

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:	2023/62/93000/W
Site Address:	11, West Nab View, Meltham, Holmfirth, HD9 5RY
Description:	Increase height of dry stone wall to 1.9m to rear (southern) and part of side (western) boundary
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: 11-Dec-2023

Officer Report

Site Description

11 West Nab View is a detached property accessed from West Nab view and which backs on to Mill Moor Road. It is a two storey dwelling and is constructed out of stone. The rear of the property faces Mill Moor Road and hosts an amenity space comprising of a patio and garden area, along the southern and western rear boundary there is a stone wall approximately 1 meter from the road level of Mill Moor Road. The principal elevation is the north elevation which has a parking area and small amenity space. The surrounding area is comprised of mainly residential properties which are mainly detached or terrace.

Description of Proposal

Permission is sought for the increase of a dry stone wall to 1.9m to the rear (southern) and part of the side (western) boundary.

The wall at present runs along the southern and western boundary and is approximately 1m in height from the footpath on Mill Moor Road. The proposal seeks to extend the height by 0.9 meters to the southern boundary and slope down the western boundary to meet the height of the existing wall. The wall would span 9m along the rear boundary and would be 1.9m in height for the first 2m to the western boundary from the meeting point of the rear boundary, the wall would then slope downwards for the next 2m dropping in height from 1.9m to 1m in height.

The wall is intended to be constructed from materials which match the existing wall, and cemented to give stability to the wall & topping stones.

History of negotiations/amendments received

None

Relevant Planning History

2015/91640 – Outline application for residential development – Section 106 outline permission

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

Neighbour letters – expired on 24th November 2023.

One representation was received raising the following, summarised, concerns:

- The proposal would not be in keeping with the locality.
- The original permission required the wall to be its current height.
- Unsympathetic additions have previously been undertaken to the wall at neighbouring properties.
- The height would be out of keeping with the locality.
- There is not similar sized boundary treatments in this location
- The proposal would be overbearing.
- The impact to no.s 102, 104 and 106 would be significant in relation to being overbearing and leading to overshadowing.
- Views from neighbouring properties would be impacted upon.
- Reduction in natural surveillance.
- Impact upon view of traffic / sightlines.
- Alternative options such as garden structures or planting could achieve increased privacy.

This is addressed in more detail in the 'Assessment' section of this report.

Parish/Town Council comments

None.

Consultation Responses

None.

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 within an area of land allocated for housing in the Kirklees Local Plan.

The site falls within an area with a known presence of bats

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety and access
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment

Other material considerations

- Highway Design Guide (November 2019)
- House Extensions and Alterations SPD (June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).
The Conservation of Habitats and Species Regulations 2017
The Planning and Compulsory Purchase Act 2004

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 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 introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the KLP. This policy stipulates 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.

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 site falls within a housing land allocation, given this part of the allocation has been developed for housing it is considered the proposal would have no significant impact in relation to the allocation of the land.

In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF. Policy LP24 of the KLP is the overarching policy in relation to the design, requiring proposals to respect the appearance and character of existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety, and to promote sustainability.

In this case, it can be stated the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity and highway safety.

2 –Impact on visual amenity:

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.

The height of the proposed dry stone wall would increase from its current height by 0.9m. The materials used would be matching to the existing wall so will be in keeping with the original wall in this regard.

The comments raised in third part representations received are noted. In this case the proposed wall would not raise the entire western boundary, but would seek to raise the entire southern (rear) boundary and to partially raise the western (side) boundary, with this being sloped down after the first 2m back from the rear boundary, such that it would become the level of the existing wall.

The materials of construction could be secured by a suitably worded condition and it is recommended this is the case in the event of any grant of permission.

The general character of this part of the street is that of houses which front on to the highway which runs to the south of the site, in the case of the host property and the neighbouring property to the east, these front a road to the north and the rear fronts the road to the south.

There is a mix of house types in the locality, including their age, type and design with the orientation of dwellings to the further east being to front on to Mill Moor Road. As such, in this case with the dwellings backing on to Mill Moor Road it is considered that a higher boundary treatment would not read as incongruous in relation to the overall design of the dwelling. It is therefore concluded that, in this case, the proposed development would have an impact

upon visual amenity / the character of the area which is such that a refusal of permission could be substantiated on grounds of visual impact.

It is considered that the increased height of the wall is of an acceptable scale and fit for purpose. Due to the increased dry stone wall not enclosing the entire amenity space and isolated to the area to the rear and some of the side of the property, subject to the matching stone, it is considered that visually, the wall increase would be acceptable in context with the street scene. As such, the proposal is considered to comply with the aforementioned policies.

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. Principle 16 goes requires that proposals maintain appropriate storage arrangements for waste.

Impact on 102,104 and 106 Mill Morr Road to the west:

These properties are a set of 2 storey terrace houses which look out onto the western boundary of the site. The impact of overshadowing to these properties is considered minimal as the wall which faces these houses will only be extended at the very end where the land height is higher as the new height of the wall will continue round the corner only by 2m then slope to original height. As the land height decreases especially where No.104 lays the wall will not be increased and will be retained at its original height. Therefore, there is not considered to be a significant impact to these properties in relation to being overbearing or leading to an unacceptable level of overshadowing to these properties.

It is noted that these properties are approximately 6m from the western boundary, however it is considered that the scale of the development and in particular the level of works to the western boundary which are proposed, coupled with the additional height which is proposed, is such that the impact upon natural light or as a result of the increased massing of the structure is not to such a degree that refusal of permission on this basis could be substantiated.

Impact on 157 West Nab View to the south:

This property is a large, detached dwelling which looks onto the south boundary. Due to this property being on a higher land level than the applicant

property, and the distance between the southern boundary and this dwelling, as well as the scale of the proposed development it is considered that there would be no significant impact as a result of overbearing or overshadowing to No.157. The proposal would marginally reduce the potential for overlooking between the host property and no.157.

Impact to no.9 West Nab View.

The proposal is considered to be at a distance, and of a scale / nature which is such that it would not have a significant impact upon this property in relation to overshadowing / overbearing and would have no significant impact in relation to overlooking.

The proposal would not reduce the amenity space provision for occupiers of the host property and is considered acceptable in this regard. It is therefore concluded that the impact of the proposed development, in relation to residential amenity, would not be of such significance to warrant refusal in this case.

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 Council's adopted House Extensions and Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

As proposed development is for a height increase to a boundary this would not increase the number of bedrooms on site, and it is considered the number of occupants within the dwelling would remain as existing. With this being the case, existing parking arrangements are considered to be acceptable. Additionally, the proposal does not propose any changes highway access. It is therefore considered that the proposal is acceptable in relation to highway safety.

It is considered that waste storage and collection arrangements would remain as existing, and that the proposal would also be in accordance with Principle 16 of the House Extensions and Alterations SPD too.

It is noted there is potential to impact upon visibility splays when exiting the access adjacent to the site, however it is considered there is sufficient footway depth such that visibility can be gained before a vehicle has entered the highway. In addition the visibility in the other direction is such that the proposal would not have a significant impact on the ability to egress / access from the access and refusal on such a basis would not be reasonable in this case.

It is therefore considered that in terms of access and highway safety / parking the proposal would comply with Policies LP21 and LP22 of the Kirklees Local

Plan, Principles 15 and 16 of the House Extensions and Alterations SPD and Chapter 9 of the National Planning Policy Framework.

5 – 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 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. Key Design Principles 8-11 of the SPD set out criteria to be taken into account in the assessment of the application and the submission is supported by a Climate Change Statement (CCS).

The CCS sets out that:

- A smaller inner wall will be built to create a tiered garden against the newly heightened wall. This garden will be planted with specific species that support bee feeding through the year to provide biodiversity net gains.
- That there will be no waste from the increase in height, all materials will be re-used and from a local source to limit carbon consumed.

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 works to a wall which is unlikely to constitute a suitable roosting place for bats. Nonetheless, an informative has would be provided on any grant of permission, making the applicant aware that if bats are discovered on site during the works, any development shall cease, and the applicant is advised to contact Natural England for advice on how to move forward.

6 – Representations:

One representation was received. Insofar that the representations raised are not addressed elsewhere within this report, they are addressed as follows:

- Views from neighbouring properties would be impacted upon.

Given the assessment of this application as set out in the 'Residential Amenity' section of this report, it is considered the scale of the development would not cause a detrimental loss of outlook from neighbouring properties.

- Reduction in natural surveillance.

It is considered this is a matter which could be afforded minimal weight as a consideration which is material to the determination of this case.

- Alternative options such as garden structures or planting could achieve increased privacy.

This application is assessed on its own merits and on the basis of the plans / details set out in the application submitted.

7 – Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation APPROVE
Decision Authorisation - Delegated Powers
Application Number: 2021/93000
Officer Recommendation: Approve

Conditions

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

Reason: Pursuant to the requirements of Section 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 listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and

to accord with Policies LP1, LP2, LP21 and LP24 of the Kirklees Local Plan, principles 1 and 2 of the Council's House Extensions and Alterations SPD and policies contained within Chapters 2, 4, 12 and 15 of the National Planning Policy Framework.

3. The materials of construction of the development hereby approved shall in all respects match those used in the construction of the existing wall and be retained thereafter.

Reason: In the interests of visual amenity and to accord with Policies LP24 of the Kirklees Local Plan, principles 1 and 2 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	pp-12474569	-	10/10/2023
Climate Change Statement	-	-	10/10/2023
Application Form		-	10/10/2023
Proposed Elevations- impression of wall increase south	OH10	-	16/10/2023
Proposed Elevations- proposed wall increase west	OH7	-	16/10/2023
Proposed Elevations- scaled	OH8	-	16/10/2023

impression of finished wall west			
Proposed Elevations-scaled impression of finished wall south	OH9	-	16/10/2023
Proposed Elevations-proposed increase south	OH6	-	16/10/2023
Proposed Elevations-proposed wall from inside property	OH12	-	19/10/2023
Proposed Elevations-current wall from inside property	OH11	-	19/10/2023
Proposed Elevations- full proposed wall southwest	OH13	-	19/10/2023

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 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. No amendments were sought as it was considered that the proposal was acceptable as submitted.

Report Dated: 05/12/2023