

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:	2023/62/92392/E
Site Address:	Heaton Croft, 3, Timothy Lane, Upper Batley, Batley, WF17 0AJ
Description:	Demolition of existing detached garage and erection of single storey rear extension (within a Conservation Area)
Recommending Officer:	Nicole Helliwell

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 04-Oct-2023

Officer Report

Reference No. 2023/62/92392/E

Site Address: Heaton Croft, 3, Timothy Lane, Upper Batley, Batley, WF17 0AJ

Proposal: Demolition of existing detached garage and erection of single storey rear extension (within a Conservation Area).

Site Description

The application relates to Heaton Croft, a two storey semi-detached property situated in Upper Batley. The dwelling is faced in red brick and incorporates a hipped roof finished in slate. The property benefits from off road parking and gardens to the front and rear. The neighbouring properties are of residential use and comprise bungalows and two storey dwellings of varying materials and architectural styles.

Description of Proposal

The applicant seeks retrospective planning permission for the erection of a single storey rear extension. The existing detached garage will be demolished to allow for the proposed works. Permission is not required for the internal alterations to the property and therefore, the only matter for consideration is the proposed extension. The proposed single storey extension would project approximately 6m from the rear elevation of the original dwellinghouse. It would feature a maximum height of approx. 4.05m and an eaves height of approx. 3.05m.

Relevant Planning History

Not Applicable.

Representations

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 3rd October 2023. As a result of the above publicity, one representation has been received. The material planning considerations raised are summarised as follows:

- It is not clear from the approved building regulation plans that the rain water run-off will be discharged into a suitable drain.
- The kitchen vent should not exit onto the side nearest the neighbouring property as this would cause a nuisance of noise, disturbance and odour to the neighbours.

Consultation Responses

KC Conservation and Design – No objections

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).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map and lies within the Upper Batley Conservation Area. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity and Geodiversity
- **LP 35** - Historic Environment

Supplementary Planning Guidance / Documents:

Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)
- House Extensions and Alterations SPD (adopted 29th June 2021)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 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 20th 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 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

1. Principle of development

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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 NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extensions and Alterations SPD and Chapter 12 of the NPPF, regarding design.

The application site is also located within the Upper Batley Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is also mirrored in Chapter 16 of the National Planning Policy Framework and LP35 of the Kirklees Local Plan.

In this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety.

1. Impact on Visual Amenity and Historic Environment

Impact on Visual Amenity

Key Design Principle 1 of the House Extensions & Alterations Supplementary Planning Document (SPD) states that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the SPD goes on to state 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 details.

Paragraph 130 of the NPPF sets out that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting. Furthermore, Policy LP24 of the

Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

Single Storey Rear Extension

The proposed single storey extension would project approximately 6m from the rear elevation of the original dwellinghouse. This would not be in compliance with the House Extensions and Alterations SPD. The extension would be faced in red brick and would incorporate a dual pitched roof finished in tiles. Notwithstanding the submitted details, a condition has been added requiring the material palette to match the appearance of the original build. Although the enlargement would exceed 4m in height and would have a large projection, its non-compliance with the SPD is considered to be justified in this instance as it would have limited visibility from public vantage points and would maintain a sense of space within the plot. Furthermore, the proposed extension would have some form of subservience to the original build. Therefore, it is considered that the proposal would not have any significant visual impact on the character and appearance of the host property and wider street scene.

Summary

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, KDP 1 & 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

Impact on Historic Environment

LP35 of the Kirklees Local Plan requires development proposals affecting a designated heritage asset to preserve or enhance the significance of the asset, retaining those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensuring that proposals maintain and reinforce local distinctiveness.

Paragraph 197 of the NPPF is also of relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- a) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- b) the desirability of new development making a positive contribution to local character and distinctiveness.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) is relevant, and requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

The application site lies within the Upper Batley Conservation Area. As such, KC Conservation and Design were informally consulted on the proposed scheme. The proposed single storey rear extension would be visually acceptable with regard to its scale, siting and design. Furthermore, the extension would have limited visibility from vantage points within the conservation area and is not considered to harm its heritage significance.

Summary

It is therefore considered that the proposed development would not cause any detrimental harm to the significance of the Upper Batley Conservation Area and would comply with Policy LP35 of the Kirklees Local Plan, Chapter 16 of the NPPF and the requirements of Section 66 and 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990.

2. Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light, Key Design Principle 6 on preventing overbearing impact and Key Principle 7 for outdoor space.

The submitted plans confirm that no properties located north and south of the application site would be affected by the proposed works.

The proposed extension would not comply with para. 5.6 of the House Extensions and Alterations SPD in respect of its overall projection and height. The guidance and additional details on Local Plan policies set out in the SPD have been produced based on the principle of 'comply or justify'. The non-compliance of the proposal in this instance is considered to be justified in this instance by the site specific circumstances which are discussed below.

Impact on Uplands House

Uplands House is a two storey detached property located east of the application site. The proposed single storey rear extension would occupy a position approximately 21m from the neighbouring property. The plans confirm that the neighbouring dwelling occupies an angled position and does not directly face the host property. Therefore, given the offset relationship, it is considered that the extension would not cause any undue harm to the neighbouring occupants with regards to overbearing, overshadowing or overlooking.

Impact on 1 Timothy Lane

1 Timothy Lane is the two storey semi-detached property that adjoins to the western elevation of the host property. No.1 has a single storey rear extension close to the boundary with the application property. The plans confirm that the proposed single storey extension would be positioned approximately 0.7m from the common boundary shared with no.1. It is noted that the corner of the enlargement would marginally protrude past the 45-degree angle measured from the midpoint of the neighbour's ground floor window. However, given that the extension would be single storey in height, would project no more than 3m beyond the extension at No.1, and would be screened to a certain extent by the existing boundary treatment, it is considered that any impact would be minimal and would not be so significant to warrant a refusal in this instance.

Occupier Amenity

It is noted that sufficient outdoor amenity space of a functional layout would be retained at the application site. As such, the proposed development would ensure an acceptable standard of amenity for existing and future occupants.

Summary

Having considered the above factors, the proposal is not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, and Paragraph 130 (f) of the National Planning Policy Framework.

3. Highway Safety

The proposal would not intensify the domestic use at the dwelling and would not affect the existing parking arrangements on site. Therefore, the development is considered acceptable in accordance with Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF, Principles 15 and 16 of the

Kirklees House Extensions and Alterations SPD and the Highways Design Guide SPD.

4. Other Matters

Carbon Budget

The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Public Right of Way

Although it is noted that public footpath BAT/21/10 runs along the southern boundary of the application site, due to the location of the proposed works, it is considered that there would be no impact upon the PROW's setting.

Biodiversity

Whilst the site is located in an area identified as being within a 'bat alert' layer on the Council's GIS mapping system, in this instance, the nature of the works is considered unlikely to have a detrimental impact on the bat population. However, a footnote will be added to the decision notice to provide the applicant with advice should bats or bat roosts be found during construction. This would accord with the aims of Policy LP30 of the Kirklees Local Plan, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.

There are no other matters relevant to the determination of this application.

5. Representations

One representation was received following the statutory publicity. The material considerations raised are summarised below:

- It is not clear from the approved building regulation plans that the rain water run-off will be discharged into a suitable drain.
- The kitchen vent should not exit onto the side nearest the neighbouring property as this would cause a nuisance of noise, disturbance and odour to the neighbours.

Concerns were raised regarding drainage and ground water. However, the site does not fall within a flood zone and therefore, the proposed works are not considered to present harm to any neighbouring occupants with regard to flooding. Furthermore, the development proposed is not considered to materially impact on drainage and would be acceptable in this regard.

Concerns were also raised regarding noise, disturbance and odour as a result of the new kitchen vent. However, this would be of a domestic nature and is not considered to materially harm the neighbouring occupants. This may fall under a separate remit (i.e. Building Regulations).

The following matters would not constitute material planning considerations:

- In the course of the building works the rain water fall pipe from the gutters round the roof of the existing property has been cut off before reaching the original drain.
- The opening for the patio door has been built on the opposite side of the rear elevation suggesting the internal layout of the kitchen/living room has been reversed from that shown on the plans originally submitted for building regulation approval.

6. Negotiations

No amendments were sought or received during the course of the application.

7. Conclusion

This application for a single storey rear extension at Heaton Croft, 3 Timothy Lane has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extensions and Alterations SPD, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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: 2023/92392

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30 and LP35 of the Kirklees Local Plan, Key Design Principles 1 & 2 of the House Extensions and Alterations SPD and the aims of the National Planning Policy Framework.

3. Notwithstanding the submitted details, 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 Policy LP24 of the Kirklees Local Plan, Key Design Principles 1 & 2 of the House Extensions and Alterations SPD and the aims of Chapter 12 of the National Planning Policy Framework.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: Due to its location, a bat roost 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 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.

NOTE: Public footpath BAT/21/10 is located adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works. The Council's Public Rights of Way unit may be contacted by telephone on 01484 221000. Public rights of way are based at Flint Street, Fartown, Huddersfield HD1 6LG and the email address is publicrightsofway@kirklees.gov.uk

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays

- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Location Plan	-	16/08/2023
Existing Elevations & Floor Plans and Proposed Site Plan	TLB/01	16/08/2023
Proposed Elevations and Floor Plans	TLB/02	16/08/2023
Climate Change Statement	-	16/08/2023

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 Planning 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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 02/10/2023