

**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:	2023/62/93121/W
Site Address:	11 & 13, Bowness Drive, Dalton, Huddersfield, HD5 9PY
Description:	Erection of detached garages and demolition of existing garages.
Recommending Officer:	Molly Storer

DECISION – REFUSED

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

John Holmes

AUTHORISED OFFICER

Date: 6th February 2024

Officer Report

SITE DESCRIPTION

11 & 13, Bowness Drive, Dalton, Huddersfield, HD5 9PY

11&13 Bowness Drive are two, single story semidetached dwellings located within the Dalton area. The two properties are bungalows separated by individual driveways and individual detached garages, they both host garden amenity areas to the front and the rear. Due to the topography of the site the gardens slope upwards and the top of both the gardens sit at a significantly higher ground level than the properties. They are primarily constructed from red brick with render and grey roof tiles.

The application site is situated in a cul-de-sac surrounded by properties of a similar age and style, it is also situated in an area with a known presence of bats.

PROPOSAL

The applicant is seeking permission for the demolition of existing garages and the erection of detached garages with a separate driveway. Due to the topography of the site the new garage would be situated at a higher ground level than the existing properties. The proposed garage would be located to the north of 11 Bowness Drive and to the west of 13 Bowness Drive.

The proposed garage would be built from fair faced concrete brick work with four roller shutter doors and the roof would be made from PPC profiled metal sheeting.

The measurements of the proposal are as follows:

- 6.9 meters in width
- 13.1 meters in length
- 2.9 meters maximum height from the ground to eaves
- 3.775 meters maximum height from ground to roof ridge

The proposal is within the rear amenity space of two dwellings, These are outlined in blue on the submitted location plan (dated 15th September 2023). The red line boundary incorporates the access between 11 and 13 and part of the rear amenity spaces serving both 11 and 13. Both no.11 and no.13 are outlined in blue on the submitted location plan and would be in the ownership of the applicant.

it is not explicitly set out that the garages would be used in connection with the two dwellings outlined in blue on the submitted location plan. On the submitted site plan (drawing 001) it is detailed that parking for 11 and 13

would be incorporated within the curtilage of those properties which is outlined in blue on the submitted location plan.

PLANNING HISTORY

None.

REPRESENTATIONS

The application was advertised by neighbour letters which expired on the 15th of January 2024.

No representations were received.

CONSULTATIONS

Sport England – Objection

Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF. They detail their objection as follows:

It is considered that the proposed development gives rise to a potential conflict with the use of the playing field for cricket. Balls are likely to leave the playing field and land on the application site when matches are being played. This could lead to damage to both people and property. Such ball strikes have the potential to constitute a nuisance under the Environmental Health legislation and as such could prejudice the sporting use of the playing field.

HSE – No objection, stating that the proposed development site does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.

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 within the Kirklees Local Plan although does falls within an area with a known presence of bats and is within an area identified as being at low risk of ground movement as a result of former mining activity.

Kirklees Local Plan

- LP1 – Achieving sustainable development

- LP2 – Place shaping
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP48 – Healthy, active and safe lifestyles

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 December 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 8 Promoting healthy and safe communities
- Chapter 12 Achieving well-designed places
- Chapter 15 Conserving and Enhancing the natural environment

Other material considerations:

Kirklees Highway Design Guide (adopted November 2019)
House Extensions & Alterations SPD (adopted June 2021)

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. Impact upon Healthy, active and safe lifestyles
6. Other matters
7. Representations
8. Conclusion

1 – Principle of Development

Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which

includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

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 dimensions of sustainable development will be considered throughout the proposal.

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.

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

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.135 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district. With regard to extensions, it states under part c, that proposals should promote good design by ensuring ‘extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

With regard to the Council’s House Extensions and Alterations SPD, Key Design Principle 1 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.” Key Design Principle 2 states 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 detail.”

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

- *“be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings;*
- *be set back behind the building line of the original building so that they do not impact on the street scene; and*
- *preserve a reasonable private amenity space appropriate to the potential number of occupants of the house and follow a general principle that no more than 50% of garden space should be lost.”*

Paragraph 5.29 of the Council’s House Extensions and Alterations SPD states that outbuildings, such as detached garages, “*should reflect the style, shape*

and architectural features of the existing house and not be detrimental to the space around the building.”

Paragraph 4.43 of the Council’s House Extensions and Alterations SPD states that *‘Where alternate parking areas are required in the property boundary, careful consideration should be taken to retain as much of the garden boundary and soft landscaping as possible. Proposals should not result in street scenes dominated by large areas of hard surfaces and parked cars. Where parking surfaces are in the curtilage of the dwelling these should be permeable and preferably finished with a natural material.’*

The proposed garages would be located within the curtilage of the two properties. Despite the application site having a significant amount of amenity space the proposed development and new driveway would take up a large amount of this space. Therefore, due to this and the large massing of the garages it is considered that this development would not be subservient to the original dwellings. In addition, due to the garages being 3.775m in height and proposed on a significantly higher level than the applicant properties and the road it is considered that the development would be visually harmful to the street scene.

The proposed materials of fair faced concrete brick work, roller shutter doors and the PPC profiled metal sheeting would not match those used in the existing house. The large massing also does not fit in with the smaller nature of the existing houses.

The garages would have the appearance of a small light industrial unit, and potentially be used as such, rather than that of a domestic garage to serve the adjacent dwellings. The scale of the development is considered to be such that it would not be in keeping with that of the dwellings and the large area of hardstanding which would be created, at a higher land level, would significantly detract from the character of the street and wider locality introducing a level of hard standing, in conjunction with a building of an industrial appearance, which is not harmonious with the established residential character of the street.

In addition there would be pressure to create further hardstanding areas within the limited amenity spaces to the front of no.11 and 13, to accommodate parking for those properties (on the basis the proposed garage building was not used by occupiers of nos.11 & 13). This would further detract from the character of this part of the street, creating a parking dominated frontage to those properties

Having taken the above into account, the proposed extension is considered to cause significant harm to visual amenity. The proposal fails to comply with Policy LP24 of the Kirklees Local Plan in terms of the form, scale and layout, paragraphs 4.43 & 5.29 and Principle 2 of the Council’s adopted House Extensions and Alterations Supplementary Design Guide, and policies within chapter 12 of the National Planning Policy Framework.

3. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighboring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighboring occupiers.

With regard to the House Extensions and Alterations SPD, Key Design Principle 3 states that “Extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbors.”

Key Design Principle 4 states that “extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighboring properties relating to privacy, light, and outlook.”

Key Design Principle 5 states that “extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighboring property.”

Key Design Principle 6 states that “extensions and alterations should not unduly reduce the outlook from a neighboring property.”

Key Design Principle 7 states that “extensions and alterations should ensure an appropriately sized and usable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals.”

Impact on neighboring occupants

The proposed garages would be approximately 18 meters from the side elevations of 9 and 12 Bowness Drive which are the nearest properties (outside of those owned by the applicant) to the proposed development. Given the separation distance and the consideration that there are no openings within the garages, there would be limited impact on overlooking to these properties.

Whilst the use of the site could potentially be undertaken in a manner which is not associated with the host properties (were it not subject to a condition ensure that is the case) it is considered that the impact of the creation of a new access and the subsequent use of the building and associated vehicle movements could be suitably controlled by inclusion of an appropriately worded condition which ensured the use of the garages was by properties 11 and 13.

Impact of future occupiers

The submitted scheme does not clearly set out the intended use of the garages, there is potential to ensure the garages are not used by another user

/ separated from properties by inclusion of an appropriately worded condition which suitably split the garages and their use between no.s 11 and 13. With the inclusion of such a condition it is considered that the associated noise and disturbance from vehicles accessing the garages, to the front of both 11 and 13, would be acceptable given it would largely be associated with those properties.

The submitted plans indicate the intention would, however, be to create further off street parking to serve no.11 and 13 and that would lead to the situation whereby the detached garage building for which permission is being sought would be used independently from no.11 and no.13. The submitted plans are not annotated to demonstrate any of the proposed garages to serve no.11 / no.13 with the suggestion of a further detached garage to serve no.11 being undertaken.

It is considered the associated noise, disturbance and overlooking associated with the use of the garages independent from both 11 and 13 would lead to a conflict in terms of the impact upon the amenity currently enjoyed by these properties and the subsequent impact of the development in this regard. In particular the siting of the garage, within the rear amenity spaces of these properties would lead to a feeling of overlooking to the rear private amenity spaces of 11 and 13 as well as the rear elevations. Furthermore, noise associated with the independent use of the building would be clearly audible to these rear amenity space.

Finally, whilst screening may be a possibility to prevent overlooking, the impact of such screening, having to be sited on a higher land level in relation to nos.11 and 13 is considered to be such that it would have an oppressive / overbearing impact, in addition to the detrimental visual impact of such screening, and is not considered to form a suitable mitigation in relation to overlooking in this case.

Having considered the above factors, it is considered that the proposals are considered to result in an adverse impact upon the residential amenity of no.11 and no.13 Bowness Drive, contrary to Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighboring properties, Key Design Principle 3, of the Council's House Extensions and Alterations SPD and policy contained within Paragraph 130 (f) of the National Planning Policy Framework.

4. Impact on Highway Safety

The proposed development would serve a detached garage with parking provision for four vehicles. There is already adequate parking provision provided by a driveway between no.11 and no.13. There would therefore not be any significant benefit in terms of access and highway safety as a result of the creation of the further access.

The proposed additional access would mean that, in reality, much of the existing amenity space to the front of both 11 and 13 would be utilised for parking, with the further area of parking to the rear potentially used by a third party not associated with no.11 / 13. From a highway safety perspective it is not considered this would have a significant impact as the drawings indicate a turning area to allow vehicles to enter / leave in forward gear and the manoeuvres associated with 11 and 13 would largely remain the same as those which would be currently undertaken.

As such the scheme would not represent any additional harm in terms of highway safety, of such significance to warrant refusal, and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

5. Impact upon Healthy, active and safe lifestyles

There is a cricket pitch adjacent to the site, as such the impact of the development upon this facility needs to be taken into account in light of policy LP47 (c) which states the following: *‘The council will, with its partners, create an environment which supports healthy, active and safe communities and reduces inequality. Healthy, active and safe lifestyles will be enabled by... the protection and improvement of the stock of playing pitches’*

Paragraph 193 of the NPPF is also considered to be relevant, stating the following:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.

Sport England have therefore been consulted regarding this proposal, they have advised the following:

‘The proposal is at risk of ball strike from cricket balls. It is considered that the proposed development gives rise to a potential conflict with the use of the playing field for cricket. Balls are likely to leave the playing field and land on the application site when matches are being played. This could lead to damage to both people and property. Such ball strikes have the potential to constitute a nuisance under the Environmental Health legislation and as such could prejudice the sporting use of the playing field. This was the case in Miller -v- Jackson [1977] QB 966 where cricket balls from a village green kept going into

a nearby house. The proposal could therefore prejudice the use of the playing field.'

Further case law is also cited in the response of Sport England. Following on they do advise within their response there is potential for this matter to be addressed through the submission of a ball strike assessment / mitigation to ensure ball strike does not become a significant, prejudicial, issue in relation to the continued function of the Cricket Ground.

In this case further information was not sought / requested given there were other identified concerns and the fact the further cost / expense of addressing the issue in relation to ball strike would not be likely to overcome / address other identified issues.

It is therefore concluded that, in this case, the proposed development would have a detrimental impact upon the continued function of the adjacent playing field for cricket due to the conflict with the use of the playing field for cricket and the proposed development from resulting ball strike(s) which would likely occur. The development is therefore contrary to policy LP47(c) of the Kirklees Local Plan and paragraph 193 of the National Planning Policy Framework.

6. Other matters

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Considering the scale and nature of the proposed development, especially that it is for private use, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

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. Nonetheless, an informative has been provided however, 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.

7. Representations

No representations have been received.

8. Conclusion

This application to erect detached garages at 11&13 Bowness Drive in Dalton 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.

For the reasons set out in this report, the proposed development is not considered to have an acceptable impact with regard to visual amenity, residential amenity and impact in relation to potential to prejudice the continued function of the adjacent cricket pitch.

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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

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

Recommendation

Refusal

Decision Authorisation: Delegated Powers

Application Number: 2023/93121

Officer Recommendation: Refusal

Reasons for refusal

1. As a result of the prominent siting, size, scale, design & materials of construction of the proposed building in conjunction with the associated increase in areas of hardstanding, loss of soft landscaped area and the resultant creation of further parking areas the proposed development would significantly detract from, and would fail to harmonise with, the character of the street and wider locality. The proposal would therefore result in significant visual harm contrary to Policy LP24 of the Kirklees Local Plan in terms of the form, scale and layout, paragraphs 4.43 & 5.29 and Principle 2 of the Council's adopted House Extensions and Alterations Supplementary Design Guide, and policies within chapter 12 of the National Planning Policy Framework.

2. As a result of the siting and proximity of the development and means of access in relation to no.11 and no.13 Bowness Drive the development would result in an unacceptable level of overlooking, and lead to a detrimental level of noise and disturbance to, those properties having an adverse impact upon the residential amenity of no.11 and no.13 Bowness Drive, contrary to Policy LP24 of the Kirklees Local Plan (b), Key Design Principle 3, of the Council's House Extensions and Alterations SPD and policy contained within Paragraph 130 (f) of the National Planning Policy Framework.

3. The development would have a detrimental impact upon the continued function of the adjacent playing field due to the conflict with the use of the playing field for cricket and the proposed development from resulting ball strike(s) which would likely occur. The development is therefore contrary to policy LP47(c) of the Kirklees Local Plan and paragraph 193 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Date Received	Version
Application Form	-	31/10/2023	-
Location Plan	-	23/10/2023	-
Grouped plans and elevations- proposed	2023.068	23/10/2023	-
HSE response		04/01/2024	
Sport England comments		03/01/2024	
Climate Change Statement	-	31/10/2023	-

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.

Report Dated: 22/01/2024

