

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2023/70/92754/W
Site Address:	The Four Sons Inn, 129, Clough Lane, Rastrick, Huddersfield, HD6 3QJ
Description:	Variation condition 2 (plans) on previous permission 2021/94264 for erection of porch and external decking
Recommending Officer:	Tom Hunt

DECISION – Approve Variation of Condition

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Teresa Harlow

AUTHORISED OFFICER

Date: 19-Dec-2023

Officer Report

Site Description

2023/92754 – The Four Sons Inn, 129 Clough Lane, Rastrick, Huddersfield, HD6 3QJ

The application relates to The Four Sons Inn, 129, Clough Lane, Rastrick, a two storey building, which appears to of been extended overtime, to include the single storey rendered addition. Car parking surrounds the building to the North East, East and West. Access is taken from the site onto Clough Lane (A6107).

Surrounding the site is predominately residential in character, along with the M62 to the North. The site is situated within the Green Belt on the Kirklees Local Plan.

Description of Proposal

The application seeks a Variation of condition 2 (plans) on previous permission 2021/94264 for erection of porch and external decking

The proposal seeks permission for the erection of a porch and front and rear decked areas. The measurements of the scheme are as follows:

Front porch:

- 2.5m in projection
- 2.5m in width
- 3m in overall height

The front porch would be constructed from natural stone to match the existing building. This would be unchanged from the original proposal.

The front and rear timber decked areas would be ~40 sq.m each, with the rear being reduced from the original permission in 2021/94264. A ~1.1m high metal rail would also be installed around the outdoor areas to the front. This would have 7.5 4-seater covers/tables (unchanged).

To the raised rear decking area, it would have a stone wall adjacent to the highway ~5.8m length with an overall range of 1.5m to 1.9m height from sloping ground level. It would otherwise have its decked area in ~1.1m metal railings. This would have 5 4-seater covers/tables (reduced from 6).

An existing opening to the rear would be altered to form a new door to the decking (unchanged).

On-site parking would be retained as existing, other than the loss of three car parking spaces to the west side of the building.

History of negotiations/amendments received

Following Highway Development Management response, it was decided that the middle access point shall be 'entrance only' to avoid adverse impact on visibility through the erection of the stone wall. This was agreed by the agent and made subject to condition.

Relevant Planning History

2022/93550	Discharge condition 4 (noise assessment) on previous permission 2021/94264 for erection of porch and external decking. <i>Approved</i>
2021/94264	Erection of porch and external decking. <i>Conditional Full Permission.</i>
2007/95313	Erection of shelter and landing. <i>Conditional Full Permission.</i>
95/92751	Erection of extensions. <i>Conditional Full Permission.</i>

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 which expired on: 26/10/2023.

No representations have been received.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- National Grid: No Objection – no National Gas Transmission affected in area
- National Grid Electricity: No Objection. Safe working guidance set out.
- Kirklees Council Environmental Health: No objection subject to condition applied on Noise Impact Assessment
- Kirklees Council Highway Development Management: No Objection, subject to access arrangements being altered.

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 Green Belt on the Kirklees Local Plan. It is not within a Bat Alert layer. It is within a Low Coal Risk Area. It is not within land identified at risk of contamination and is within flood zone 1.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 52 – Protection and improvement of environmental quality**
- **LP 57 – The extension, alteration or replacement of existing buildings**

Supplementary Planning Guidance and other considerations

- Highways Design Guide 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 05th September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology
- 5) Representations
- 6) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

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”*.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

1.2 Green Belt

The site is within the Green Belt. The general principle of extending and making alterations to a property within the Green Belt are assessed against Policy LP57 of the Kirklees Local Plan and national policy within Chapter 13 of the NPPF.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt (paragraph 138), the most relevant in this case being:

“c) to assist in safeguarding the countryside from encroachment”
as it is in the countryside.

Policy LP57 of the Kirklees Local Plan mirrors the view of the NPPF by aiming to ensure that a proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access.

The principle of the development had been agreed in 2021/94264 and the proposal seeks a minor variation in the previously approved proposal. This was considered to have no disproportionate addition to the original with the erection of the porch and compliant with LP57 of the Kirklees Local Plan.

Furthermore, it has been noted that the decked areas would be installed with a reduction in area for the rear, within the existing car park (hardstanding) which will ultimately protect the open character of the area and would not encroach into the countryside. The decked area will provide an appropriate level of outdoor seating in which the premises require. The only alteration visually would be a natural stone wall to the rear decked area providing a greater solidity to the previously approved metal railing finish.

As such, given the relatively small size and scale of the extension and terrace areas, it has been agreed that any impact upon openness would not be significant and therefore the development can be supported under Policy LP57 of the KLP and Chapter 13 of the NPPF.

2 –Impact on visual amenity:

In terms of visual amenity, general design considerations are set out in Policy LP02, and LP24 of the Local Plan, and Chapter 12 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape, heritage assets and protect amenity. LP24 also requires extensions to be *“subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details”*.

The design of the front porch has been considered acceptable within the previous permission 2021/94264 and no alterations are proposed so the porch is still of acceptable design.

The alteration to existing opening to doorway would be of minor visual impact and be agreeable.

The natural stone wall adjacent to the highway and next to the openness of the car park would have a limited sense of high enclosure. This would visually appear acceptable subject to a condition on materials to match the host.

There would be a reduction in decked area to the rear with a reduced visual impact and both would use high quality metal railings suitable for the locality and use.

The proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policy LP24 of the Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

In this case, the nearest residential properties to the site are no.s 118 – 123 and no.131 Clough Lane. Given the development proposed, officers have noted that the front porch and terrace areas would not have a detrimental impact upon these neighbours in terms of overbearing, overshadowing and overlooking, with sufficient separation distances being maintained.

KC Environmental Health have been formally consulted as part of the proposal, as the development is likely to increase noise levels outside of the Public House. They advised a Noise Impact Assessment of the scheme to protect the amenity of the neighbours. An identical condition was attached to the previous permission 2021/94264 and recently discharged satisfactorily within application 2022/93550. Given the reduction of covers to the rear area and the stone wall providing an acoustic screening effect for the rear area,

Officers consider that the impact on noise would be logically reduced and therefore recommend that this condition should not be fully applied. It is recommended to still apply a compliance condition to comply with the measures specified in the approved report "Patron Noise Assessment authored by NOVA Acoustics, dated October 2022, ref 7974RS, received 2nd November 2022"; following agreement that there would be a low on noise levels, the recommendations were:

- The external areas should have no background or amplified music
- The external areas should not operate outside of the operational times of the Public House

An email was received from the agent (18/12/2023) still agreeing to the restriction of outside hours for the external seating area to 8am to 10pm Monday to Sundays which is recommended to be conditioned in the interests of limiting noise pollution to nearby residents.

To the previous permission 2021/94264, a lighting condition was attached to the Decision and while this had not been mentioned within the Kirklees Council Environmental Health response, Officers still recommend that this condition is necessary to limit impact on residential amenity.

Subject to those necessary conditions applied, the proposal would therefore be in general conformance with LP24b, LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF.

4 – Impact on highway safety:

Turning to highway safety, given the nature of the proposal and the fact that the rear decking will be erected over 3 parking spaces to the west of the building, KC Highways DM have been formally consulted.

In this case, officers do not consider the loss of 3 parking spaces to be detrimental as 28 spaces are being retained which is adequate for a building of this size. The site is also supported by good transport links with a bus stop directly outside of the site.

The proposed location of the two decked areas will not encroach into the existing vehicular accesses and therefore these will be retained. The siting of the stone wall would limit the visibility of vehicles as they exit the middle access point looking towards the southeast. As such, it is necessary to add a condition limiting this to being an 'entrance only' section and signposted accordingly to ensure highway safety.

Bin storage will remain located within the car park and the waste collection arrangement will be as existing.

As such, the loss of 3 parking spaces would be insufficient to create a significant impact and therefore no objections have been raised. Subject to the condition converting the middle access to entrance only with signage, the

proposal would accord with Policies LP21 and LP22 of the Kirklees Local Plan and the Council's Highways Design Guide SPD.

5 – Other matters:

Climate Change

When determining planning applications the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

High voltage power cables

The application site is situated within the buffer zone for high voltage power cables and therefore the National Grid have been formally consulted. In this case no Objections have been received.

6 – Representations:

No representations had been received.

7 – Review of Planning Conditions

The conditions attached to 2021/94264 are set out below:

The following conditions will be re-issued as they are considered to remain relevant:

- 5. External Lighting scheme to be submitted to and approved by the LPA

The following conditions shall be reworded:

- Time: This shall reflect the date development shall be begun by.
- Approved plans: The plans and specification table will be amended to reflect the plans approved under this Section 73 application.
- Materials: the condition shall be reworded to include the natural stone boundary in addition to the porch elevation materials to match the host
- Noise Impact Assessment: The condition shall be a compliance condition on the previously discharged "Patron Noise Assessment authored by NOVA Acoustics, dated October 2022, ref 7974RS, received 2nd November 2022." and recommendations on the noise reducing measures.
- Car park access: The central hatched car park area adjacent to the highway shall have its access to be 'Entrance only' with signage installed to ensure that this would be one way.

8 – 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

Application Number: 2023/92754

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun before 24 February 2025.

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 so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP21, LP22, LP24, LP52 and LP57 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The stonework used for the front porch and the boundary stone wall shall in all respects match the stone used in the construction of the existing building, in accordance with the details shown on the approved plan.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

4. The development shall not be brought into use until all works comprised within the measures specified in the approved report: 'Patron Noise Assessment authored by NOVA Acoustics, dated October 2022, ref 7974RS, received 2nd November 2022.' including the hours of use limiting the use of the external areas to between 8am to 10pm Mondays to Sundays only, have been carried out in full and such works shall be thereafter retained.

Reason: In the interests of the protection of neighbouring residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

5. Before the installation of external artificial lighting commences to the external seating areas, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the following information:

- a) The proposed hours of operation of the lighting
- b) The location and specification of all of the luminaires
- c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.
- d) The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity.
- e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site
- f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Policy LP24 and LP52 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

6. Notwithstanding the details submitted, the access point to the car park from Clough Lane (A6017) immediately to the north-west of the raised decking shall be restricted to 'Entrance Only' within 1 month of the date of this permission. Clear signage to clarify that there is 'No Exit' from this access point shall be erected in the car park within 1 month of the date of this permission and thereafter retained.

Reason: To ensure high standards of highway safety are maintained for the users of the car park and the highway network as visibility from this access point would be hindered by the raised decking, in accordance with LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

FOOTNOTE: Artificial lighting

The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the "Guidance Notes for the Reduction of Obtrusive Light" by the Institution of Lighting

Professionals: 2011 www.theilp.org.uk

The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for the appropriate Environmental Zone.

FOOTNOTE: Noisy construction related activities shall not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00hours , Saturdays
- With no noisy activities on Sundays or Public Holidays

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule for application 2023/92754:-

Plan Type	Reference	Version	Date Received
Proposed Floor and Elevation Plans.	Drawing no. (0-)02.	B	15/09/2023
Email rec'd from agent	Confirmed external areas restricted times	-	18/12/2023

Plans and specifications schedule for application 2021/94264:-

Plan Type	Reference	Version	Date Received
Location plan and existing floor plan and elevations	(0-)01	A	10/11/2021
Design and access Statement	183	-	10/11/2021

Plans and specifications schedule for application 2022/93550:-

Plan Type	Reference	Version	Date Received
Noise Assessment	Patron Noise Assessment authored by NOVA Acoustics, dated October 2022, ref 7974RS, received 2nd November 2022.	-	02/11/2022

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. Following Highway Development Management response, it was confirmed that an access point be restricted to entrance only to avoid adverse impact on highway safety. This was agreed by the agent and made subject to condition.

Report Dated: 18/12/2023