

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 1, Class AA, Condition
AA.2(3)

DELEGATED DECISION FOR DISCHARGE OF CONDITION AA.2(3) - NOTIFICATION OF ENLARGEMENT OF A DWELLINGHOUSE BY CONSTRUCTION OF ADDITIONAL STOREYS

Reference no. 2024/CL/91465/W

Site Address 1, Viewlands, Fixby, Huddersfield,
HD2 2HY

Description Prior approval for enlargement of
dwellinghouse by erection of
additional stories

Recommending Officer Laura Yeadon

DECISION – DETAILS APPROVED

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.

Kevin Walton

AUTHORISED OFFICER

Date:16-Jul-2024

Officer Report

Site: 1, Viewlands, Fixby, Huddersfield, HD2 2HY

Development: Prior approval for enlargement by erection of additional storey

Weblink: [2024/91465](#)

1) Summary

1.1 The application seeks prior approval of development pursuant to Class AA, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2005 (as amended) [GDPO].

2) The site

1.2 The subject building is a detached two storey dwelling with balconies to the front and rear. To the front of the property is an area of hardstanding used for parking and to the eastern side and rear of the property are garden areas. The existing dwelling is a total height of 7.3 metres and a maximum depth of 14.4 metres with various pitched roofs.

2.2 There are residential properties surrounding the site which form the wider cul-de-sac which are of a similar age and matching construction materials but of varying size and design.

3) Proposed development

3.1 It is proposed to add an additional storey to the part of the original building. The drawings indicate that the eaves height and overall height of part of the original building would be raised to correspond with the same roof angle as the existing.

3.2 The plans shows that openings would be created within both the front and rear elevations at second floor level and dormer windows would be located within the front and rear elevation roof slopes.

3.3 The walls would be constructed from natural stone, concrete pantiles would be use for the roof and uPVC would be used for the openings.

3.4 The application has been received following the granting of an identical scheme under application 2021/92295. The application form states that application seeks essentially an extension of time to the previous application 2021/92295. The requirements of Class AA include that the development must be completed within a period of 3 years. The decision for the 2021/92295 permission will lapse on 2nd August 2024.

4) Site history

- 4.1 2009/91815 Proposed two storey side and front extension and erection of new boundary wall – Refused
- 4.2 2010/92192 Erection of two storey side and front extension and erection of new boundary wall – Conditional Full Permission
- 4.3 2011/90511 Erection of 2 storey side, front and rear extensions – Refused
- 4.4 2011/92153 Erection of extensions – Refused – appeal upheld
- 4.5 2012/93029 Non material amendment to previous permission 2011/92153 for erection of extensions – Refused
- 4.6 2012/93793 Erection of alterations to dwelling – Conditional Full Permission
- 4.7 2021/92295 Prior approval for enlargement of dwellinghouse by erection of additional storey – Details approved

5) Policy

National Planning Policy Framework

Chapter 12 – Achieving well-designed and beautiful places

Kirklees Local Plan

LP24 – Design

6) Representations

- 6.1 Publicity date ended 14th June 2024 – 5 representations received with the following being a summary of comments:

Visual amenity

- Already approved for a huge extension, converting to a double storey home from a bungalow which is imposing on the surrounding neighbours
- Out of character and not in keeping with other properties with bungalows in front and houses adjacent to the property
- Property will be overly large for the area with no other properties nearby having this level of build
- Can't find another 3+ storey high residential property for miles around
- Not in keeping with design and architectural features

Residential amenity

- 3rd storey which the resident has already started construction on is going to completely impact the privacy of all neighbours whose gardens will now be overlooked
- Even a house two away will be overlooked by this proposal
- View from garden will be ugly construction
- Does not respect scale and proportions of surrounding houses and bungalows
- A third storey will make the house too dominant and overbearing

Highway safety

- Cause even more of a dangerous corner for neighbours to drive by
- There is already an overspill of vehicles into the surrounding roads and areas, adding another level to the site will increase this
- Will make road safety an issue for all surrounding neighbourhood putting children at risk as cars parked on roadsides and curbs cannot easily be seen around

General comments

- Used as a hub for commercial van hire business so has multiple vans parked outside which since the new construction has begun are now being parked in front of other neighbours homes
- Other neighbours refused 2nd storey extensions but somehow this resident is allowed to have 3 storeys at a site which was originally for a bungalow because it is a corner plot on a busy corner
- Garden concreted for storage of hire vans which have never moved in past two years and will have devalued the area
- Planning letter dated 09.06.2021 refers to additional 'storey' with planning letter dated 24.05.2024 refers to additional 'stories'
- Existing and proposed plans show a garage at the site – there isn't one
- Negative impact on property values
- Semi-commercial use is not what the property was designed for
- May also set a precedent for similar proposals in the future

7) Site visit

7.1 Imagery held by the LPA was used to assess the impact of the development

8) Permitted Development

- 8.1 Based on the records available permitted development rights have been removed from the property however these are for additional windows on the side elevations of the property and not for extensions to the property.
- 8.2 Class AA, Part 1 of the GDPO provides a deemed planning permission with additional stories to a dwellinghouse subject to limitations and

conditions. With regard to the limitations set out in paragraph AA.1 (a)-(k) it is considered that the development accords with the limitations.

8.3 Class AA.2 of the GPDO requires that conditions are satisfied and in particular condition (3) requires prior approval is obtained before beginning the development.

8.4 Criteria for prior approval are:

- (i) *Impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;*
- (ii) *The external appearance of the dwellinghouse including the design and architectural features of*
 - (aa) *The principle elevation of the dwellinghouse; and*
 - (bb) *Any side elevation of the dwellinghouse that fronts a highway*
- (iii) *Air traffic and fence asset impacts of the development; and*
- (iv) *Air traffic and fence asset impacts of the development; and (iv) Whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2021 issued by the Secretary of State*

8.5 These matters are addressed below:

9) Assessment

9.1 Condition for prior approval seeks to provide limited protection in terms of existing visual and residential amenity. This is more or less consistent with Kirklees Local Plan Policy LP24 and NPPF Chapter 12 which aims for high standards of design and amenity. It is noted that dormer windows are proposed within the front and rear elevations however the regulations do not state that dormer openings are not restricted from the development. The application is to solely determine whether the extension over the main body of the property complies with current legislation.

(i) Impact on amenity

9.2 The proposed extension will add bulk to the existing dwellinghouse resulting in an increase of 1.5 metres in overall height thus adding an additional storey to the property. The surrounding dwellings are a mixture of two storey dwellings and bungalows and due to the topography of the area, the roof heights vary.

9.3 It is important to note that an identical scheme was granted prior approval for this development under application number 2021/92295. A full assessment of the proposal was carried out as part of that application and there have been no material changes to planning policy since this prior approval was granted.

- 9.4 The increase in height would be above the original main body of the property with adjacent neighbours surrounding the property. Officers consider that raising the ridge and eaves of the dwelling by 1.5 metres would slightly increase the existing overshadowing in winter months during the morning and evening hours when direct sunlight is limited.
- 9.5 New openings would be introduced within the roof slope of the rear elevation and within the roof slope and 2nd storey of the front (south facing) elevation however as there are window openings at first floor in the dwelling, the new windows would not offer any significant effects that would lead to loss of privacy or overlooking into neighbouring gardens. The openings within the rear elevation are screened from the neighbouring property to the north by trees.
- 9.6 The facing property to the front elevation is separated from the site by approximately 36 metres which is considered to be acceptable so as not to be impacted on by the proposal.
- 9.7 Recent case law under *Cab Housing Limited v Secretary of State for Levelling Up, Housing and Communities & Anr.* Case Number: CO/2763/2021 has established that in paragraph AA.2(3)(a)(i) of the Act, 'impact on amenity' is not limited to overlooking, privacy and loss of light and in paragraph AA.2(3)(a)(ii) the control of the 'external appearance' of the dwellinghouse is not limited to impact on the subject property but also includes impact on neighbouring premises and the locality. The surrounding appearance of the wider area is characterised by predominately detached random coursed stone-built dwellings a varying design and sizes. Upon approach to the principal elevation of the property, the property whilst higher as a result of the proposal, sits at lower ground compared with surrounding dwellings which helps mitigate the increase in height. Directly west of the property sits an existing three storey building albeit with a lower ground floor garage with mainly two storey dwellings to the east. South of the dwelling is a single storey bungalow which is in contrast to the resulting three storey dwellinghouse although the single bungalow does not characterise the area and is of sufficient separation distance for the two dwellings and other surrounding dwellings not to appear at odds to the degree the proposal will significantly harm the wider appearance or character of the area. Due to the siting of the dwelling, it is not considered that the harm to the neighbouring properties and locality would be so harmful that there would be sufficient grounds to refuse prior approval in this case.
- 9.8 It is appreciated that there are noise implications and disruptions which would be unavoidable during construction. However, this is a transient effect which is not considered to be a reason to refuse the proposal. Moreover, condition AA2.(3) (b) requires the development to provide a report on how construction noise, dust, vibration and traffic will be mitigated on adjoining owners or occupiers.

9.9 It is therefore considered that the proposed development accords with the aims of the regulations within the GPDO in terms of the impact on residential amenity and therefore complies with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

(ii) The external appearance of the building

9.10 The proposed development adds an additional storey to an existing two storey dwellinghouse within a housing estate which has dwellings of varying designs but matching construction materials.

9.11 In terms of the impact of the scheme on the external appearance of the principal elevation of the property, in this instance this would include openings being included within the second storey and roof slope of the principal south facing elevation and within the roof slope of the rear elevation. No consideration can be made to the impact of the rear elevation of the proposal as consideration can only be given to the principal elevation and the side elevation fronting a highway which is the west facing elevation in this instance. The openings within the principal elevation would be aligned with the openings at first floor and are therefore considered acceptable and consistent with Local Plan Policy LP24 and advice within the NPPF.

9.12 The side elevation of the property would also face a highway and is therefore also required to be considered. The proposed side elevation contains no additional openings. Condition AA.2 (2) (b) states that"the development must not include a window in any wall or roof slope forming a side elevation of the dwellinghouse;" . As none are proposed, the proposed meets this test.

(iii) Air traffic and defence asset impacts of the development

9.13 The additional storey is not considered to impact upon any flight paths or cause any distraction to aircraft within the vicinity.

(iv) Directions relating to Protected Vistas dated 15th March 2012

9.14 There are no Directions relating to protected vistas

10)Recommendation

10.1 The proposed development is acceptable in terms of limit remit to consider visual and residential amenity allowed by the GDPO and as such proper approval is recommended

11)Response to representations

Visual amenity

- Already approved for a huge extension, converting to a double storey home from a bungalow which is imposing on the surrounding neighbours
- Out of character and not in keeping with other properties with bungalows in front and houses adjacent to the property
- Property will be overly large for the area with no other properties nearby having this level of build
- Can't find another 3+ storey high residential property for miles around
- Not in keeping with design and architectural features

Response: As noted above, the impact of the scheme is considered acceptable in this case given that Class AA, Part 1 of the GDPO provides a deemed planning permission with additional stories to a dwellinghouse.

Residential amenity

- 3rd storey which the resident has already started construction on is going to completely impact the privacy of all neighbours whose gardens will now be overlooked
- Even a house two away will be overlooked by this proposal
- View from garden will be ugly construction
- Does not respect scale and proportions of surrounding houses and bungalows
- A third storey will make the house too dominant and overbearing

Response: The impact of the scheme on residential amenity has been assessed above

Highway safety

- Cause even more of a dangerous corner for neighbours to drive by
- There is already an overspill of vehicles into the surrounding roads and areas, adding another level to the site will increase this
- Will make road safety an issue for all surrounding neighbourhood putting children at risk as cars parked on roadsides and curbs cannot easily be seen around

Response: The application is not a full planning application and therefore there are only limited matters that can be taken into consideration

General comments

- Used as a hub for commercial van hire business so has multiple vans parked outside which since the new construction has begun are now being parked in front of other neighbours homes

Response: Should the property be used for commercial purposes, this is a matter for the Planning Enforcement Team to investigate should a complaint be received

- Other neighbours refused 2nd storey extensions but somehow this resident is allowed to have 3 storeys at a site which was originally for a bungalow because it is a corner plot on a busy corner

Response: Each application, whether it be for Prior Approval of for Planning Permission is assessed upon its own merits and in accordance with the requirements of the type of application

- Garden concreted for storage of hire vans which have never moved in past two years and will have devalued the area

Response: The devaluation of properties is not a material planning consideration

- Planning letter dated 09.06.2021 refers to additional 'storey' with planning letter dated 24.05.2024 refers to additional 'stories'

Response: Noted

- Existing and proposed plans show a garage at the site – there isn't one

Response: Noted

- Negative impact on property values

Response: The devaluation of properties is not a material planning consideration

- Semi-commercial use is not what the property was designed for

Response: See above

- May also set a precedent for similar proposals in the future

Response: Class AA, Part 1 of the GDPO provides a deemed planning permission with additional stories to a dwellinghouse, subject to criteria and therefore an additional storey(s) can be added to the original part of a dwellinghouse via the Prior Notification procedure being carried out.

12)Decision notice

NOTE: The Council's GIS system indicates that 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 to intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	047-21-PL03		23 rd May 2024
Existing site plan, elevations and floor plans	047-21-PL01		23 rd May 2024

Plan Type	Reference	Version	Date Received
Proposed site plan, elevations and floor plans	047-21-PL02 Rev: B		21rd May 2024

Dated:15th July 2024

Coal – low