation with KC Highways Development Management, it was concluded that, permitted the annex dwelling is used ancillary to No. 23 Dirker Bank Road, the Highways Development Management team would have no objection to the scheme with regards to parking arrangements for both No. 23 and the annex.

Whilst officers note that the proposed annexe has the potential to function completely independently from the host dwelling and that there would likely be an increased demand for parking if permanent residents were to occupy the structure, the site currently benefits from four off-site parking spaces and the proposals do not propose any changes to the existing driveway, garage or access.

Given this, on balance, there is deemed to be adequate parking to serve No. 23 Dirker Bank Road and the annex.

4) Other Matters

Climate Change:

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 predates 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. This includes key design principles 8-11 of the SPD.

As part of this application a Climate Change Statement was submitted, which sets out mitigation measures. Considering the small-scale of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs further mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Trees:

As part of the determination of this application, a formal consultation was undertaken with KC Trees, who concluded the following:

The proposed development is constrained by existing, hedging/shrubs and a couple of small trees along the boundary of the site within the property directly to the north of the development site. From the information provided and site visit pictures, these trees are not of amenity value enough to merit alteration and/or objection to the proposal from a tree's perspective.

The mature and well-established tree to the rear of the garages to the west of the development site will not be impacted by the proposal directly or in tree opinion enough indirectly to merit an objection on tree grounds.

Overall, KC Trees had no objection to the proposal, however, did suggest the inclusion of two informatives upon any grant of approval regarding 'Bird Nesting Season' and common law/legal duty around potential works.

Therefore, with the inclusion of the aforementioned informatives, it is considered that the proposal would appropriately comply with LP33 of the Kirklees Local Plan.

Strategic Green Infrastructure Network:

Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide. This policy sets out that development should ensure the function and connectivity of green infrastructure is retained / replaced, new or enhances green infrastructure is provided / integrated into new developments. In addition this policy requires integration of developments into walking / cycling network and providing new links where appropriate and the protection of biodiversity / ecological links. Where the creation of new or enhanced green infrastructure is proposed, provided it does not conflict with other policies within the Kirklees Local Plan policy LP31 sets out that the Council will support such development.

It is not considered that the erection of the proposed annex or any of the associated works would require the direct removal of any trees or hedgerows. Therefore, the proposal is not considered to have a significant impact upon the strategic infrastructure network and is concluded to be acceptable in this regard.

5) Representations

No representations were received.

6) 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 proposed development would not constitute sustainable development, would be contrary to the provisions of the adopted development plan and is therefore recommended for refusal.

The proposal is also considered to be contrary to policy LP2 which seeks to ensure all development proposals build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places.

Recommendation: Refuse

Decision Authorisation – Delegated Powers
Application Number: 2023/92059
Officer Recommendation: Refuse

1. The proposed development and associated works, by virtue of their scale, massing and siting, would not appear subservient to the host property and would be overly prominent and incongruous additions within the curtilage of the site to the detriment of visual amenity and character of the area, failing to comply with Policy LP24a of the Kirklees Local Plan and Policies within Chapter 12 of the National Planning Policy Framework.
1. The proposed annex building and raised decking would result in a loss of amenity arising from an overbearing and overlooking impact upon neighbouring properties, in particular No.'s 19 and 21 Dirker Bank Road, by reason of their scale, design, siting and proximity to neighbouring land and property. The development would therefore not be compliant with the aims of Policy LP24b of the Kirklees Local Plan or Policies within Chapter 12 of the National Planning Policy Framework.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Location Plan	A.01.1	-	17/07/23
Existing Site/Block Layout	A.01.2	-	17/07/23
Existing Floor Plans	A.01.3	-	17/07/23

Existing Site Sections	A.01.4	-	17/07/23
Proposed Site/Block Layout	A.02.1	-	17/07/23
Proposed Floor Plans	A.02.2	-	17/07/23
Proposed Site Sections	A.02.3	-	17/07/23
Proposed Elevations	A.02.4	-	17/07/23
Proposed Elevations	A.02.5	-	17/07/23
Climate Change Statement	-	-	04/09/23
3D Proposed	A.02.6	-	17/07/23
3D Proposed	A.02.7	-	17/07/23

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 preapplication 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 contacted the applicant/planning agent via email to raise concerns regarding the proposed detached annex building. No amended plans were submitted.

Report dated:

18/12/23