

**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:	2024/70/91818/W
Site Address:	5, Edgerton Green, Edgerton, Huddersfield, HD1 5RD
Description:	Variation of condition 2 (plans) on previous permission 2020/93131 for erection of single and two storey extensions to enlarge single storey element to the front and alter the window layout including associated alterations.
Recommending Officer:	Joanna Rednall

DECISION – Variation of Condition 2 - 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 22-Aug-2024

THE SITE

5 Edgerton Green is a two storey detached dwelling constructed from brick and render with a gable tiled roof. The dwelling benefits from an attached garage to the side, which also wraps around to the front elevation. Pedestrian and vehicular access can be taken from the front boundary onto Edgerton Green. To the rear is private amenity space. The property also benefits from a single storey extension to the rear, with balcony over. Boundary treatment consists of timber fencing.

The site is situated within a wider residential area, whereby the neighbouring properties vary in design and form. However, the common construction materials are brick and render. To the North East of the site is a public right of way (HUD/353/10). The site is unallocated on the Kirklees Local Plan, however, is adjacent to Edgerton Conservation Area, alongside a grade II listed colleague building to the North.

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 (plans) on previous permission 2020/93131 for erection of single and two storey extensions.

Condition 2 of 2020/93131 states the following:

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 so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP21, LP22, LP24, LP30 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

The application seeks permission under a Section 73 application to vary the approved plans. The proposal seeks to increase the projection of the front porch by 1.5m to lie flush with the front elevation of the garage. Three windows are also proposed to the side/ west facing elevation of the porch.

A site visit confirms that the previous planning permission has been implemented and the current Section 73 application is valid.

PLANNING HISTORY

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

2020/93131 Erection of single and two storey extensions - *Conditional full permission and implemented*

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 neighbor notification letter. The expiry date of the publicity period was 8th August 2024.

No representations were received as a result of the publicity.

CONSULTATIONS

No statutory consultations were requested for this application.

ALLOCATION AND POLICIES

The following allocation and policies were considered relevant to the consideration of consent 2020/93131:-

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 on the Kirklees Local Plan, however, is adjacent to Edgerton Conservation Area and the setting of a grade II Listed Building.

Kirklees Local Plan

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping

- LP 21 – Highway safety
- LP 22 – Parking
- LP 24 – Design
- LP 30 – Biodiversity
- LP 35 – Historic Environment

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

ASSESSMENT

1. Principle of development

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.

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.

Given the 2020/93131 consent required the development to commence within 3 years, and this has happened. It is considered that in the instance of any approval there is no requirement for a time limit condition (condition no.2 of the 2020/93131 consent) to be imposed.

The principle of development for the erection of single and two storey extensions was established under permission 2020/93131. 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.

The determining issues are assessed as follows:-

2. Impact on visual amenity

The NPPF offers guidance within Chapter 12 (Achieving well-design and beautiful spaces) whereby Paragraph 131 provides a principal consideration concerning design which states:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Kirklees Local Plan policies LP1 and LP2 and more significantly LP24 also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area and therefore retaining a sense of identity. Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. 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.

This application seeks to extend the projection of the porch by 1.5m to lie flush with the front elevation of the garage. As a result of the proposed works, it is not considered that the increase in projection would result in a development that would appear visually intrusive within the street scene over and above that which has been approved and lawfully implemented. The property is set well back from the pavement and located within a residential area whereby surrounding development varies in terms of design. The height of the porch is to remain as existing with a flat roof above. The materials would not be altered and would remain as existing to match the main house.

It is noted that three windows would be installed to the side/west facing elevation of the front porch. Given that the fenestration would be of an appropriate design and scale, they are considered to respect the appearance and character of the surrounding area.

The proposed amendments are considered to relate satisfactorily to the host building and have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 & LP24 of the Kirklees Local Plan, having regard to principles 1, 2, 7 and 9 of the House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.

3. Impact on residential amenity

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring:

“They provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings”.

Furthermore, paragraph 135 of the NPPF requires that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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 6, Edgerton Green

6, Edgerton Green is located North East of the application site. It has been assessed that the proposed enlargement would not cause significant overbearing/overshadowing/ overlooking impact. The porch would be screened by the existing garage at No.5 with no new openings facing this neighbor. The scheme is therefore considered to have an acceptable impact upon this neighbor’s amenity.

Impact on 13, Edgerton Green

13 Edgerton Green is neighboring property to the South East of the application site. The increased footprint of the front porch would see a reduced separation distance of openings facing this neighbour. However, a ~25m separation distance would be retained, including a highway. As such, any overbearing, overshadowing and overlooking, from the additional bulk and massing contained within the porch extension is not considered to be detrimental.

Impact on 4, Edgerton Green

4 Edgerton Green is the neighbouring property to the South West of the application site. The proposed windows to the side elevation would face this neighbor and set off the shared boundary by ~8m. There is also well-established boundary treatment in place, in the formation of timber fencing, that will help alleviate any overlooking impacts. Therefore, due to the minimal, limited increase in front projection of the porch, it is not considered that the works would cause significant harm over and above the harm identified as part of the previous approval.

4. Impact on Highway Safety

The changes proposed to the approved plans would not intensify the domestic use and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extensions & Alterations SPD.

Other matters

Public Right of Way

The proposed alterations to the approved extensions would not alter the relationship with the boundary with the PROW (HUD/353/10) to the north east of the application site. Therefore, the proposal would not prejudice the function of the bridleway nor impact upon users of the PROW, in accordance with Policy LP 23 of the KLP.

CONCLUSION & RECOMMENDATION

There has been no significant change to the site allocation or national/local planning policy and guidance since the 2020 consent (2020/93131). It is therefore considered that, subject to the wording of conditions being amended, where relevant, to the wording set out in the 'Review of Conditions' section of this report and all informative notes imposed on the 2020 consent (2020/93131) being re-imposed on this Section 73 application the proposal is acceptable.

It is therefore concluded that the variations to the approved plans proposed under this Section 73 application are acceptable and do not alter the conclusions reached and the recommendation made for application 2020/93131.

Approval is recommended.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/91818

Officer Recommendation: Approve

Conditions

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 (as amended).
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 so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP21, LP22, LP24, LP30 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.
3. The external walls and roofing materials of the extensions hereby approved shall in all respects match those used in the construction of the existing building.
Reason: In the interests of visual amenity to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.
4. Notwithstanding the submitted plans, the first floor opening within the side elevation of the side extension to serve the en-suite on Dwg.no 0455(PL)02 Rev A shall be fitted with obscure glazing, minimum grade 4. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the window shall thereafter be so retained obscure glazed.
Reason: So as not to detract from the amenities of neighbouring property by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the south western facing side elevation of the single storey side and rear extensions hereby approved.

Reason: So as not to detract from the amenities of neighbouring properties by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan.

NOTE: Bridleway HUD/353/10 is adjacent to the development site. It 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 at Civic Centre 3, Huddersfield or by telephone 01484 221000 and ask for Sharon Huddleston.

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 work may be carried out.

NOTE: Please note that the granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

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 license. 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
Plan Type – Application 2020/93131			
Location plan and site plan	0455(EX)00	A	18 th September 2020

Plan Type	Reference	Version	Date Received
Existing elevations	0455(EX)03	-	18 th September 2020
Existing ground floor plan	0455(EX)01	-	18 th September 2020
Existing first floor and roof plan	0455(EX)02	-	18 th September 2020
Plans and details pursuant to 2024/91818			
Application form			27 th June 2024
Proposed Elevations	0455(PL)04	D	3 RD July 2024
Existing Floor Plan	0455(PL)01	A	27 th June 2024
Proposed Ground Floor Plan	0455(PL)01	F	3 rd July 2024
Proposed First Floor Plan	0455(PL)02	D	3 rd July 2024
Proposed Roof Plan	0455(PL)03	B	3 rd July 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 that the proposal was acceptable as submitted.

Report Dated: 12/08/2024