

**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:	2023/62/93230/W
Site Address:	8, Cross Church Street, Paddock, Huddersfield, HD1 4SN
Description:	Erection of single storey rear extension
Recommending Officer:	Tom Hunt

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 28-Feb-2024

Officer Report

Site Description

2023/93230 – 8, Cross Church Street, Paddock, Huddersfield, HD1 4SN

The application site is a two-storey mid-terraced property built of natural stone and tile roof. Originally its primary elevation had an open shared through passageway /ginnel subsequently boarded up and now converted into a main entrance circa 2014.

It has an original rear projection, common with other properties along the terrace, which appears to have been single-storey and set back from the north shared boundary by ~1.5m. At some stage in its history, there was an infill single-storey extension with lean-to roof and then a flat roofed, partial first floor extension installed above around or prior to July 2009; the materials vary from the original natural stone of the ground floor. Post August 2012, aerial and street surveys show a single-storey conservatory addition to the rear which extends from the rear projection and set back ~4.35m from the shared boundary to the north neighbour.

In the locality, extensions are typically modest and single-storey with lean-to roofs. The property's rear elevation is prominently visible viewed from New Street.

Description of Proposal

Erection of single storey rear extension

All figures are in metres and approximate.

It is proposed to replace the single-storey rear extension (conservatory) with a new flat roofed extension of smaller dimensions set against the southwest garden flank boundary. It would extend 3.8m from the rear, be 3.5m width and a height of 3.5m from ground level. It would serve a kitchen, with an obscure glazed panel to door with external steps to the northeast elevation, window to rear and obscure glazed, high-level window on the southwest elevation. It will have a centred rooflight. Materials of artificial stone to elevations will be to match existing.

An existing door and window to a single-storey infill rear extension is to be replaced with an obscure glazed window and stone infill.

A patio will be installed adjacent to the flank of the single-storey rear extension.

Officer note: further details of the history is included in section 1.3 of the assessment. Whilst the conservatory is now removed, existing plans seek to provide an indication of what was there previously.

History of negotiations/amendments received

Additional information was requested to support the proposal. The scheme's roof design was amended to flat roof to reduce the proposal's bulk and massing for residential amenity.

Relevant Planning History

2021/92109	Erection of ground and first floor rear extension. Invalid.
2022/94114	Erection of single storey rear extension. Refused. Appeal Ref: APP/Z4718/D/23/3318985 Dismissed 11/10/2023. Conclusion of Appeal: <i>"The extension conflicts with the development plan taken as a whole in respect of its effects on the character and appearance of the host dwelling and surrounding area, and the living conditions of neighbours. It also fails to maintain sufficient private amenity space for the occupants of the appeal property."</i>
Enforcement: COMP/22/0432	Alleged unauthorised extension. Notice issued 20 th September 2023 with 90 days to comply with the notice. No appeal has been submitted and the enforcement notice is now in force.

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: 12/12/2023.

There are noted Listed Buildings in the general vicinity. Given that the development is to the rear of the site, it is considered that the development does not cause harm to the significance of the listed building at No.60 to the front of the site. In terms of the listed buildings to the south, there is

intervening development which prevents views of the development from these listed buildings, thereby preventing harm to the significance of these Grade II listed buildings. Given the above conclusions, it was not considered necessary to publicise the application via site notice or press notice and further consideration of impacts under LP35 of the Kirklees Local Plan, Chapter 16 of the National Planning Policy Framework and section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) were not required in the assessment.

One representation have been received Objecting to the scheme; a summary of the comments received is set out below:

- Overbearing from the south facing wall
- Loss of outlook
- Garden would be very limited

Officer Note: those will be addressed in residential amenity section of the report

Correspondence with an interested party was carried out between the Officer and party regarding the previous refusal and legislation allowing the applicant to submit a revised scheme in order to be considered.

Amended plans were received however they were not readvertised as they did not change the description of development, had reduced the bulk and massing of the development to roof further and did not materially have a detrimental impact on planning considerations.

Consultation Responses

No technical consultees required.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan.

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 30 – Biodiversity & Geodiversity**
- **LP51 – Air Quality**

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- House Extensions and Alterations SPD (2021)
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th 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 4 – Decision-making
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

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
- 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”*.

Key Design Principles 1 and 2 of the House Extensions and Alterations SPD, have been used as a guide in considering the proposal’s visual amenity impact on the streetscene and host.

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 Background

The site has had a single-storey rear conservatory extension present, appearing as completed in visual records from September 2014. There was no planning history for this extension however this was present for at least 4 years without enforcement action being taken, and as such was exempt from enforcement under Section 171B(1) of the Town and Country Planning Act 1990 (as amended). At present, it is proposed to bring into force legislation under the Levelling Up and Regeneration Act to adjust the 4 year period to 10 years however the Secretary of State had not yet established regulations to bring this in effect to date and the development previously undertaken on site would not be affected by future changes in legislation: this has since been removed and replaced by a single storey rear extension without the benefit of planning permission and subject to an Enforcement Notice.

Planning application (ref: 2022/94114) sought to replace the conservatory for an extension of similar rear projection to the conservatory but flat roofed, and larger in footprint to be constructed in stone. This was refused on the grounds of overdevelopment and harmful impact on residential amenity to no. 10 Cross Church Street being, the extension's additional impact to this neighbour, compared to the conservatory and harm to the visual amenity of the area. Of relevance to the assessment, it was noted within the report that on a very fine balance whilst the proposal drew the extension closer to the neighbouring no. 6 Cross Church Street, the overbearing potential of the proposal was counterbalanced by the significant improvement in overlooking and loss of privacy to this neighbour from the removal of the conservatory glazed side elevation sections. Thus, the reason for refusal did not include an unacceptable impact on the existing/future occupiers of no. 6. Under Appeal ref: APP/Z4718/D/23/3318985, the Planning Inspector dismissed the appeal supporting the Officer's assessment of its identified harmful impacts to no 10 Cross Church Street and the visual amenity of the area. The Inspector did not conclude unacceptable harm to no. 6.

Officers are required to assess each application on its own merits while having regard for a consistent approach in the assessment of the impacts to residential amenity and visual amenity and the material weight to be afforded to the planning history of the site. The conservatory was removed and the extension was erected without the benefit of planning permission; following the COMP/22/0432 enforcement complaint and in accordance with the national 'Enforcement and post-permission matters' Planning Practice Guidance, the applicant was invited to submit a retrospective application (2022/94114) to retrospectively apply for planning permission. This was refused with the associated appeal decision above dismissing the Appeal.

An enforcement notice was served on 20th September 2023.

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, Key Design Principles 1 and 2 of the House Extensions and Alterations SPD, 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”*.

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Section 5 of the House Extension and Alterations SPD provides guidance on specific extensions and alterations, with paragraphs 5.1-5.4 (page 23) generally relating to rear extensions. In addition, paragraphs 5.5-5.6 of the SPD (page 24) sets out specific requirements as a guide to achieving good design.

Single storey rear extensions can have an adverse impact on neighbouring properties and gardens. Careful consideration should therefore be given to the design of these extensions to ensure their height and windows do not harm the privacy of neighbours. Single storey 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 terraced houses*
- *where they exceed 3m in length the eaves height should generally not exceed 2.5 meters; and*
- *retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.”*

The proposed rear extension would be, at its width, half the span of the host and would project 3.8m from the two-storey rear projection. This would lead to a cumulative projection of ~7.5m from the original rear elevation of the host which would be the same as the previously existing conservatory (which was exempt from enforcement as previously stated in section ‘1.4 Background’). It would be set back 3.5m from the northern boundary and would be 3.5m height from ground level. This is a significant reduction in width from the previous application for a single storey extension ref 2022/94114.

While its proposed 3.5m height would comply with guidance setting the recommended roof height at 4m from ground level, it would exceed the recommended height of eaves however this would be to provide level internal access for its occupants and seeks to minimise its bulk and massing with a flat roof design.

The design would have a property gap to the northeast neighbouring boundary of 3.5m and would not comply with the southwest boundary. Viewing the proposal's dimensions within the limited scale of the plot, a narrower width extension to comply with this would either increase visual impacts and appear as an incongruous feature and would not be practicable for visual amenity or the needs of the occupants. The property gap to boundaries will be additionally assessed within the 'Residential Amenity' section of this report.

This would replace the previous, hipped roof, single-storey conservatory extension for a visually smaller, flat roofed extension using matching materials and echoing the form of the two-storey rear minimising its bulk and massing. It is significantly smaller than the development applied for in 2022, would retain a proportionate rear garden for its use addressing previous concerns on overdevelopment and reducing its visual impact in application 2022/94114. In this isolated case, the siting of this property would have an extension of more solid appearance compared to the previous conservatory, however its significantly reduced design and matching materials would aid it to harmonise to an acceptable extent under Key Design Principle 2 of the SPD.

The alteration of a door with window for an obscurely glazed window to the infill extension is considered a minor visual amendment and be acceptable. The proposed openings to the extension would appear domestic in nature and would be acceptable as such.

The wider visual impacts in the streetscene would have the extension appear in limited views from New Street and the rear access between New Street and Quaker Lane. Given the use of harmonised materials and a visually smaller proposal compared to the previously refused scheme and the conservatory that existed beforehand, Officers consider that the proposal would adequately blend into the streetscene and backdrop of stone buildings more effectively and could be supported under Key Design Principle 1 of the SPD.

The proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area, overcoming the reason for refusal on the previous 2022 application and be acceptable and accord with Policy LP02 and LP24 of the Local Plan, the Key Design Principles 1 and 2 of the House Extensions and Alterations SPD and Chapter 12 of the National Planning Policy Framework.

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 135f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Key Design Principle 3 of the Kirklees Householder Extensions and Alterations SPD sets out that extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours. In addition, Key Design Principle 4 notes that extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook. Furthermore, Key Design Principle 5 states that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property, and recommends that a horizontal 45 degree line from a neighbouring habitable room window is not breached. Key Design Principle 6 states extensions and alterations should not unduly reduce the outlook from a neighbouring property.

The properties considered to be most likely affected by this development are the neighbouring properties to the side, these being No's.6 and 10 Cross Church Street.

No. 6

The extension subject of this application is to the north of No. 6, set forward of No. 6's own single-storey rear projection by approximately 3.7m and is built up to the shared boundary with an increase in eaves height of 0.5m compared to the previous hipped roof conservatory (since removed). The obscurely glazed high level window facing this neighbour would be 1.9m height from internal ground level and 2.4m height from ground level to the base of the window with associated restricted views; this would lead to improvements in the previous relationship with regard to privacy and overlooking. While the extension would not be able to demonstrate a 45° field of outlook to the rear projection by the extension being closer to the boundary and would overbear modestly, this would be similar to the previous longstanding impact of the conservatory with regard to overbearing. The extension would be to the northeast of the neighbour and would have very restricted impacts on overshadowing. In a finely balanced consideration, consistent with the Inspector's consideration of the impacts on neighbouring properties which did not raise harm as a determining factor, the limited additional overbearing impact is counterbalanced by there being very restricted impact on overshadowing and no harm to privacy or overlooking to this neighbour, as such this would be acceptable.

No. 10

The proposed extension would have its flank elevation to this neighbour set 3.5m from the shared boundary and have an obscurely glazed panel to its door facing this neighbour. This would be to the south of the neighbour.

The proposal would have the result of built development extending ~7.5m beyond from the original rear elevation of the host which would have its visual impact in terms of overbearing be mitigated by its single-storey construction and set back from the boundary sufficiently meeting the 45° field of outlook as recommended in KDP 5 of the House Extensions and Alterations SPD. There would be no material loss of privacy to this neighbour.

Other Residential Properties

It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect. This takes into account that the rear of the application site forms a residential 'square' of properties with dwellings on New Street and Quaker Lane. The rear extension would slightly overlap with the rear elevation of 3 Quaker Lane but would maintain a gap of ~8m and the extension would be to the north of this property. The extension would be ~24m from the rear elevation of no. 9 Quaker Lane to the east of the site and maintain a gap of ~8m to the property boundary of that dwelling with a rear access in between.

Future Occupiers

With reference to Key Design Principle 7 of the House Extensions and Alterations SPD, the proposal would still retain a proportionate, outdoor private amenity space available to future and present occupiers for adequate standards of privacy, taking into account the significant reduction between this proposal and the previously refused scheme.

The benefits of obscure glazing in further reducing loss of privacy to the neighbours is noted in the report and explicitly stated within the submitted drawing 'Location, Site, Proposed Floor, Roof and Elevation Plans. Drawing no. (100) 02. Revision: D' (received 12/01/2024). As such, the plans would be subject to condition two of the Decision Notice, and would not be required to be conditioned separately for residential amenity in accordance with advice set out in the Planning Practice Guidance on 'Use of planning conditions'.

The proposal would, on balance, overcome the Inspector's concerns to the additional impacts towards no. 10 Cross Church and be consistent with the previous planning application assessment of the neutral impacts toward no. 6 Cross Church Street, to which the Planning Inspector did not counter, to be in general conformance with LP24b of the Kirklees Local Plan, the Key Design Principles relating to residential amenity of the House Extensions and Alterations SPD and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking. The development does not adversely affect the existing parking spaces within the site, intensify use and therefore is not considered to cause additional harm to highway safety. Bin storage and collection arrangements also appear similar. The application therefore accords with Policies LP21 and LP22 of the Kirklees Local Plan, Key Design Principles 15 and 16 of the House Extensions and Alterations SPD, the KC Highway Design Guide SPD and Chapter 9 of the NPPF.

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. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Biodiversity

Whilst considering Biodiversity, Key Design Principle 12 –13 of the House Extensions and Alterations SPD in conjunction with LP 30 of the Kirklees Local Plan is relevant.

Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest and therefore considered unlikely that the proposals would have an impact on the bat population. 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.

The small scale of the proposal would be on an existing hardsurface with no impacts to existing vegetation or biodiversity. As such, it is proposed that this would require no additional compensation or mitigation to improve biodiversity to make it acceptable in line with KDP 12-13 of the House Extensions and Alterations SPD, LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Personal Circumstances

Due regard has been afforded with regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

6 – Representations:

One representation had been received and assessed within the 'Visual Amenity' and 'Residential Amenity' sections of the report.

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

Application Number: 2023/93230

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 accord with Policies LP01, LP02, LP21, LP22, LP24 and LP30 of the Kirklees Local Plan, Key Design Principles 1-17 of the Council's House Extensions & Alterations Supplementary Planning Document, and Policies within Chapters 2, 4, 9, 12, 14 and 15 of the National Planning Policy Framework

3. The external wall materials of the extension and alterations to the infill section hereby approved shall in all respects match those used in the construction of the existing building.

Reason: In the interests of visual amenity and to accord with Policy LP02 and LP24 of the Kirklees Local Plan, Key Design Principles 1, 9 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document and policies within Chapter 12 of the National Planning Policy Framework.

FOOTNOTE: Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected and that the works carried out is lawful.

FOOTNOTE: 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.	Drawing no. LOC.	Unamended	01/11/2023
Location, Site, Existing Floor, Roof and Elevation Plans.	Drawing no. (100) 01.	A	01/11/2023
Location, Site, Proposed Floor, Roof and Elevation Plans.	Drawing no. (100) 02.	D	12/01/2024
Climate Change Statement	-	-	07/11/2023

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. Additional information was requested to support the proposal. The scheme's roof design was amended to flat roof to reduce the proposal's bulk and massing for residential amenity.

Report Dated: 19/02/2024