# 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: | **2024/70/91344/E** |
| Site Address: | Friezland House, Penistone Road, Shepley, Huddersfield, HD8 8BE |
| Description: | Variation condition 2 (plans) on previous permission for 2023/90062 for erection of single storey side and rear extension, two storey rear extension, front canopy, formation of parking area and external alterations following demolition of existing outbuildings and carport |
| Recommending Officer: | Nicole Helliwell |

**DECISION – APPROVE VARIATION OF CONDITION 2**

**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.**

Sarah Longbottom

***AUTHORISED OFFICER***

Date: 08-Jul-2024

**Officer Report**

**Reference No.** 2024/70/91344/E

**Site Address:** Friezland House, Penistone Road, Shepley, Huddersfield, HD8 8BE

**Proposal:** Variation condition 2 (plans) on previous permission for 2023/90062 for erection of single storey side and rear extension, two storey rear extension, front canopy, formation of parking area and external alterations following demolition of existing outbuildings and carport.

**Site Description**

The application relates to Friezland House, a two-storey detached property located in Shepley, Huddersfield. The site is allocated as Green Belt Land within the Kirklees Local Plan. The dwelling is faced in natural stone and render and incorporates a dual-pitched roof finished in stone slate. The property benefits from off road parking and gardens to the front and rear. The neighbouring properties are of residential use and comprise two storey properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

**Description of Proposal**

The applicant seeks consent to vary condition 2 on previous permission 2023/90062 which approved the erection of a single storey side and rear extension, a two storey rear extension, a front canopy, the formation of a parking area and external alterations following demolition of existing outbuildings and carport.

Condition 2 of permission 2023/90062 relates to the plans and details approved under the application and reads as follows:

*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 ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30, LP53 and LP57 of the Kirklees Local Plan, Key Design Principles 1 & 2 of the House Extensions and Alterations SPD and the aims of the National Planning Policy Framework.*

This Section 73 application seeks to vary the approved plans due to design changes. The proposed alterations are as follows:

- The front canopy previously approved would be replaced with a front porch

**Relevant Planning History**
**2023/90062:** Erection of single storey side and rear extension, two storey rear extension, front canopy, formation of parking area and external alterations following demolition of existing outbuildings and carport. Planning application details | Kirklees Council – Conditional Full Permission

**Representations**
The application was advertised by neighbour notification letters, which expired on 5th July 2024. As a result of the above publicity, no representations have been received.

**Parish/Town Council Comments**
Denby Dale Parish Council – Councillors considered that there was not enough information to base a decision on due to incomplete documentation being submitted.

**Consultation Responses**
Not Applicable.

**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 located within the designated Green Belt on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

**Kirklees Local Plan Policies**
- **LP 1** - Achieving Sustainable development
- **LP 2** - Place Shaping
- **LP 21** - Highways and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** - Biodiversity and Geodiversity
- **LP 53** - Contaminated and Unstable Land
- **LP 57** - Extension, Alteration or Replacement within Green Belt

**Supplementary Planning Guidance / Documents:**
Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its

policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

**In this case, the following SPDs are applicable:**

- Highways Design Guide SPD (adopted 4th November 2019)
- Housebuilders Design Guide SPD (adopted 29th June 2021)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 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 200th 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 12** - Achieving Well-Designed Places
- **Chapter 13** - Protecting Green Belt Land
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

**<u>Assessment</u>**

**1. Principle of Development**

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development for the erection of a single storey side and rear extension, two storey rear extension, front canopy, formation of parking area and external alterations following demolition of existing outbuildings and carport was established under permission 2023/90062. As such, it is considered that the principle of the development remains established by way of this permission. This assessment will deal with the merits of the proposed variations only.

**1. Impact on Visual Amenity**

Key Design Principle 1 of the House Extensions & Alterations Supplementary Planning Document (SPD) does state 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. Furthermore, Key Design Principle 2 of the SPD goes onto state 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 details.

**Front Porch**

The submitted plans show that the front canopy would be replaced with a front porch. The porch would project approx. 1.8m from the front elevation of the original dwellinghouse. It would be single storey in height, with an eaves height of approx. 2.46m and an overall height of approx. 3.2m. The enlargement would be faced in natural coursed stone and would incorporate a dual-pitched roof finished in artificial stone slate to match the appearance of the host property. Although the alteration would increase the footprint/volume of the dwelling, the extension would be modestly proportioned and is not considered to have a greater impact on openness. Furthermore, the extension would appear subservient in relation to the original build and would maintain a distance of approx. 4.6m to the public pavement, which would reduce its prominence from public vantage points. For these reasons, it is considered that the proposed alteration would respect the character and appearance of the host property and wider street scene.

For the reasons outlined above, It is considered that the variation to the development proposed is acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the Kirklees Local Plan, KDP 1 & 2 of the House Extensions and Alterations Supplementary Planning Document, and the aims of Chapter 12 and 13 of the National Planning Policy Framework.

**2. Impact on Residential Amenity**

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light, Key Design Principle 6 on preventing overbearing impact and Key Principle 7 for outdoor space.

Impact on Stonefield

Stonefield is a two-storey detached property located west of the application site. The proposed front porch would have no detrimental impact on the neighbour's residential amenity given that the enlargement would be positioned away from the common boundary and would accord with the 45

degree rule in relation to the neighbour's ground floor fenestration. On this basis, it is considered that the amendment would not have a greater impact on the neighbouring occupants than originally approved.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extensions and Alterations SPD and Paragraph 135 (f) of the National Planning Policy Framework.

**3. Impact on Highway Safety**

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Given the nature of the amendments proposed, no alterations would occur to the access and parking arrangements of the approved scheme. Therefore, the impact on highway safety is still considered acceptable and unchanged since the previously issued decision. Therefore, the proposal would not cause detrimental harm to the safe and efficient operation of the highway network and would comply with Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF, Principles 15 and 16 of the Kirklees House Extensions and Alterations SPD and the Highways Design Guide SPD.

**4. Other Matters**

With regard to other matters that were assessed as part of the previous planning permission, the proposal is unchanged in relation to these aspects and any conditions imposed in regard to these matters to make the development acceptable will be repeated as part of this application.

<u>Conditions Review</u>

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant.

The following conditions will be re-issued as they are considered to remain relevant:

- 1. Timescale for implementation (amended to reflect the date of the original decision).

The following conditions shall be reworded:

- 2. Approved plans (The plans and specification table will be amended to reflect the plans approved under this Section 73 application)
- 3. Unexpected Contamination (The wording shall be amended to reflect the paragraph changes to the NPPF)

There are no other matters relevant to the determination of this application.

**5. Representations**

No representations were received following the statutory publicity.

**6. Negotiations**

No amendments were sought or received during the course of the application.

**8. Conclusion**

This proposal is a Section 73 Variation of Condition application to vary condition 2 (development in accordance with the approved plans). In determining a S73, the Local Planning Authority must only consider the 'disputed' condition that is the subject of the application – it is not a complete re-consideration of the application. Therefore, it is a consideration of Condition 2 only. As detailed within the report, the variation is considered to be acceptable.

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 the relevant policies in the development plan and other material considerations. The proposal would remain in accordance with the development plan and there are no material considerations to indicate otherwise. The development would therefore constitute sustainable development and it is recommended for approval.

**Recommendation: Approve**

**Decision Authorisation - Delegated Powers**
**Application Number:** 2024/91344
**Officer Recommendation:** Grant Variation of Condition 2
**Conditions and Reasons**

1. The development hereby permitted shall commence no later than 16th March 2026.
**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 ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30, LP53 and LP57 of the Kirklees Local Plan, Key Design Principles 1 & 2 of the House Extensions and Alterations SPD and the aims of the National Planning Policy Framework.

3. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not

required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

**NOTE:** Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. 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.

**NOTE:** To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration,

repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

**Plans and Specifications Table:**

| Plan Type | Reference | Revision | Date Received |
|---|---|---|---|
| **Plans and details pursuant to 2023/90062** | | | |
| Location Plan | 142-22-PL03 | A | 09/01/2023 |
| Existing Floor Plans, Elevations and Site Layout | 142-22-PL01 | - | 09/01/2023 |
| **Plans and details pursuant to 2024/91344** | | | |
| Proposed Floor Plans, Elevations & Site Layout | 142-22-PL02 | D | 14/05/2024 |

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 has, 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 Officer did not enter into negotiations with the applicant as the proposal was considered to be acceptable as submitted.

**Report Dated: 08/07/2024**