

**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:	2024/62/91678/W
Site Address:	3, Stainecross Avenue, Crosland Moor, Huddersfield, HD4 5HZ
Description:	Erection of detached garage (retrospective)
Recommending Officer:	Joanna Rednall

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 27-Aug-2024

The Site

3 Stainecross Avenue, Crosland Moor is semi-detached bungalow faced in render and stone with a tiled roof. The property benefits from a small garden to the front, an area of hardstanding to the side and private amenity space to the rear. Pedestrian and vehicular access can be taken from the front boundary at the application site onto Stainecross Avenue. Boundary treatment consists of holly hedging to the front and fencing and shrubs to the rear.

The site and wider area are dominated by residential properties, most of which vary in design and form.

The Proposal

The applicant is seeking planning permission for erection of detached garage (retrospective). The measurements of the garage are as follows:

- ~4.1m width
- ~6.5m depth
- ~2.6m eave height
- ~4.2m ridge height

The garage is constructed from stone and concrete block with a pitched gable roof above infilled with tiles.

The garage features patio doors to the rear elevation and a garage door to the front. To the side (south-west facing) elevation is a window and door.

Planning History

Relevant planning history for this site is summarised as follows:-

2019/93655 - Erection of single storey rear extension, detached garage and boundary wall with gates - *Conditional full permission*

2020/91471 - Erection of front and side dormers and external alterations - *Conditional full permission*

2021/93732 - Non material amendment to previous permission 2020/91471 for erection of front and side dormers and external alterations - *Approved*

History of Negotiations

No negotiations have been sought in the processing of this application as it was considered no amendment could overcome the harm of the proposal, which is retrospective.

Publicity & Representations

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters.

Final publicity date expired: 8th August 2024.

8 letters (which includes hand-written letters, e-mails and on-line representations) of representation have been received. These are summarised as follows:-

Letters of objection:

- Plans are not accurate; the garage is larger than the plans
- The materials used to one side facing No.1, Stainecross Avenue are lower quality than those facing the application property
- The gutters and roof trespass the boundary lines and the building has not been safely constructed.
- The design, appearance and layout of the building is dangerous, dominant, and is harmful to the character of the area
- Reduced outlook from neighbouring properties
- The patio doors indicate the garage will be used as living quarters.

Consultations

No statutory consultations were requested for this application.

Allocation & Policies

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).

Local guidance and policy is provided by the Kirklees Local Plan (adopted February 2019) as such the following policy, guidance and legislation is considered relevant to the determination of this application:-

Kirklees Local Plan (LP)

LP1 Achieving Sustainable Development
LP2 Place Shaping
LP21 Highway Safety
LP22 Parking Provision
LP24 Design
LP30 Biodiversity

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:

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Chapter 2 – Achieving sustainable development
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well-designed and beautiful places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

House Extensions and Alterations SPD (June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Impact upon the character and appearance of the area (including impact upon historic environment)
2. Impact upon residential amenity
3. Impact upon highway safety
4. Other matters
5. Representations
6. Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. LP1 goes on further to stating that:

The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

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”.

In this case, the principle of development in this application is acceptable and shall be assessed against the applicable material planning considerations within the following report.

2 – Impact on character and appearance of the area

Policy LP24 (Design) of the Council's adopted Local Plan sets out that proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers. Paragraph 135 of the NPPF is also of relevance to the consideration of this application.

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. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

The detached garage is located within the rear curtilage of the dwellinghouse with a width of approx. 4.1m, a depth of approx. 6.5m and a maximum height of approx. 4.2m. The garage has been constructed from stone and concrete block along the shared boundary wall with No.1, Stainecross Avenue, with a gable roof incorporated above. A previous garage, of smaller dimensions sited to the rear of No.3 has been approved under application 2019/93655.

Whilst the structure would accord with the SPD to a certain extent, it is noted that the outbuilding would be sited on significantly higher ground level than neighbouring properties to the north-east, in a prominent location adjacent to this boundary. Due to its siting and scale, the outbuilding is highly visible from public vantage points along Stainecross Avenue and would be a prominent feature within the locality.

Concerns have been raised with regard to materials. Following a site visit and from the information submitted, it appears the garage has been constructed from stone to the front, side (south-west facing) and rear elevations and poor-quality concrete blocks to the north-east facing elevation with a gable roof above infilled with tiles. Given the difference in ground levels whereby No.1 is sited at a lower ground level to No.3, the detached garage would not appear subservient due to the substantial bulk and massing along the shared boundary that is visible from the wider street scene on 3, Stainecross Avenue, which is exacerbated by the materials utilised on the side elevation.

On this basis, the proposal would significantly adversely impact upon the character and appearance of the host property and neighbouring dwellings and cannot be supported from a visual amenity perspective.

Having taken the above into account, the proposed extension is considered to cause significant harm to visual amenity. The proposal fails to comply with Policy LP24 of the Kirklees Local Plan in terms of the form, scale and layout, paragraphs 4.43 & 5.29 and Principle 2 of the Council's adopted House Extensions and Alterations Supplementary Design Guide, and policies within chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

The House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposal's impact on residential amenity, which state:

- Principle 3 – that: *“extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours”.*
- Principle 4 – that: *“extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook.”*
- Principle 5 – that: *“extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property”.*
- Principle 6 – that: *“extensions and alterations should not unduly reduce the outlook from a neighbouring property.”*

The properties potentially affected by the proposed development are those which directly neighbour the site, these being:

1, Stainecross Avenue

This neighbour is located north-east of the application dwelling.

The detached garage is located along the boundary, extending approx. 6.5m in depth at a total height of approx. 4.2m. It is considered the design, scale and siting of the garage would be detrimental to the residential amenity of this neighbour.

In regard to overbearing, it has been assessed that the development would intensify development to the north-east of the application site and create significant bulk and massing along the shared boundary. As previously noted, this neighbour is located at a lower ground level to the application site, and the garage is constructed along the shared boundary. Given these factors, the significant massing proposed under this application creates an unacceptable overbearing impact upon the rear amenity space of No.1 and creates an unacceptable oppressive impact. In addition, the gable roof design provides an additional approx. 1.2m in height along the shared boundary, creating an unacceptable oppressive impact. This is considered to unduly reduce the outlook of occupiers at No1, Stainecross Avenue, and is therefore unacceptable with regard to residential amenity.

In regard to overshadowing, these neighbours are located to the north-east of the application site and therefore any impact would only be visual within an evening. For these reasons any harm on overshadowing can be supported.

Alongside this, the submitted plans show no additional openings to be inserted into the north-east facing side elevation which will mitigate any undue harm on overlooking.

5, Stainecross Avenue

This neighbour is the adjoining property located southwest of the application site.

The proposed development is considered to have an acceptable impact upon the residential amenity of this neighbour.

In regard to overbearing and overshadowing, the garage is set off the shared boundary by approx. 9 metres. Given this separation distance, it is considered sufficient to prevent undue impacts of overbearing/overshadowing.

With regards to overlooking/ privacy, the proposed plans show two openings inserted to the side/ southwest facing elevation in the form of a door and a window. The garage is situated at the opposite side of the dwellinghouse and away from these neighbours and is not a habitable building. As such there will be no further impact on these neighbours' amenity in regard to overbearing, overshadowing and overlooking.

2, Dryclough Avenue

This neighbour is located south-west/ rear of the application site. The submitted plans show openings in the form of patio doors to the rear elevation, and the garage set approx. 2.6m away from the shared boundary.

In regard to overbearing, it has been assessed that the proposal would intensify development to the side and rear of the application site. Given the separation distance from the shared boundary, the proposal is not considered to unduly reduce the outlook of this neighbour and is therefore acceptable with regard to overbearing.

With regard to overlooking, it has been assessed that there would be some harm as new patio doors will be inserted into the rear elevation of the garage. The garage is not a habitable room and is set away from the shared boundary, therefore on balance any impact would not be significant enough to warrant refusal in this regard. Boundary treatment is in place in the form of fencing that would alleviate the detrimental harm to overlooking.

It is therefore considered that in terms of residential amenity, the proposed is considered to result in an adverse impact upon the residential amenity of No.1, Stainecross Avenue, contrary to Policy LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the adopted House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and policies within chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

The proposed development would not increase the number of bedrooms on site, and it is considered the number of occupants within the dwelling would remain as existing. With this being the case, proposed parking arrangements are considered to be acceptable. The garage provides a parking space with additional parking available on the driveway. This area is already hard surfaced and there is no impediment to its use. The proposal does not

propose any changes highway access. It is therefore considered that the proposal is acceptable in relation to highway safety.

It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

It is therefore considered that in terms of access and highway safety / parking the proposed would comply with Policies LP21 and LP22 of the Kirklees Local Plan, principle 15 of the Council's Street Design Guide and chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Considering the modest nature of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. A Climate Change statement has been submitted with this application.

6 – Representations:

- The materials used one side facing No.1, Stainecross Avenue are lower quality than those facing the application property
- The design, appearance and layout of the building is dangerous, overlooking, and is harmful to the character of the area
- Reduced outlook from neighbouring properties

Comment: Noted. The above comments have been carefully considered within Section 2 and 3 of this report.

- Plans are not accurate; the garage is larger than the plans
Comment: This is noted. A site visit was conducted whereby the officer was able to view the proposal in the context of the site. The plans have been assessed as submitted and a recommendation made as such.

- The patio doors indicate the garage will be used as living quarters.
Comment: This is noted. Officers consider plans as submitted and no evidence has been submitted to the contrary. However, outbuildings can be utilised for ancillary use incidental to the property.

- The gutters and roof trespass the boundary lines and the building has not been safely constructed.
Comment: Noted, however, this is not a material planning consideration and would be dealt with as a civil legal matter should any damage be incurred.

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.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2024/91678

Officer Recommendation: Refusal

Reason

1. The detached garage, by reason of its scale, siting and materials would create an incongruous feature that would form an inappropriate feature with the host property and street scene and would be harmful to the

character of the area. To permit the detached garage would be contrary to policy LP24 of the Kirklees Local Plan, KDP 1 & KDP 2 of the House Extensions and Alterations SPD and Chapter 12 of the National Planning Policy Framework.

1. As a result of the siting and proximity of the development to 1, Stainecross Avenue, the detached garage, by reason of its size, scale and siting, results in a detrimental overbearing and oppressive impact upon the occupiers of 1, Stainecross Avenue. To permit the detached garage would be contrary to policy LP24 of the Kirklees Local Plan, KDP 5 & KDP 6 of the House Extension SPD and chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	PP-13151429v1	-	13/06/2024
Proposed & existing floor plans and elevations	PAD.300.429	-	13/06/2024
Application form	-	-	13/06/2024
Climate Change Statement	-	-	02/07/2024

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. No amendments were sought as it was considered they would not overcome the harm, and the development has been submitted as a retrospective application.

Report Dated: 21/08/2024

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