

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

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

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

Reference No:	2024/70/90472/W
Site Address:	4, Deer Hill Close, Marsden, Huddersfield, HD7 6LG
Description:	Variation condition 4 (integral garage) on previous permission 2023/92736 for erection of side and rear extensions with associated alterations
Recommending Officer:	Tom Hunt

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: 16-Apr-2024

Officer Report

Site Description

2024/90472 – 4, Deer Hill Close, Marsden, Huddersfield, HD7 6LG

The application site relates to a two-storey end-terraced residential property on a corner plot. It is faced in natural stone and has a side gable roof in concrete tile. It has a small front amenity space, a single-storey front porch projection with driveway to the side, an attached single-storey garage to its side and a flat roofed, timber clad single-storey rear extension behind the garage and partially to the rear of the host. It has a small rear amenity space parallel to the highway on Carrs Road which is fenced off in timber.

Properties in the residential estate south of Carr Road are of varying design and material palettes. The building line for the flank elevations of no. 4 and 5 are broadly consistent with each other and separated by Deer Hill Close but no. 5 has a two-storey side extension; they are otherwise forward of the other building lines to the south of Carr Road.

Description of Proposal

The application seeks to remove condition 4 (integral garage) on previous permission 2023/92736 for erection of side and rear extensions with associated alterations.

The original wording of condition 4 was:

“Notwithstanding Section 55 (2)(a)(i) of the Town and Country Planning Act 1990 (or any statute or order revoking or re-enacting that Act with or without modification) the integral garage shall not be converted to living accommodation.

Reason: *To ensure that there are adequate off-street parking provision in the interests of the safe and free use of the highway and to comply with LP21 and LP22 of the Kirklees Local Plan, Key Design Principle 15 of the House Extensions and Alterations SPD and Chapter 9 of the National Planning Policy Framework.”*

The proposal seeks to convert the existing integral garage into living accommodation, as a utility/store and storeroom. A revised parking arrangement is submitted to have a parking space to the front of the property in place of soft landscaping, in addition to the existing off street parking space to the front of the garage.

If the planning permission was enacted, the proposed extensions in permission 2023/92736 would serve a four bedroom property.

History of negotiations/amendments received

None.

Relevant Planning History

2023/92736	Erection of side and rear extensions with associated alterations. <i>Conditional Full Permission.</i>
2002/91929	Off Carrs Road, Marsden, Huddersfield. Erection of 71 Dwellings <i>Section 106 Full Permission.</i> Officer Note: Permitted Development Rights removed on the conversion of garages for living accommodation.

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, site notice and press publicity which expired on: 03/04/2024

No representations were received.

The proposal was not advertised as affecting Marsden Conservation Area as the proposal to vary condition 4 would have a neutral impact on heritage assets.

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. It borders Marsden Conservation Area. There is a PROW (COL/208/10) separated from the site by Carrs Road. It is within an indicative critical drainage area but otherwise in a low probability area for flooding.

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 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 31 – Strategic Green Infrastructure Network
- LP 35 – Historic environment

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)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Planning (Listed Building & Conservation Areas) Act (1990)

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 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
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

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

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise.

The principle of a new development on this site has already been carefully assessed and considered acceptable under application 2023/92736 subject to conditions, including condition 4.

In consideration of the impacts of the proposed variation of condition application to remove condition 4, Officers are directed to have regard for paragraph 140 of the National Planning Policy Framework which states:

“Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”

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.

2 –Impact on visual amenity and heritage amenity:

The application is to remove condition 4 so that the integral garage can be used for living accommodation.

The submitted plans detail an area of soft landscaping would be lost to accommodate a further parking space within the front amenity space. This would see the entire frontage of the site devoted to vehicular parking.

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.

Paragraph 4.41 of the House Extensions and Alterations SPD sets out that *‘proposals for extensions need to carefully balance the requirement for off-street parking and cycling storage against the retention of private amenity space and soft landscaping areas within the curtilage of the property.’*

It is considered that to lose the parking provision to the property would lead to the loss of the area of soft landscaped amenity space to the front and a parking dominated frontage. The site is within a prominent location, and the overall character of the street within which the property is sited is that of dwellings with integral garage spaces. It is considered the proposal, to lost parking provision within the integral garage, which forms part of the original design ethos of the street would lead to compensatory parking within the front

amenity space causing a parking dominated frontage which has a harmful visual impact.

It is considered the visual impact of the proposal would lead to development which has a detrimental visual impact on the character of the locality and leads to parking dominated frontage contrary to policy LP24 of the Kirklees Local Plan, paragraph 4.41 and principles 1, 2 and 15 of the House Extensions and Alterations SPD and policies within Chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan require of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

This application is to remove condition 4, which would not cause any additional overbearing, overshadowing or overlooking harm as such no additional harm is considered to be cause to residential amenity as a result of the proposed removal of condition 4.

4 – Impact on highway safety:

Condition 4 was included in the previous permission (2023/92736) *“To ensure that there are adequate off-street parking provision in the interests of the safe and free use of the highway and to comply with LP21 and LP22 of the Kirklees Local Plan, Key Design Principle 15 of the House Extensions and Alterations SPD and Chapter 9 of the National Planning Policy Framework”.*

The applicant has applied to remove this condition and had submitted a Statement in support of this. No substantial policy background had changed from the issuing of the decision relating to application 2023/92736. The proposal would still add more bedroom capacity and therefore there has been no material change in the circumstances to be considered.

Officers noted that the off-street driveway parking space would be retained and the existing garage does not fully meet internal space standard for modern vehicles to be garaged under the Kirklees Council Highways Design Guide SPD. In addition,

“The site is in close proximity to frequent public transport bus links and to the facilities, services and amenities of Marsden District Centre supporting car free travel.”

Nonetheless the assessment of the impact of losing the garaging space was considered in the wider context of the property being *“within a very small and constrained close and should the garage be converted to living quarters, any additional vehicles from the increased occupancy levels within this shared space would have the potential to unacceptably restrict the parking availability and manoeuvrability of vehicles within the tight space.”*

The loss of the existing parking area for the existing dwelling with the absence of a footway for pedestrians and increase in parking demand from the additional bedroom, would increase the likelihood of on-street parking, and on-street parking issues and conflict between highway users along this section of Deer Hill Close, which is already restricted as existing. As such, a condition was recommended to moderate the detrimental impact of the increased intensification of use and increased parking demand to ensure that the development could proceed without harm to highway safety and parking.

On plans for the original permission 2023/92736 and the current application 2024/90472, an additional off street parking space is offered to the front of the property. The delegated report 2023/92736 was silent on this arrangement. The property has the ability to hard surface its front amenity space without planning permission subject to being drained appropriately to ensure no detrimental impact on drainage locally through surface water run off. It is noted that it is already partially hard surface with a mix of surface treatments. In consideration of this, removing the garage as a parking space would lead to further use of this additional space in conjunction with the existing driveway space. The position of this space would appear contrived, overly close to the porch and adjacent to the driveway; should a vehicle be parked within this tight remaining front amenity space, this would necessitate complicated manoeuvring to park two vehicles within and would have greater encroachment on the neighbouring property's front amenity space and the highway through those manoeuvres.

As such, Officers are unable to support this additional space as a feasible alternative off street parking space to the garage and do not consider this as a viable option to compensate for the existing garage's loss of off street parking within the small plot in a high density residential close. The Close does not have kerbside parking or pavements but has residential properties with driveways and garages which substantially limit on street parking arrangements.

Turning to the points made in the Statement provided, received 23/02/2024, in support of the proposal to convert the integral garage:

- 1) A study is cited by the Department of Transport that 44% of people use their garage for parking. It notes that many authorities recommend a minimum internal space provided of 6m by 3m for parking (which is noted in point 3).

Officer Note: The general study is not considered a material consideration that can be afforded significant weight in this case. For clarity, the integral garage has internal space dimensions of 5.5m depth and 2.75m width compared to the recommended standard minimum 6m depth by 3m width for modern vehicles in the Kirklees Highways Design Guide SPD. As such, the modestly under-specified dimensions of the integral parking space still have the potential to provide adequate garaging space for some vehicles.

- 1) It is considered that there is sufficient off-street parking for all properties within the close. In addition, Carrs Road offers on street parking to absorb excess demand.
Officer Note: the application site seeks to intensify its occupancy through the given permission of a first-floor extension and a rebuild of an existing rear extension with accommodation in the roof. Officers have to consider the cumulative impact of this proposal on parking and highway safety.
- 2) Addressed in point 1 above.
- 3) The garage space is used for storage and white goods presently.
Officer Note: this is not set out in the existing plans and Officers can only assess based on submitted plans. In addition, Permitted Development Rights are removed under application 2002/91929 as below:
“(3) The garage or parking space intended to serve the dwellings shall be provided and the parking spaces shall be drained, sealed and surfaced in accordance with details to be approved by the Local Planning Authority before the dwellings are occupied and shall not thereafter be used for any purpose other than parking and turning of vehicles.”
Planning Permission is therefore required for the use as set out.
- 4) Use of the garage space for storage requires heating of the space resulting in significant loss of heating. A vehicle using this space would be incompatible with the existing uses.
Officer Note: the permitted use as a garage does not require heating and other uses would require planning permission.
- 5) Assertion is made about other garages not being used for its purpose with no impacts on parking arrangements. Property has ability to park three cars within the highway.
Officer Note: Whilst other garages may be used as such and potentially in breach of the previously mentioned condition 3 of the 2002/91929 permission, the application relates to a proposed intensification of use within a small dwelling in a relatively limited plot without pedestrian footways. The site does not have the space to offer feasible additional off-street parking to the front to compensate for the intensification of use. The cumulative impact of the potential development on the locality is considered as a whole, the current proposed arrangements without the garage would increase on street parking demand which would cumulatively impact on other residential properties.
- 6) It is asserted that the property would remain a three bedroom property.
Officer Note: Plans indicate that an additional bedroom would be added and have been assessed as such. It is noted that the side extension would also offer an additional office of a substantial size similar to a new proposed bedroom, which could be converted to a bedroom easily without planning permission.

Bin arrangements will remain as existing with no further increase in footprint.

Officers consider that no material planning consideration has changed to warrant the removal of the condition and that subject to the condition, the proposal would not comply with Policies LP21 and 22 of the Local Plan and Key Design Principles 15 of the House Extensions and Alterations SPD, the KC Highway Design Guide SPD and policy within Chapter 9 of the NPPF.

5 – Other matters:

No other matters

6 – Representations:

No representations were received.

7 – Conditions

Conditions included within the planning permission (2023/92736) have not been subject to review as it is not recommended that condition 4 can be removed.

7 – Conclusion:

This application to remove condition 4 of the planning permission 2023/92736 for the “Erection of side and rear extensions with associated alterations” has been assessed against relevant policies in the development plan as listed in the policy section of the report, the NPPF and other material considerations.

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 proposal to remove condition 4 would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refuse

Decision Authorisation - Delegated

Application Number: 2024/90472

Officer Recommendation: Refuse

Reason

1. The removal of condition no.4 would see the loss of an existing vehicular space with no suitable compensatory parking that would provide an acceptable alternative, leading to increased on street

parking demand associated with the intensification of the residential use of the host property and increasing the likelihood of conflict between highway users to the detriment of highway safety. In addition, the removal of condition no.4 would lead to the loss of an area of soft landscaping to the front of the host property which would have a harmful impact upon the visual amenity of the host property and the character of the wider locality. The removal of condition no.4 is therefore contrary to Policies LP21, LP22 & LP24 of the Kirklees Local Plan, policies within Chapters 9 & 12 of the National Planning Policy Framework and Principles 1, 2 & 15 of the Council's adopted Housebuilders Design Guide SPD.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location and Site Plans, Existing and Proposed Floor and Elevation Plans.	Drawing no. 2321-01.	A	23/02/2024
Statement	-	-	23/02/2024

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.

Report Dated: 16/04/2024