

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:	2024/62/90994/W
Site Address:	92, Fleminghouse Lane, Almondbury, Huddersfield, HD5 8UE
Description:	Change of use of land to domestic, erection of single storey rear extension, detached garage and boundary wall
Recommending Officer:	Tom Hunt

DECISION – Full Conditional 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 19-AUG-2024

Officer Report

Site Description

2024/90994 – 92, Fleminghouse Lane, Almondbury, Huddersfield, HD5 8UE

The application site relates to a detached bungalow on raised ground in relation to the highway. The property is faced with red brick and render with tile roof. It is adjacent to a Public Right of Way (PROW ref: HUD/97/20) and large mature trees. It benefits from a front amenity space, a side amenity space mostly given over to a driveway leading to a single-storey detached garage behind the host and a garden at rear. To the west of the garden at rear is a plot of land which was wooded but now cleared. It is within a residential area.

Description of Proposal

Change of use of land to domestic, erection of single storey rear extension, detached garage and boundary wall

All figures are approx. and in metres.

It is proposed to change the of use of a previously wooded plot of land to be garden land.

This would enable the removal and reuse of the existing single-storey outbuilding and the construction of a new single-storey garage utilising the outbuilding materials; this would be relocated to the extended rear of the garden plot with an extended driveway. It would have a pitched roof and be of rectangular plan form with a splayed rear. It would appear as 5.228m width and 6.64-7.42m depth and an overall height of 2.97m with eaves 2.185m from ground level. Materials proposed are render and corrugated roof; any new materials would be matching.

A new 2m height stepped block retaining wall would be constructed to the boundary, adjacent to the PROW, with a render finish and coping top. This would sit next to an existing stone wall with hedging and timber fence.

It is also proposed to construct a single-storey rear extension to the host to an existing projection. it would extend 4m and be 3.664m width with the same pitch roof design. It would have a lower brick wall and upper walls rendered with an ashlar string course; the pitch roof would be slate. Window openings would be to the rear and sliding doors would be installed to the southwest/side elevation. This would extend a kitchen/living area.

History of negotiations/amendments received

The case officer considered the application on review and sought no amendments as it met LP policies on visual and residential amenity.

Relevant Planning History

2011/90706	Replace existing garage with larger double garage. <i>Conditional Full Permission.</i>
COMP/23/0421	Change of use to residential and erection of retaining wall. <i>Present application invited by Enforcement.</i>

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 had a final expiry date of 09/08/2024.

No representations have been received.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Highways Structures – No Objections.
- Ecology – No response received at the time of the report preparation.
- Public Right Of Way – No comment received by report preparation date.

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 land for development on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 7 – Efficient and effective use of land and buildings**
- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 30 – Biodiversity & Geodiversity**

- **LP 33 – Trees**
- **LP 34 – Conserving and enhancing the water environment**
- **LP 53 – Contaminated and unstable land**

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- House Extensions and Alterations SPD (2021)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
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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 11 – Making effective use of land
- 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
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology
- 6) Representations
- 7) 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.

2 – Impact on visual amenity:

Paragraphs 5.1-5.6 of the SPD (pages 23-24) provides specific advice on rear extensions and single-storey rear extensions. The proposal would be compliant with this guidance, excepting the height of eaves to be over 2.5m from ground level. It is noted that there is over 6m separation distance to flank boundaries and in this instance, the height of the eaves would appear visually unobtrusive; in addition, the continuation of an existing rear projection's design to appear as a simple and matching addition to the host in materials and domestic fenestration details would allow the extension to be harmonised and in keeping with the host. Its position to the rear would ensure that this would be regarded as a low impact extension within the streetscene.

The proposed outbuilding would be set back significantly behind the host, remaining small in footprint and scale and retaining sufficient private amenity space to be compliant with advice set out with paragraphs 5.29-5.30 of the SPD. Materials would be to match the previous outbuilding and would appear visually acceptable. Whilst its position close to the PROW would appear prominent, this would not be a significant alteration to the previous garage position adjacent to this.

The concrete rendered boundary wall would appear modestly incongruous adjacent to timber fencing however, given its limited section and height, Officers propose that this is visually acceptable being of low impact.

The boundary fencing to the extended garden area would be 2m in height and typical of garden land boundary treatments. Whilst the loss of landscaping renders the space more stark and domestic, this change of use would still not appear visually incongruous in a residential setting. The proposal would also retain sufficient undeveloped garden space to ensure that the scheme does not represent an overdevelopment of the site.

The proposal is therefore regarded as acceptable for permission in this regard as it would not significantly harm the visual amenity of the area and be acceptable and accord with Policy LP02 and LP24 of the Local Plan, the Key Design Principles of the House Extensions and Alterations SPD and Chapter 12 of the NPPF.

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 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Key Design Principles 3 – 6 of the Kirklees Householder Extensions and Alterations SPD sets out expected standards of residential amenity.

No.s 240-246 Fernside Avenue

The single storey rear extension and outbuilding would be windowless to their north elevations facing those neighbours ensuring no additional overlooking or loss of privacy. The single-storey rear extension would be separated by 18m to the rear elevations of no.s 244 and 246; the outbuilding would achieve a separation distance of 13.7m to the rear elevations of no.s 240-242. Both would be of single-storey design and would be sited at a distance to the south of those neighbours to avoid overbearing and overshadowing. The extended garden would not lead to a significant alteration in overlooking from the plot as the outbuilding would visually screen outlook to no.s 240-242.

No. 94 Fleminghouse Lane

The garage would not have windows facing the rear of no. 94's garden and be sited to the north at a distance far enough to avoid any additional overlooking, overshadowing and overbearing impacts. The single-storey rear extension would be of a diminutive design positioned to the north of the neighbour at a distance sufficient to avoid any overshadowing and overbearing. The sliding doors to the southwest elevation of the extension would add a minor degree of additional overlooking; this would be facing an existing close boarded fence and existing green screening to reduce its outlook to the neighbouring garden and the closest opening of no. 94 to this area is a partially glazed door. Officers concur that the existing use of the garden would still have the same impacts and would therefore not offer any unacceptable additional overlooking or loss of privacy.

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.

Future Occupiers

With reference to Key Design Principle 7 of the House Extensions and Alterations SPD, the proposal would still retain a substantial, outdoor private amenity space available to future and present occupiers for excellent standards of privacy.

The proposal would therefore 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 NPPF.

4 – Impact on highway safety and PROW

The proposed development would offer a Highways Design Guide SPD compliant double garage with sufficient off street parking provided by the driveway for the host. Bins arrangements will remain as existing with no increase in bedrooms and therefore expected waste outputs.

The proposed development would not adversely affect the existing parking spaces within the site, intensify use and therefore would not cause additional harm to highway safety.

A PROW informative would be added to the Decision informing the applicant of their duties to keep the PROW free and unobstructed for highway users. This would comply with Policies LP21 and 22 of the Kirklees Local Plan, Key Design Principles 15 –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. It is noted that the reuse of outbuilding materials would be beneficial in reduced carbon emissions overall.

Drainage

The site is within a low probability Flood Risk Zone and has carried out incomplete driveway works to a substantial soft surfaced garden. In this instance a condition on drainage is recommended to ensure that the development would have no conflict with Policy LP28 of the Kirklees Local Plan, Key Design Principle 14 of the House Extensions and Alterations SPD and Chapter 14 of the NPPF.

Biodiversity

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. LP33 seeks to retain significant amenity trees.

It is noted that the expansion of the garden land included a wooded area which was removed however those trees were included in the assessment to evaluate the impact as follows.

The proposal for a change of use of the land to be domestic garden land would require Biodiversity Net Gains (BNG) under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Developers must deliver a BNG of 10%. This means a development will result in more or better quality natural habitat than there was before development. A Biodiversity Net Gain assessment with the Small Sites Metric has been submitted as part of this application, which has set out that the proposal would achieve a 12.34% net gain in Area Habitat Units and a 78.52% net gain in Hedgerow Units.

Officers recommend that this will meet the requirements of the Act subject to an informative being added to be in place upon any grant of permission which sets out the requirements of Biodiversity Net Gain legislation.

Under the legislation, a condition is in place by law. The biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As such, it is not considered necessary for any further condition to be in place upon any grant of permission given the statutory requirements in relation to biodiversity and the fact that the provision of the measures set out in the submitted ecological assessment would meet the requirements of the aforementioned policy.

Therefore, subject to inclusion of the recommended informative note, the proposal is considered to be acceptable in this regard.

Contaminated and unstable land

Formal consultation with Highway Structures was undertaken in relation to the retaining wall proposed however the Officer raised no concerns in this regard. In this instance, Officers are guided to paragraph 190 of the NPPF:

“Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

An informative would be included to satisfy the aims of LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework in this regard.

6 – Representations:

No representations had been received.

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: 2024/90994

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, LP07, LP21, LP22, LP24, LP28, LP30, LP33, LP34 and LP53 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, 11, 12, 14 and 15 of the National Planning Policy Framework

3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing host building.

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

4. The external walls and roofing materials of the outbuilding 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 LP24 of the Kirklees Local Plan, Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document and policies within Chapter 12 of the National Planning Policy Framework.

4. Prior to the hereby approved extension being first brought into use, the driveway area shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment

Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the parking of vehicles.

Reason: To ensure that sufficient parking is provided for the site and to accord with Policies LP21, LP22 and LP34 of the Kirklees Local Plan, Key Design Principle 14 of the 'House Extensions and Alterations SPD' and Chapter 14 of the National Planning Policy Framework.

FOOTNOTE: Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

FOOTNOTE: Public footpath Huddersfield HUD/97/20 is adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works.

The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston. Public rights of way's email address is publicrightsofway@kirklees.gov.uk

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	FL01.#	Unamended	16/04/2024
Existing Site Plan	FL02.#		16/04/2024
Existing Floor and Elevation Plans	FL04.#	Unamended	16/04/2024
Proposed Site Plan	FL05.#	Unamended	16/04/2024
Proposed Site Plan (mid point of development)	FL03.#	Unamended	16/04/2024
Proposed Floor and Elevation Plans	FL06.#	Unamended	16/04/2024
Proposed outbuilding roof and elevation plans	FL07.#	Unamended	16/04/2024
Existing and proposed elevations from the PROW	FL08.#	Unamended	16/04/2024
Small Site Metric	-	Unamended	02/07/2024
BNG Assessment	Biodiversity Net Gain Assessment by Verity Webster Ecology and Protected Species Consultancy. July 2024.	Unamended	02/07/2024

Plan Type	Reference	Version	Date Received
Climate Change Statement	-	-	16/04/2024

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. The case officer considered the application on review and sought no amendments as it met Local Plan policies on visual and residential amenity.

Report Dated: 16/08/2024