

**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:	2024/62/90099/W
Site Address:	Mellbreak, 161, Causeway Side, Linthwaite, Huddersfield, HD7 5SJ
Description:	Erection of dormer windows and orangery to rear (within a Conservation Area)
Recommending Officer:	Laura Yeadon

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: 28-Mar-2024

Officer Report

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f90099>

Site Description

Mellbreak, 161 Causeway Side is a detached bungalow located within the Linthwaite Conservation Area. The property is set within a steeply sloped site with the property set down from the roadside, separated by a front garden and to the side is a driveway and parking area. The rear garden area set down significantly from the floor level of the property. As existing there is a large dormer/first floor extension on the rear elevation of the property and also a timber clad single storey extension. There is a timber terrace that wraps around the dwelling which is supported by stilts. There is also a large outbuilding within the garden area which attaches to the metal frame of the terrace.

Surrounding the property are residential dwellings comprising of detached, semi-detached and terraced dwellings with the terraced row directly beyond the rear boundary being Grade II listed.

Description of development

The application is for the erection of dormer windows and an orangery. The application seeks permission to regularise the dormer and orangery which are evident on site.

Officer Note: *It is important to note that there are elements of construction works that have taken place at the dwelling which require planning permission that are not shown on the submitted plans. These elements specifically are:*

- *Outbuilding which is not permitted development due to the property being within a Conservation Area and this outbuilding being to the side of the dwelling*
- *Raised terrace which exceeds 30cm in height and therefore requires planning permission.*

Whilst there are concerns regarding overlooking at close quarters to neighbouring properties, as a result of the terrace, as the terrace is not shown on plan or within the description of development, the assessment of this application is undertaken on the basis of the description of the development seeking consent for a dormer extension and orangery.

The dormer extension is located on the rear elevation of the property and built up from the eaves forming a flat roof structure which lies flush with the existing roof ridge. Due to the design of the development, the dormer projects beyond the side elevation hipped roof slopes. The width of the dormer is the full width of the rear elevation of the property and finished in white render.

The orangery is located on the rear elevation of the property, set in from the side elevation by 0.7 metres. It projects from the rear elevation of the property by 3.3 metres being a width of 4.8 metres with an overall flat roof height of 2 metres. The orangery is constructed from timber. It is noted that the orangery requires a level of underbuild which is provided, in this case, by the unlawful terrace structure which does not, in its entirety, form part of this application.

In the event of any grant of permission and the subsequent removal of the terrace structure, it is considered the section of the terrace upon which the orangery is sited would need to undergo some level of modification(s) to enable it to continue to form an under-build that supports the orangery structure.

At the time of the site visit, the works had been constructed.

History of negotiations/amendments received

No negotiations have taken place with the Agent as it was not considered that there was not a design solution that would overcome the significant concerns with regard to visual amenity, residential amenity, the Linthwaite Conservation and adjacent Listed Buildings.

Relevant Planning History

2023/93280 Work to tree in Conservation Area – granted

Representations

We are currently undertaking the legal 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, site notice and newspaper advertisement.

Final publicity date expired 22nd March 2024

Parish/ Town Council – not applicable

As a result of the public consultation period one representations has been received with the summary of comments set out below:

- Horrendous dormer to what was one a lovely bungalow does now in no way shape or form respect the character of the property prior to renovations
- Not matching materials

- Contrary to Statement, vegetation does not screen the property and is clearly seen from all sides especially at the front where a tree has been cut down
- Doesn't look anything like previous bungalow

Consultation Responses

K.C Conservation and Design – not supporting scheme

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 the Linthwaite Conservation Area and Strategic Green Infrastructure Network within the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 35** – Historic environment
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 57** – The extension, alteration or replacement of existing buildings

Supplementary Planning Documents:

- House Extensions and Alterations 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 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 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

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

The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990

The Planning and Compulsory Purchase Act 2004.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity, Conservation Area and Listed Building
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development:

Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – 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.”
- Principle 2 – 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.”

With specific regard to the House Extensions and Alterations SPD the key design principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 7: Outdoor space
- Key design principle 8: Energy efficiency
- Key design principle 9: Construction materials
- Key design principle 12: Natural environment
- Key design principle 14: Drainage and flood risk
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage
- Key design principle 17: Access for all users

With specific regard to the proposed development the SPD states that in terms of dormers and rear extensions, the SPD states:

Single storey rear extensions

Section 5.1 followed by 5.2 of the SPD refers to the general rules, where a rear extension should:

- Preserve a back garden of a reasonable size, with a general principle that at least half the garden area is retained;
- Be set behind the original building, and not projecting beyond the sides;
- Maintain external access to the rear garden;
- Respect the original house and garden in terms of its size and scale;
- Use appropriate materials which match or are similar in appearance to the original house; and
- Not have an adverse impact by way of overshadowing or loss of outlook of neighbouring properties.

Section 5.6 of the SPD specifically refers to single storey rear extension which should:

- be in keeping with the scale and style of the original house
- not normally cover more than half the total area around the original house (including previous extensions and outbuildings);
- not exceed 4 metres in height; not project out more than 3 metres from the rear wall of the original house for semi-detached and terraces houses or by 4 metres for detached properties;
- 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.

Dormers

Paragraphs 5.24, 5.25, 5.26 and 5.27 of the House Extension SPD relate to the provision of dormers. Given roofs are a very prominent and visible element of the majority of properties, development affecting the roof, such as dormer extensions need to be carefully considered in terms of their appearance and scale in order to be considered acceptable in terms of LP24 of the KLP, KDP 1 & KDP2 of the House Extension SPD and chapter 12 of the NPPF.

Dormer windows should:

- relate to the appearance of the house and existing roof;
- be designed in style and materials similar to the appearance of the existing house and roof;
- not dominate the roof or project above the roof or project above the ridge of the house;
- be set below the ridgeline of the existing roof and within the roof plane; and
- be aligned with existing dormer windows on neighbouring properties in the same roof plane where relevant.

The above listed policies and guidance within the SPD are taken into account within sections below of this report.

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 visual amenity, Conservation Area and Listed Building:

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. Principle 7 of the

House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Section 66(1) of the Planning (Listed Building and Conservation Areas) Act states In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act states In the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The application site is within the Linthwaite Conservation Area. Linthwaite, which is within the Colne Valley has a long history associated with the cottage Woollen industry, which is reflected in the architecture of the area with the many examples of Weavers cottages. To the immediate west of the application site, there is a row of Weaver's cottages, No's 215-219 Lane Top, which are listed at Grade II. Further to the north is an additional row of listed terraces, also 211 and 213 Lane Top, which are also Grade II listed.

In terms of visual amenity the dormer and single storey extension are located on the rear elevation of the property. Due to the property being located within a steeply sloped site and due to the surrounding topography, the property and works are clearly read and clearly visible from public vantage points outside of the curtilage of the dwelling. From the highways to both the east (from which the site takes access) and from the west the site is visible.

The design of the proposed dormer is a very large and dominant structure which is more akin to a flat roof first floor extension to the bungalow. Due to the projection from the sides of the original roof slope, the resultant structure introduces a very large, overly prominent structure which, due to its size and finishing material is not a subservient design which is in keeping with the original design principles of the host property and is out of keeping with the wider character of the locality.

The large, flat roofed dormer does not meet the criteria of sub-paragraph 5.26 of the SPD insofar as it is not in keeping with other dormers within the street scene which are small in scale and sit comfortably within the existing roof slopes. The large dormer, due to its size and scale has the appearance of a partially flat roofed dwelling which does not respect or enhance the character of the property. The SPD is clear that modern flat roof dormers may be acceptable if they are well-designed, small in scale and appearance and are characteristic of the street scene. In addition, they should not dominate the roof should be set below the ridgeline of the roof. The development fails to meet these points of the SPD. Instead, it is considered that by virtue of its siting, scale and form, the dormer poorly relates to the appearance of the house and dominates the extended roof causing detrimental harm to the visual amenities

of the locality, contrary to Key Design Principles 1 and 2 of the SPD, Policy LP24 (a and c) of the Kirklees Local Plan and Policies within Chapter 12 of the NPPF.

Due to the siting of the property, within the Conservation Area and in terms of the impact of the development on the neighbouring listed buildings, the Council's Conservation and Design Team were formally consulted. Comments received cite that, having reviewed the Design, Access and Heritage Statement, they consider that the statement is lacking in a sufficient assessment of the impact of the scheme on the Conservation Area nor does it recognise any impact on the neighbouring listed buildings. Paragraph 200 of the NPPF sets out that assessments should be proportionate to the assets' importance, it is not considered that the assessment submitted meets the requirements of the NPPF.

As the works have been carried out on site, the impact of the scheme is clearly apparent. Whilst the dormer is located to the rear, the full height structure which is more akin to a first floor extension has a significant impact and is clearly visible.

Whilst it is recognised that the bungalow is a later addition to the area, it does fall within the setting of the neighbouring listed building and is an entry point to the Conservation Area. Conservation and Design Officers are not able to support the development due to the harm to the setting of the listed buildings and the way they are experienced. In addition they consider the development out of character and not in keeping with the Conservation Area.

Turning to the proposed orangery, this is a single storey structure which broadly complies within the SPD. The extension is single storey in height, does not cover more than 50% of the land around the property and is set in from shared boundaries by more than 1 metre. Whilst the construction materials do not match the host dwelling, the contrasting materials ensure that the extension is an addition to the property and not part of the original build. Due to its location and limited size, it is not considered that this element of the proposal would have undue harm to visual amenity.

However, due to floor levels, the extension is set up significantly above the ground level and upon a terraced area. As noted above, Officer's note that the terrace and outbuilding constructed on site do not form part of this application and planning permission is required to regularise these works (or the removal of the terrace).

The level of underbuild which is required to be provided to support the rear extension is clearly substantial and if not sympathetic to the setting and wider locality has a harmful impact upon the character of the Conservation Area and the wider visual amenity of the locality. The rear of the building is visible from the highway and a number of properties to the west and north of the site. The construction of a single storey extension upon 'stilts' would be out of character with the locality. The large expansive terrace which has been constructed is considered to be out of keeping with the locality and have a harmful impact

upon the Conservation Area. The extent of works which would be required to accommodate the single storey extensions underbuild is not demonstrated as part of this application, with the unlawful terrace structure being relied upon to provide this.

In this case it is considered that permission could not be granted for the single storey element to the rear on the basis that it relies upon an unlawful structure to provide the underbuild required to support the development for which consent is being sought. Moreover, it is considered that it is not clearly demonstrated a suitable under build solution can be provided that has an acceptable visual impact and therefore a condition to require the removal of the terrace / submission of a scheme which details an acceptable design solution would not meet the 6 tests and a conditional approval approach would not be suitable in this case.

In this case the development is considered to lead to substantial harm to the setting of listed buildings and the conservation area, there are considered to be no demonstrable public benefits put forward in this case that outweigh the harm which has occurred. It is clear that the development has led to a stark and out of keeping appearance that has a significantly harmful impact and erodes the character of this part of the conservation area. The development appears to be predominantly, if not entirely, to serve the private benefit and wider public benefits are not clear in this case.

In conclusion, it is considered that by virtue of its materials of construction, engineering works, siting, scale, massing, prominence and design, the development poorly relates to the appearance of the house and dominates the roof having a harmful impact upon the visual amenities of the locality, the character, appearance and setting of the Linthwaite Conservation Area and neighbouring Listed Buildings. The development has led to substantial harm for which no public benefits have been demonstrated to outweigh the harm. The development is contrary to Key Design Principles 1 and 2 of the Supplementary Planning Document, Policy LP24 (a and c) and Policy LP35 of the Kirklees Local Plan and Policies within Chapter 12 and 16 of the NPPF.

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.

Key design principle 5 states relates to overshadowing/loss of light stating that 'Extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.' Key design principle 6 seeks to prevent an overbearing impact setting out that 'Extensions and

alterations should not unduly reduce the outlook from a neighbouring property.'

In terms of residential amenity, openings are within the rear elevation of the dormer extension and within the sides and rear of the orangery extension. Whilst the dormer creates openings within the rear elevation of the property, the established separation distances between the site and neighbouring dwellings is not significantly reduced in terms of overlooking. As the property is detached and it is not considered that the orangery would cause undue harm to overlooking.

It is noted that there are windows within the side elevation of the neighbouring property to the west, No. 159 Causeway Side which face the application site. Whilst the works do not decrease established separation distances, there are concerns regarding overlooking at close quarters from the terrace which has been constructed at the property. As this structure does not form part of the assessment of the proposed scheme, refusal of the scheme in terms of the impact of the terrace can not be afforded weight in this case.

In terms of overbearing and overshadowing, due to the projection from the sides of the roof, the presence of the dormer is considered to be somewhat overbearing, the bulk of the development being within the roof of the property has an increased impact with its presence although it is not considered to constitute an overbearing and an oppressive structure to such a degree as it could be concluded to detrimentally impact upon on the residential amenity of neighbouring occupiers that refusal could be substantiated in this case.

There are minimal concerns regarding the impact of the orangery in terms of overshadowing or being overbearing due to its limited size and scale.

It is therefore considered that the development is acceptable in terms of residential amenity, having regard to the aforementioned policies.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

There is a driveway and parking area to the side of the property which can accommodate 3 no. vehicles and therefore, it is considered that the parking available for the property is adequate.

It is not anticipated that the works would displace the storage of bins and there is adequate remaining amenity space for the storage of bins and is therefore compliant with Key Design Principle 16 of the SPD.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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.

A Climate Change Statement has been submitted which identifies that the works have been completed and therefore minimal mitigation measures are put forward for consideration.

Biodiversity – 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.

Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the works being completed on site.

6 – Representations:

One letter of representation has been received with the following being a summary of comments and LPA response:

- Horrendous dormer to what was one a lovely bungalow does now in no way shape or form respect the character of the property prior to renovations

Response: This has been addressed above

- Not matching materials

Response: This has been addressed above

- Contrary to Statement, vegetation does not screen the property and is clearly seen from all sides especially at the front where a tree has been cut down

Response: This has been addressed above

- Doesn't look anything like previous bungalow

Response: Noted

7 – Conclusion:

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/or 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 consideration.

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

REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2024/90099

Officer Recommendation: Refuse

Reason:

1. By virtue of its materials of construction, associated engineering works, siting, scale, massing, prominence and design, the development is not a subservient addition and poorly relates to the appearance of the host property having a harmful impact upon the visual amenities of the host property and wider locality as well as the character, appearance and setting of the Linthwaite Conservation Area and neighbouring Listed Buildings. The development has led to substantial harm for which no public benefits have been demonstrated to outweigh the harm. The development is contrary to policies LP2, LP24 (a and c) and Policy LP35 of the Kirklees Local Plan, Key Design principles 1 and 2 of the Council's

adopted House Extensions and Alterations Supplementary Planning Document and Policies within Chapter 12 and 16 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan and site plan	TR-A23-0905-001 – Rev: C		7 th February 2024
Proposed floor plans	TR-A23-0905-002 – Rev: B		18 th January 2024
Proposed elevations	TR-A23-0905-003 – Rev: B		19 th January 2024
Existing 3D plans	TR-A23-0905-004		7 th February 2024
Existing floor plans	TR-A23-0905-002 – Rev: C		7 th February 2024
Existing elevations	TR-A23-0905-003 – Rev: C		7 th February 2024
Proposed location plan and site plan	TR-A23-0905-001 – Rev: C		7 th February 2024
Climate Change Statement	Appendix A		18 th January 2024
Design, Access and Heritage Statement	TR-A23-1201		15 th January 2024

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 negotiations have taken place with the Agent as it was not considered that there was not a design solution that would overcome the significant concerns with regard to visual amenity, residential amenity, the Linthwaite Conservation and adjacent Listed Buildings.

Report Dated: 26th March 2024

Coal – none

