

# **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:         | <b>2023/62/92698/W</b>                                                                                            |
| Site Address:         | 38, Springwood Hall Gardens, Springwood,<br>Huddersfield, HD1 4HA                                                 |
| Description:          | Demolition of existing timber canopy and erection of<br>single storey rear extension and rear white PVC<br>canopy |
| Recommending Officer: | Molly Storer                                                                                                      |

### **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: 28-Nov-2023**

## THE SITE

The application site is within a residential location with properties being a mix of type, age and design with some detached, semi-detached two storey dwellings and single storey detached dwellings within the locality to the north, east, south and west.

The locality is characterised by a mix of house type, with spacious front and rear gardens being a typical feature. A mix of materials of construction have been used for the properties within the street, some landscaping within the adopted highway, coupled with landscaping to front gardens, provides a softer and green environment of the overall housing estate within the street scene.

## THE PROPOSAL

The applicant is seeking planning permission for: -

Demolition of existing timber canopy and erection of single storey rear extension and rear white PVC canopy.

## PLANNING HISTORY

Relevant planning history for this site is summarised as follows:-

2015/93817 – Erection of first floor extension and canopy – Conditional Full Permission granted 29th February 2016 - This permission has been implemented at site.

2020/92031 – Tree Works Application – Granted 24th August 2020

2022/92656 – Demolition of existing timber canopy and erection of two storey rear extension with first floor balcony, rear white PVC canopy, and white PVC windows and doors – Refused 29<sup>th</sup> August 2023 for the following reasons:

*1. As a result of the size, scale, massing and proximity to no.36 Springwood Hall Gardens, the proposed development would lead to a detrimental level of overshadowing and would have an unacceptable impact upon the outlook of this property and would be an oppressive and overbearing feature. The harmful impact of the development upon the residential amenity currently enjoyed by the occupier(s) of this property would be contrary to policy LP24(b) of the Kirklees Local Plan, Principles 5 and 6 of the Council's adopted House Extensions and Alterations SPD, and policies within Chapter 12 of the National Planning Policy Framework.*

*2. By virtue of its siting, size, and design, the proposed development would be out of character, and have a harmful visual impact upon, the host property and wider locality. The proposed development would fail to harmonise with the visual amenity of the host property and street scene and would not be subservient to the original dwelling. The*

*development is contrary to policy LP24 (a and c) of the Kirklees Local Plan, Principles 1 and 2 and paragraph 5.8 of the Council's adopted House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.*

The assessment section of this report assesses whether the development proposed as part of this application suitably addresses the previous reasons for refusal and whether they have been overcome with this new application.

## **PUBLICITY & REPRESENTATIONS**

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters.

Final publicity date expired 16<sup>th</sup> November 2023 – no representations received.

## **CONSULTATIONS**

None

## **ALLOCATION & POLICIES**

The site is unallocated within the Kirklees Local Plan but does fall within an area with a known presence of Bats and identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

Local guidance and policy are provided by the Kirklees Local Plan (adopted February 2019) as such the following policy, guidance and legislation is considered relevant to the determination of this application:-

### *Kirklees Local Plan*

LP1 Achieving Sustainable Development  
LP2 Place Shaping  
LP21 Highway Safety  
LP22 Parking Provision  
LP24 Design

### *National Policies and Guidance*

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 5<sup>th</sup> September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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. Considered to be of relevance to the consideration of this application are policies within the following chapters:

Chapter 2 – Achieving sustainable development  
Chapter 9 – Promoting sustainable transport  
Chapter 12 – Achieving well-designed places  
Chapter 14 – Meeting the challenge of climate change  
Chapter 16 – Conserving and enhancing the historic environment

### *Supplementary Planning Guidance*

House Extensions and Alterations SPD (June 2021)

### *Legislation*

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

The Conservation of Habitats and Species Regulations 2017

## **ASSESSMENT**

The following matters are considered in the assessment below –

1. Principle of development
2. Impact upon the character and appearance of the area
3. Impact upon residential amenity
4. Impact upon highway safety
5. Other matters
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 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”.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

## **2 – Impact on character and appearance of the area**

Policy LP24 (Design) of the Council's adopted Local Plan sets out 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 and minimise impact on residential amenity of future and neighbouring occupiers.

Paragraph 130 of the NPPF is also of relevance to the consideration of this application.

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.

Key design principle 1 (Local character and street scene ) – *‘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.’*

Key design principle 2 (Impact on the original house) – *‘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.’*

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’*

The proposal would be of a lean-to roof design which is constructed from a mix of brickwork and red double roman tiles to match existing and patio doors within the rear elevation. The glazing to the rear elevation would span nearly the entire width of the proposal. There will also be a clear Pvc sloping roof added adjacent to the extension.

The SPD states that single-storey rear extensions should maintain the quality of the residential environment and relate well to the neighbouring buildings. Rear extensions should generally not be visible from the street and should retain a reasonable living environment for the property being extended. This should include consideration of the following: Preserving a back garden of a reasonable size, with a general principle that at least half the garden area is retained; Being set behind the original building, and not projecting beyond the sides; and maintaining external access to the rear garden.

The SPD also states that single storey rear extensions should:

- *Be in keeping with the scale and style of the original house; not normally cover more than half the total area around the original house (including previous extensions and outbuildings);*
- *Not exceed 4 metres in height;*
- *not project out more than 3 metres from the rear wall of the original house for semi-detached and terraced houses or by 4 metres for detached properties;*
- *retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.*

The proposal, being of a lean-to roof design, is considered to be of a subservient design which is in keeping with the host property. The proposed materials of red brick, red double roman tiles and white pvc windows to match the original dwelling would also be of a subservient design and be sympathetic to the host property in terms of appearance and would be in keeping with the character of the host property and wider locality.

Although part of the proposal would be visible from the street, namely a blank brick elevation which would protrude beyond the side of the dwelling, this is not considered to have significant impact on the character of the street. This is because of the small gap it covers (~0.9m) and due to the current single storey addition already having this impact. In addition this element of the proposal is not highly prominent from the street

The design of the proposal is therefore considered to be in keeping with the host property and the wider locality and is not considered to have a harmful impact upon the visual amenities of the host property and wider street.

The scheme is significantly altered from the previously proposal (detailed in the 'planning history' section of this report). The amendment to the scheme, detailing a lean to roof, matching materials and single storey design is such that reason no.2 of the previously refused application is overcome in this case with the siting, size and design suitably altered such that the proposal would not have a harmful visual impact upon the host property / wider locality.

It is therefore considered that in terms of visual amenity, the proposed development would comply with Policy LP24 (a and c) of the Kirklees Local Plan, principles 1, 2 and part 5.1 of the Council's adopted House Extensions

and Alterations SPD, and policy 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.

Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. The proposal would not significantly impact upon amenity space provision and is acceptable in this regard.

With regard to overlooking, the proposal features openings to the rear and northeastern (side) elevation only. Whilst the proposal abuts the shared boundary with no.36 Springwood Hall Gardens, given no opening are proposed to this elevation of the proposal, and screening can be provided between, it is concluded that the proposal would be acceptable with regard to overlooking of no.36 in accordance with principles 3 and 4 of the SPD.

A window would be in the northeastern (side) elevation facing no.40. However it is considered these would be suitably screened at the ground floor which would ensure no significant level of overlooking of no.40 would take place too.

In relation to overshadowing / overbearing impact, principles 5 and 6 are of relevance and state the following:-

*Key design principle 5: Overshadowing/loss of light 'Extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.'*

*Key design principle 6: Preventing overbearing impact 'Extensions and alterations should not unduly reduce the outlook from a neighbouring property.'*

Paragraph 130(f) of the NPPF is also of relevance, setting out the following:

*'Planning policies and decisions should ensure that developments... f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'*

Policy LP24 (6) is also of relevance in this regard, setting out the following:-

*'Proposals should promote good design by ensuring .... (b) they provide a high standard of amenity for future and neighbouring occupiers; including*

*maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary'*

In proximity to the boundary of the site is the rear of no.36 Springwood Hall Gardens. The proposal would see a single storey addition along the boundary of the site with no.36 which would be 4.3m in projection and 4.2m in height, being of a lean-to roof design. There is a stepped relationship between no.38 and no.36, with the rear elevation of no.36 already being set back from the rear elevation by 3m. Although this is off set from the boundary be approximately 1m.

It is noted there is a single storey structure which runs along the boundary with no.36 already in place, although this does not benefit from planning permission. Aerial photography records show this structure to have been erected at some point between 2018 and 2021 and it is likely a lawful structure. It is noted that if this structure projected solely from the rear elevation of the host property it could have benefitted from being permitted development.

The proposal is not considered to have a significant impact on the occupiers of no.36 being of single storey in height and of a limited projection it is considered this would not lead to undue overshadowing from the development and would not be an oppressive or obtrusive feature. In addition it is concluded the proposal would have limited impact upon the outlook from the rear of no.36. It is therefore concluded that the reduction of the size, scale and massing of the proposal in comparison to the previously refused application (detailed in the planning history section of this report) is such that the previous reason no.1 has been overcome.

It is therefore considered that in terms of residential amenity, the development would be acceptable, and in accordance with policy LP24b of the Kirklees Local Plan, Principles 5 and 6 of the Councils adopted House Extensions and Alterations SPD, and policies within Chapter 12 of the National Planning Policy Framework.

#### **4 – Impact on highway safety:**

Policies LP21 and LP22 of the Kirklees Local Plan and policies within chapter 9 of the NPPF 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 plans show no additional bedrooms therefore there will be no impact upon parking provision, although it was noted during the site visit that there is sufficient space to the front of the property for the parking of 3 vehicles (potentially 4+) and this is used for this purpose already.

In addition the proposal would not significantly impact upon waste storage arrangements, with the ability to store waste bins to the rear.

It is therefore considered that in terms of access and highway safety / parking the proposed development would comply with Policies LP21 and LP22 of the Kirklees Local Plan, principle 15 of the Council's Street Design Guide and chapter 9 of the National Planning Policy Framework.

## **5 – Other matters:**

### *Ecology*

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. Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest, and the dwelling does not appear to feature openings at the eaves / roof level which could easily accommodate roosting bats.

In the instance of any grant of permission an informative note would be included upon any grant of permission which pointed out the requirement to contact Natural England in the event that permission was granted.

### *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 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. The extension would be of a scale that would need to meet the requirements of building regulations in terms of insulation. This is considered to be acceptable in terms of mitigation against climate change.

## **6 – Conclusion**

This application for rear extension at No.38 Springwood Gardens has been assessed against relevant policies in the development plan, the SPD as listed in the policy section of the report, the NPPF and other material

considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered 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:** 2023/92767

**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 Policy Policies LP01, LP02, LP21, LP22 & LP24 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 15 of the Council's adopted House Extensions & Alterations Supplementary Planning Document, and Policies within Chapters 2, 9, 12 and 14 of the National Planning Policy Framework

3. Other than the area annotated 'clear Pvc Canopy 2800 x 1900' upon submitted drawing titled 'Ext & Proposed Plans' (ref: HD14HA-v3 page 1 of 4) 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 be retained thereafter.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 (a and c) of the Kirklees Local plan, Key Design Principles 1, 2 and 9 of the Council's House Extensions and Alterations SPD and policies within 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:** The site is located within the Kirklees Bat Alert Layer and there is an increased potential for roosting bats. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). 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.

**Plans and specifications schedule: -**

| Plan Type                                              | Reference             | Version | Date Received |
|--------------------------------------------------------|-----------------------|---------|---------------|
| Location plan                                          | -                     | -       | 12/09/2023    |
| Application form                                       | -                     | -       | 12/09/2023    |
| Climate change statement                               | -                     | -       | 18/09/2023    |
| Grouped plans and elevations-first floor plans         | HD14HA-v3 page 2 of 4 | -       | 18/09/2023    |
| Grouped plans and elevations-ground floor plans        | HD14HA0v3 page 1 of 4 | -       | 18/09/2023    |
| Grouped plans and elevations-front and rear elevations | HD14HA-v3 page 3 of 4 | -       | 09/10/2023    |
| Grouped plans and elevations-side elevations           | HD14HA-v3 page 4 of 4 | -       | 09/10/2023    |

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

**Report Dated:** 28.11.2023

