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:	**2024/62/92276/W**
Site Address:	3, King Cliff Road, Birkby, Huddersfield, HD2 2RR
Description:	Erection of front dormers (within a Conservation Area)
Recommending Officer:	Laura Yeadon

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.

Emma Thompson

AUTHORISED OFFICER

Date: 08-Oct-2024

Officer Report

Website

Site Description

3 King Cliff Road is a terraced property located on the corner of King Cliff Road and Halifax Old Road which is within the defined Birkby Conservation Area within the Kirklees Local Plan. The property is constructed from stone with a slate roof and is two storeys in height. The property is a mixed-use property offering food outlets at ground floor with residential accommodation above. The submitted existing plans indicate that the residential accommodation provides a dining/kitchen, 3 no. bedrooms and a bathroom at first floor and a further 2 no. bedrooms at second floor within the roof space. The submitted location plan does not indicate that there is any outdoor amenity space to the property.

Description of Proposal

The application is for the erection of front dormers to the roof of the building. The submitted details indicate that these would replace the existing roof lights.

The proposed dormer extensions would be identical in size being pitched roofed with a width of 2.5 metres, total height of 1.9 metes being set up from the gutter line by 0.7 metres and set down from the roof ridge by 0.2 metres. The submitted information indicates that the dormers would be dark coloured cladding to the front and cheeks with grey slates for the roof.

History of negotiations/amendments received

No negotiations have taken place with the Agent as it as not considered that there was a design solution that would overcome the concerns with regard to visual amenity and the impact on the Birkby Conservation Area.

Relevant Planning History

2005/92724 Change of use from A2 to A2 (within a Conservation Area)
Conditional Full Permission

2011/90725 Change of use of ground floor from A2 to A5 and installation of replacement shop front
Withdrawn

2011/91544 Certificate of lawfulness for a proposed A1 use
Granted

2013/90349 Change of use from A1 to A3 (within a Conservation Area)
Conditional Full Permission

Representations

We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, site notice and newspaper advertisement.

Final publicity date expired 27th September 2024 – no representations received

Parish/ Town Council – not applicable

Consultation Responses

K.C Conservation and Design – informal discussions – contrary to policies – doesn't preserve or enhance the character of the Conservation Area – dormers are not characteristic of the Conservation Area

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 within the Birkby Conservation Area as defined within the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** - Biodiversity and geodiversity
- **LP 35** – Historic environment
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 53** – Contaminated and unstable land

Supplementary Planning Documents:

- House Extensions and Alterations SPD

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.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

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Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity and Conservation Area
2) Impact on residential amenity
3) Impact on 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 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – 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."

- Principle 2 – 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 detail."

With specific regard to the House Extensions and Alterations SPD the other key designs principles for consideration are:

- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 8: Energy efficiency
- Key design principle 9: Construction materials
- Key design principle 12: Natural environment
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage
- Key design principle 17: Access for all users

Paragraphs 5.24, 5.25, 5.26 and 5.27 of the House Extension SPD relate to the provision of dormers. Given roofs are a very prominent and visible element of the majority of properties, development affecting the roof, such as dormer extensions need to be carefully considered in terms of their appearance and scale in order to be considered acceptable in terms of LP24 of the KLP, KDP1 & KDP2 of the House Extension SPD and chapter 12 of the NPPF.

The SPD states that dormer windows should:

- relate to the appearance of the house and existing roof;
- be designed in style and materials similar to the appearance of the existing house and roof;
- not dominate the roof or project above the roof or project above the ridge of the house;
- be set below the ridgeline of the existing roof and within the roof plane; and

- be aligned with existing dormer windows on neighbouring properties in the same roof plane where relevant.

The above listed policies and guidance within the SPD are taken into account within the sections below of this report.

The conclusion section of this report sets out the conclusions in relation to the principle of development in light of all other material considerations.

2 – Impact on visual amenity and Conservation Area:

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.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act states in the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The application site is within the Birkby Conservation Area. In terms of visual amenity, the dormers would be located on the front elevation of the building. Due to the siting of the property, which forms part of a terraced row within a corner plot on the junction of King Cliff Road, Halifax Old Rod, and Wasp Nest Road, the building itself is within a prominent location. Therefore, the front elevation roof slope is clearly read and visible from public vantage points outside the curtilage of the building itself.

The design of the dormers would be modest in size with pitched roofs whereby the original roof would remain the dominant element which would accord with the requirements of the SPD and whilst cladding is proposed for the front and cheeks of the dormer, these could be conditioned to be slate hung to match the existing roof.

The streetscape is characterised by consistent building lines, strong architectural rhythms and street scene presence that contribute positively to the character and appearance of the Conservation Area. The dormers would introduce a roof feature that is not common with the street scene and due to their being no other dormers within close proximity of the site, they would not be aligned with others within the roofscape nor would they have openings which would align with the existing openings within the property. The dormers would be prominently sited and would be an intrusive and uncharacteristic addition to the property, detracting from the simple roof form and the prevailing character of the area. As such, it is not considered that the proposed works would comply with Key Design Principles 1 and 2 of the SPD, Policy 24 (a) of the Kirklees Local Plan and policies within the NPPF with regards to design (Chapter 12).

Due to the siting of the property within a Conservation Area, informal discussions took place with the Council's Conservation and Design Officers. Officers considered that the proposed dormers would fail to preserve or enhance the Conservation Area which is considered to lead to harm to the deisgnated heritage asset. There does not appear to be ay demonstrable public benefits put forward in this case that would outweigh the harm which would occur. The development appears to provide an additional bedroom to the property which would serve the private benefit of the applicant and the wider public benefits of the development are not demonstrated in this case. This would fail to accord with paragraphs 207 and 208 of the NPPF.

In conclusion, it is considered that by virtue of the presence of the dormers, which would introduce features into the street scene, which is characterised by linear roof slopes with little interruptions, would result in a harmful impact upon the visual amenities of the locality and the character and appearance of the Birkby Conservation Area. The development is considered to harm the heritage asset whereby no public benefits have been demonstrated that would outweigh this harm. The development is therefore contrary to Key Design Principles 1 and 2 of the Supplementary Planning Document, Policy LP24 (a) and Policy LP35 of the Kirklees Local Plan and Policies within Chapter 12 and 16 of the NPPF.

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.

Key design principle 5 relates to overshadowing/loss of light stating that 'Extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.' Key design principle 6 seeks to prevent an overbearing impact setting out that 'Extensions and alterations should not unduly reduce the outlook from a neighbouring property.'

In terms of residential amenity, the openings would be located within the front elevation roof slope. Due to being set back from the gutter line, the openings would be set back from those within the front elevation of the property there would be no reduction in separation distances from the presence of the dormers. As such, it is not considered that the works would cause significant harm from overlooking.

In terms of overshadowing and/or being overbearing, the dormers would be set in from the side boundaries of the property. As there is a chimney stack that separates the roof slope from the attached neighbouring property, it is not considered that the dormers would result in structures that would cause undue harm to the amenities of neighbouring occupiers.

It is therefore considered that the development is acceptable in terms of residential amenity, having regard to the aforementioned policies.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan 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.

In this case the building would introduce a further bedroom to the property resulting in 6 bedrooms in total. There does not appear to be any off-street parking for the property and parking along King Cliff Road is limited. However, the site is within a relatively sustainable location with bus stops located on the main roads to the north, south, east and west of the site within relatively close proximity and therefore, it is not considered that the works would result in creating undue harm to highway safety over and above the existing situation at the property in terms of parking provision.

Therefore, the works are considered to be acceptable in terms of Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 12 of the NPPF.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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.

A Climate Change Statement has been submitted with the application which outlines the mitigation measures proposed within the development. The

measures put forward are considered to be proportionate to the development proposed.

Biodiversity – Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote shall be attached to the permission setting out that, should any bats be found using the building then works must cease and appropriate advice sought, should the application be recommended for approval.

Coal High Risk - The application site falls within an area at high risk of ground movement as a result of past mining activities as determined by the Coal Authority. Whilst falling within a high-risk area the Coal Authority identify the development type as that which does not need submission of a Coal Mining Risk Assessment. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with policy LP53 and paragraphs 186 and 191 of the National Planning Policy Framework.

6 – Representations:

None

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.

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/or 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: 2024/92276

Officer Recommendation: Refuse

Reason:

1. The proposed dormer windows, by reason of their siting, design and scale would represent incongruous additions to the uninterrupted roof scape of the host property and wider street scene. They would introduce a dominant feature in the locality that is detrimentally harmful to the character of the host property and the visual amenity of the locality, leading to less than substantial harm to the significance of the Birkby Conservation Area whereby no public benefit has been identified. The dormer windows would therefore be contrary to Key Design Principles 1 and 2 of the Supplementary Planning Document, Policy LP24 (a) and Policy LP35 of the Kirklees Local Plan and Policies within Chapter 12 and 16 of the NPPF.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	PP-13327668v1		13th August 2024
Existing elevation and floor plans	AM - 0101 - EX-0001		13th August 2024
Proposed elevation and floor plans	AM - 0101 - PP-0002		13th August 2024
Design, Access and Heritage Statement	23/07/2024/3KING		13th August 2024
Climate Change Statement	Appendix A		13th August 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 negotiations have taken place with the Agent as it as not considered that there was a design solution that would overcome the concerns with regard to visual amenity and the impact on the Birkby Conservation Area.

Report Dated: 7th October 2024

Coal – high