

**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:	<b>2024/70/91473/W</b>
Site Address:	3, Holt Lane, Holmfirth, HD9 3BW
Description:	Removal of condition 2 (render finish) on previous permission 2024/90212 for external works including raised terracing to rear garden
Recommending Officer:	Joanna Rednall

**DECISION – REMOVAL OF CONDITION 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-Jul-2024

## THE SITE

3, Holt Lane is a three-storey dwelling located in Holmfirth. The area is predominantly residential where the main construction material is stone. The main amenity space is to the rear of the dwellinghouse and at a rising land level elevation providing views over the Holme Valley, with the dwellinghouse located at a lower ground level to the garden.

The application property is split level, in which the front (east facing) elevation is three storeys and the rear (west facing) elevation is two storeys. The rear terrace is accessed from the first floor.

## THE DEVELOPMENT

Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for variation of condition 2 (render finish) on previous permission 2024/90212 for external works including raised terracing to rear garden.

Condition 2 of 2024/90212 states the following:

*2. Within 3 months of the date of this decision all render used within the development hereby approved shall be completed with a dark brown or dark green colour finish which shall be retained thereafter.*

**Reason:** *In the interests of visual amenity and in accordance with Policies LP01, LP02 & LP24 of the Kirklees Local Plan, Principles 1 and 2 the Council's adopted House Extensions and Alterations Supplementary Planning Document, Policies 1 & 2 of the HVNDP and policies within Chapter 12 of the National Planning Policy Framework.*

## PLANNING HISTORY

The most relevant planning history for the site relates to the following:-

2024/90212 External works including raised terracing to rear garden  
*Conditional full permission*

## REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (2015).

The application has been publicised on the Council's website, and by neighbour notification letter. The expiry date of the publicity period was 24th April 2024.

No representations were made as a result of the publicity.

## CONSULTATIONS

Holme Valley Parish Council – support

## **ALLOCATION AND POLICIES**

The following allocation and policies were considered relevant to the consideration of consent 2024/90212:

### Kirklees Local Plan (LP)

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP21 Highway Safety
- LP22 Parking Provision
- LP24 Design
- LP30 Biodiversity
- LP31 Strategic Green Infrastructure Network

### 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. Considered to be of relevance to the consideration of this application are policies within the following chapters:

- Chapter 2 – Achieving sustainable development
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 16 – Conserving and enhancing the historic environment

### Supplementary Planning Guidance

House Extensions and Alterations SPD (June 2021)  
Holme Valley Neighbourhood Development Plan (2021)

Considered to be of relevance to the consideration of this application are policies within the following chapters-

- Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley
- Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- Policy 12 – Promoting Sustainability
- Policy 13 – Protecting Wildlife and Securing Biodiversity Net Gain.

There has been no significant change to the site allocation since the 27<sup>th</sup> March 2024 (2024/90212) consent.

Insofar as they are relevant to the consideration of this application the following Assessment makes reference to the applicable policy / legislation.

## **ASSESSMENT**

This Section 73 application seeks minor material variations to the originally approved plans which have come about by a change in the design and layout of the site.

It is considered that the key determining issue in the consideration of this application is impact upon visual amenity which will be discussed below. As the 2024/90212 planning application was for retrospective permission, the works are already established at the site.

The National Planning Policy Framework has been updated since the determination of the previous application. It is not considered the update of the NPPF has a significant impact upon the determining issues considered applicable in this case.

### **Impact upon visual amenity**

Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

Policy 1 of the Holme Valley Neighbourhood Development Plan sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA), in this case River Holme Settled Valley Floor (LCA 4).

Policy 2 of the Holme Valley Neighbourhood Development Plan states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

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.

This variation of condition application looks to maintain the cream render coloured retaining walls, previously conditioned on the retrospective application to be of dark green or dark brown finish. The raised terrace is sited upon a steeply sloping garden to the rear of 3, Holt Lane. There are three useable amenity spaces with potential for seating areas at varying elevations, the highest being ~8 metres above 'upper ground floor' level and approximately 10.5 metres above Holt Lane and accessed via stone flagged steps. The first and highest retaining wall is constructed from render with a cream colour finish, where the original report stated:-

*“This element of the raised terrace is the most visible from neighbouring properties and the street scene, and a wall of this colour is considered to be less in keeping with the visual amenities of the street scene than a more neutral tone such as dark green or dark brown.”*

The applicant has submitted a supporting statement to justify the removal of Condition 2 that provides examples of white/cream rendered dwellings within the Holme Valley. However, it is not considered that this overcomes the visual harm of the development within the wider locality. A retaining wall completed with a dark brown or dark green finish is considered to be less incongruous within the street scene than the existing cream colour, and completing the development in accordance with this condition is considered to suitably mitigate the visual harm of the development to ensure it is sympathetic to the original dwelling and street scene.

Guidance in the NPPF at paragraph 140 states that LPAs, should 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. In this case the proposed changes are concluded to materially diminish the quality of the originally approved permission. Furthermore, it is considered that the use of the condition was to 'enable development to proceed where it would otherwise have been necessary to refuse planning permission' (NPPG Para 001 Reference ID: 21a-001-20140306).

The inclusion of the condition was to ensure the development could be regularised, whilst identified visual harm be suitably mitigated. The condition meets the requirements of the 6 tests for conditions set out in paragraph 3 of the NPPG (Reference ID: 21a-003-20190723).

It is therefore considered that approving these details and varying Condition 2 would cause detrimental harm to the visual amenities of the locality and that the proposed variation would be contrary to the reason for the condition and would lead to a development that has a detrimental visual impact leading to a visually harmful development contrary to policies LP01, LP02 & LP24 of the Kirklees Local Plan, Principles 1 and 2 the Council's adopted House

Extensions and Alterations Supplementary Planning Document, Policies 1 & 2 of the HVNDP and policies within Chapter 12 of the National Planning Policy Framework.

## 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 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.

**Recommendation: REFUSE**

**Decision Authorisation:** Delegated Powers

**Application Number:** 2024/91473

**Officer Recommendation:** Variation of Conditions Refused

## Reason

1. The proposed removal of condition no.2 of permission 2024/90212 would cause detrimental harm to the visual amenities of the locality contrary to the reason for the condition and would lead to a visually harmful development contrary to policies LP01, LP02 & LP24 of the Kirklees Local Plan, Principles 1 and 2 the Council's adopted House Extensions and Alterations Supplementary Planning Document, Policies 1 & 2 of the HVNDP and policies within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

<b>Plan type as submitted as part of application 2024/91473</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form	-	-	24/05/2024
Supporting statement dated May 2024	-	-	29/05/2024
<b>Plan Type submitted as part of application</b>			

<b>2024/90212</b>			
Application form	-	-	26/01/24
Climate change statement	-	-	29/01/24
Supporting statement	-	-	26/01/24
Plans and site sections	2321 01	A	05/02/24
Location Plan	-	-	19/03/24

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as it was considered that they could not overcome concerns and the application could not be supported.

**Report Dated:** 15<sup>th</sup> July 2024