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:	**2024/62/92320/W**
Site Address:	142, Halifax Old Road, Birkby, Huddersfield, HD2 2SG
Description:	Alterations to garage to create dwelling forming annex accommodation associated with 142, Halifax Old Road, Birkby, Huddersfield, HD2 2SG (within a Conservation Area)
Recommending Officer:	Lucy Taylor

DECISION – CONDITIONAL FULL PERMISSION

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.

John Holmes

AUTHORISED OFFICER

Date: 7th November 2024

Officer Report.

Reference: 2024/92320

Location: 142, Halifax Old Road, Birkby, Huddersfield, HD2 2SG

Proposal: Alterations to convert garage to create dwelling forming annex accommodation associated with 142 Halifax Old Road, Birkby, Huddersfield, HD2 2SG (within a Conservation Area)

Site Description.

142 Halifax Old Road is a terrace property located within Birkby, Huddersfield. This application relates to the garage to the rear of the site. The garage is constructed from concrete blocks and render, with a corrugated roof.

The application site is Allocated within the Birkby Conservation Area.

Description of Proposal.

Planning permission is sought to convert the garage to create dwelling forming annex accommodation associated with No. 142 Halifax Old Road.

The annex will form a bedroom, living room, kitchen and bathroom.

The garage door will be built up with concrete blocks and then rendered.

The corrugated flat roof is to be replaced as a flat roof with openings.

History of Negotiations / Amendments Received.

No negotiations have taken place, and no amended plans were sought or submitted.

Relevant Planning History.

No relevant planning history at the site or near to the site that is relevant to the determination of this planning application.

Representations.

The application was advertised via site notice, neighbour letters and within the newspaper.

Final publicity date expired = 11th October 2024.

No representations received.

Consultation Responses.

KC Environmental Health – no objections to the application with the inclusion of conditions and informatives relating to unexpected contamination and construction site working times.

KC Highways Development Management – the application is considered acceptable to Highways Development Management, subject to the inclusion of a condition relating to the occupation of the annex.

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 falls within the Birkby Conservation Area.

The application site is located within an area with a known presence of bats.

The site is within an area identified by the Coal Authority as being at high risk of ground movement as a result of former mining activity.

Kirklees Local Plan:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity & geodiversity
- LP35 – Historic environment
- LP51 – Protection and improvement of local air quality

Supplementary Planning Documents (SPD):

- House Extensions and Alterations SPD
- Highways Design Guide

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 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

- The Town & Country Planning Act 1990 (as amended).
- The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- The Planning and Compulsory Purchase Act 2004.

Assessment.

1) **Principle of Development**

Chapter 2 of the NPPF states that: *"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*

Chapter 2 of the NPPF goes onto further state that objectives should: *"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*

Policy LP1 goes further and states: *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals 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".*

Therefore, on the basis the development has an acceptable impact upon visual amenity, residential amenity and access / highway safety considerations, as well as all other relevant considerations, the principle of development is considered to be acceptable in this case.

1) **Impact on Visual and Historic Environment Amenity**

Visual Amenity:

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.

These are also reinforced within Chapter 12 of the NPPF (Achieving well designed and beautiful places) where paragraph 131 provides an overarching consideration to design stating that *"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 the development acceptable to communities."*

Paragraph 135 goes on to state that planning decisions should ensure developments are sympathetic to local character, including the surrounding and built environment.

This application seeks permission for alterations to the existing building to create annex accommodation. The external alterations include building up the garage door with concrete blocks and replacing the existing corrugated flat roof with a flat roof with openings. A condition requiring materials of construction to be agreed in writing with the LPA is recommended to be included on any grant of permission to ensure they have an acceptable visual impact.

Given the nature of the proposed external alterations, it is considered that they will have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 and LP24 of the Kirklees Local Plan, having regard to Key Design Principles 1, 2 and 9 of the Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

Historic Environment:

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas. This is echoed within policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

Due to the site's location within the Conservation Area, Paragraph 207 of the NPPF is relevant, which requires that the Local Planning Authority identify and assess the particular significance of any heritage assets affected and take this into account when considering the impact of the proposal on the heritage asset, to avoid or minimise any conflict between the heritage asset's conservation any aspect of the proposal.

Section 72 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Policy LP35 of the Kirklees Local Plan states that: *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm."*

The submitted Heritage Statement and Design and Access Statement concludes the following:

- The existing garage is constructed from concrete blocks and rendered. The roof is corrugated, with drainage directed to the rear. The render is showing signs of wear and requires replacement. Despite this, the garage itself does not hold significant value in relation to the conservation status.

- Converting the garage shutter to a door for access would not impact the visual aesthetics of the back lane. The lane servicing the rear of properties on Halifax Old Road features a variety of opening sizes and styles.

- The proposed changes will enhance the overall appearance of the area, positively contributing to its conservation status.

The impact of the existing building is not considered to sympathetically integrate within its setting, not least as a result of the materials of construction. Whilst the impact of the existing building, in the context it is sited, is noted. It is considered that unsympathetic additions / alterations could have a further negative impact. It is therefore considered necessary that an appropriately worded condition is included upon any grant of permission which relates to the materials of construction and requires they do not see the existing building have a further impact.

It is concluded that, given the principle of development sought and the nature of the external alterations proposed, subject to condition the development would not lead to harm and therefore, the scheme is considered to accord with policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF & Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990.

2) 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.

Sections B and C of Policy LP24 of the Kirklees Local Plan state that alterations to existing buildings should: *"…maintain appropriate distances between buildings'* and *'…minimise impact on residential amenity of future and neighbouring occupiers.'*

Further to this, paragraph 135 of the NPPF states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The built form of the existing building is to remain the same. Therefore, it is concluded that the proposal does not pose detriment to the amenity of neighbouring properties with regard to any impacts of overbearing or overshadowing.

The window openings are to remain as existing, with the window to serve the living room to face the rear elevation of the house dwelling (No. 142 Halifax Old Road) and the window to serve the bedroom to face towards the solid side elevation of the neighbouring garage. The only additional glazing is to be roof lights. Therefore, it is concluded that the proposal would retain appropriate levels of residential privacy in relation to neighbouring properties.

The submitted Heritage Statement and Design and Access Statement sets out that the annex will be for a person at 142 Halifax Old Road. The resultant annex accommodation would be over one storey and would comprise of a bedroom, living room, kitchen and bathroom. The floorspace would comply with the minimum standards as set out within Nationally Described Space Standards and each habitable room would be served by appropriate glazing.

As such, it is concluded that the annex would provide appropriate levels of amenity to any future occupiers. Notwithstanding this conclusion in terms of the floor space provision within the building, it is noted that the development would utilise shared access and amenity areas and that a disaggregating of the ancillary accommodation from these would have a harmful impact for the amenity of future occupiers of the site. As such it is recommended any approval is subject to condition requiring the use to be ancillary to the host property.

Therefore, it is considered that the proposed annex building is acceptable in terms of residential amenity. It is considered there will be no significant impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking, and the proposal would accord with the aims of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document, policy 2 of the Holme Valley Neighbourhood Development Plan, as well as policies within chapter 12 of the National Planning Policy Framework.

3) 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.

As part of the determination of this application, a formal consultation was undertaken with KC Conservation and Design. The Highways Officer made the following comments:

> *This proposal is to convert a garage to a dwelling forming annex accommodation associated with 142, Halifax Old Road, Birkby, Huddersfield, HD2 2SG.*
>
> *The garage appears to be currently used for storage and off-street parking for up to 3 vehicles is provided for in the front of the site accessed from Halifax Old Road.*
>
> *In this instance, therefore, the proposed development is ancillary to the main dwelling and not a separate independent building.*

As a result, the proposal does not have any highway implications and are considered acceptable to Highways Development Management.

Overall, KC Highways Development Management concluded that the proposals do not have any highway implications and are considered acceptable, subject to the inclusion of a condition regarding the occupiers of the annex upon any grant of approval.

It is therefore concluded that the impact of the development would not be significant in terms of access / highway safety and subject to inclusion of the recommended condition the proposal would meet the requirements of the aforementioned policies.

4) 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 predates 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 small-scale 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. The proposed development would therefore comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Bats:

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is considered to benefit from the de-minimus exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no requirement for BNG to be provided in respect of the aforementioned legislation.

Chapter 15 of the National Planning Policy Framework is 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 lies within the bat alert layer on the Council's GIS system.

Whilst the proposal would see the corrugated flat roof replaced as a flat roof with openings, given the corrugated nature of the existing roof, it is considered that there is a low potential for roosting bats to be present. Therefore, given the age / design of the garage structure, it is not considered necessary for a full assessment of the roof space to be undertaken in this case given the low likelihood for roosting bats to be present.

Even so, as a cautionary measure, in the event of any grant of permission a note would be added to the decision notice, stating that if bats are found

development shall cease and the advice of a licensed bat worked sought. This is to accord with the aims of Chapter 15 of the NPPF.

Land Quality:

With regard to land quality, paragraphs 180, 189 and 190 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are considered to be relevant.

The Council's Land Quality Team have stated that the proposed development is not situated on land identified as potentially contaminated, the wider area contains historic industrial heritage and there appears to be a coal mining legacy. With this in mind and in the absence of comments from the Coal Authority they recommend a condition in relation to unexpected contamination.

On the basis of the inclusion of the recommended condition it is considered the proposal is acceptable in this regard, in accordance with the aforementioned policy.

5) 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 materials considerations. It is considered that the development is acceptable and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation – Delegated Powers
Application Number: 2024/92320
Officer Recommendation: Approve

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.
   Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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 with Policies LP1, LP2, LP21, LP22, LP24, LP30, LP35 and LP51 of the Kirklees Local Plan, Key Design Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 15 and 16 of the Council's adopted Supplementary Planning Document on House Extensions and Alterations and to accord with Policies within Chapters 2, 4, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. The development shall not be brought into use until a scheme which details all external materials including walls, roofs, doors, windows, surfacing, rainwater goods and colour finishes to be used has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. No materials and colour finishes other than those approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.
   Reason: In the interests of visual amenity and to preserve the setting of the Conservation Area to accord with policies LP24 and LP35 of the Kirklees Local Plan and policies within Chapters 12 and 16 of the National Planning Policy Framework.

4. The development hereby approved shall not be used for any purpose other than as ancillary accommodation in connection with 142 Halifax Old Road, Birkby, Huddersfield, HD2 2SG.
   Reason: In the interests of the amenity of the occupiers of the development hereby approved and neighbouring properties and access and highway safety to accord with policies LP21, LP22 and LP24 of the Kirklees Local Plan, the Council's adopted Highway Design Guide and policies contained within chapter 12 of the National Planning Policy Framework.

5. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of

those works has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

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 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.

NOTE: No construction related noise shall be audible beyond the site boundary outside the hours of:
07.30 to 18.30 hours Mondays to Fridays
08.00 to 13.00 hours, Saturdays
With no construction related noise audible beyond the site boundary on Sundays or Public Holidays.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Existing and Proposed Layout and Elevations	2323/01	-	16.08.24
Heritage Statement and Design and Access Statement	-	-	16.08.24

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 negotiations have taken place, and no amended plans were sought or submitted.

Report Dated: 04.11.24