

**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:	2024/62/92983/W
Site Address:	3, Stainecross Avenue, Crosland Moor, Huddersfield, HD4 5HZ
Description:	Erection of detached garage (part 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.

John Holmes

AUTHORISED OFFICER

Date: 16-Dec-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 (part retrospective).

The measurements of the garage are as follows:

- 3.6 metres height
- 4 metres width
- 2.6 metre eave height
- 6.3 metre depth

To the front of the garage is a grey roller shutter door with two openings proposed to the side/ south-west facing elevation. This is in the form of one door and a pair of windows. The exterior walls of the garage would be finished in beige colour render.

The application is part retrospective and seeks approval from the previous refused scheme (ref: 2024/91678). The reasons for refusal were as follows:

- 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.*

2. 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.

The applicant has submitted a Design and Access statement supporting the application that outlines the proposed design alterations to overcome the previous reasons for refusal (2024/62/91678/W):

- The height of the garage has been reduced to 3600mm
- Beige render finish to all external walls
- UPVC fascias and guttering

History of Negotiations

No amendments have been sought in the processing of this application as it was considered they would not overcome the detrimental harm to residential amenity.

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

2024/91678 – Erection of detached garage (retrospective)
Refused

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: 29th November 2024

6 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

- The building crosses the boundary line and rainwater flows into neighbouring garden due to roof design.
- The building is unsafe and does not comply with building regulations
- The garage has been constructed without planning permission
- The appearance, design and layout of the garage is dangerous and detrimental to visual amenity
- Imposing and lack of privacy on neighbouring properties
- The structure would be used as living quarters instead of a garage
- Devaluing neighbouring properties

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 December 2024, 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 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
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.

Section 5.30 of the adopted SPD sets out the following guidance for outbuildings:

5.30 Outbuildings should normally:

- be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings;*
- be set back behind the building line of the original building so that they do not impact on the street scene; and*
- preserve a reasonable private amenity space appropriate to the potential number of occupants of the house, and follow a general principle that no more than 50% of garden space should be lost.*

The detached garage is located within the rear curtilage of the dwellinghouse with a width of approximately 4 metres, a depth of 6.3 metres and a ridge height of 3.6 metres. As set out in the Design and Access Statement, the garage has been reduced in height where the ridge has been lowered approximately 0.6 metres to try to overcome the previous reasons for refusal (application ref: 2024/91678) with regard to visual amenity. It is also noted that a previous garage of smaller dimensions sited to the rear of No.3 has also 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 a significantly higher ground level than neighbouring properties to the north-east, in a prominent location adjacent to this boundary. This application does not propose changes to the siting of the garage, however the decrease in ridge height would result in the overall scale of the garage being slightly reduced. The reduction in height would assist in limiting the visual impact on the original house and street scene and would reduce the detrimental bulking and massing impact of the development when viewed from wider public vantage points and within the context of the site. The reduced height would appear proportionate to the application property and would not over-dominate the site.

The submitted plans show the garage would be finished in beige colour render. This finish would be a visual improvement to the existing appearance and materials, which consist of stone to the front, side (south-west facing) and rear elevations and concrete blocks to the other side (north-east facing) elevations. This finish would form a more cohesive appearance with the host property and would be in keeping with the material palette of the locality.

The application property is also on a higher ground level to neighbouring property No.1, and the garage is located adjacent to the shared boundary. While the full impact on this neighbour will be assessed under the residential amenity section of this report, it should be noted that the proposed use of beige colour render would alleviate the concerns with respect to visual amenity as it

would mitigate the adverse visual impacts of the concrete block walling along the shared boundary.

With regard to fenestration, the proposed plans show the level of glazing from the previous application would be reduced with only a door and pair of windows to the side/ south-west elevation. The roller shutter garage door would be of anthracite grey colour finish. These details are considered to be in keeping with the host property and would have an acceptable visual impact. Whilst the siting remains, it is considered that coupled with the alterations to the scale of the building and materials of construction, on balance, the visual impact of the proposal overcomes the previous reason relating to visual impact.

Having taken the above into account, the proposed erection of detached garage at 3, Stainecross Avenue is therefore considered that in terms of visual amenity, has overcome reason 1 for refusal under application ref: 2024/62/91678/W and would therefore comply with Policy LP24 of the Kirklees Local Plan, the adopted House Extensions and Alterations SPD, and policies within 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 and at a lower ground level to the application site.

The detached garage is located along the boundary with a depth of 6.3 metres, eave height of 2.6 metres and ridge height of 3.6 metres when measured from the ground level of the application property. Given the difference in ground levels, the detached garage is elevated above what appears to be the main amenity space of this neighbouring dwelling.

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. Although the garage would be reduced in height (approximately 0.6 metres) from the previous application, this is not considered to overcome the overbearing and oppressive concerns of the garage on No.1. This is because the extent of bulking and massing as a result of the side wall would remain along the shared boundary. The overbearing effects are intensified as a result in the elevated ground level of the application site, and the reduction in ridge height is not considered sufficient to overcome the harm.

It is acknowledged the proposed rendering would improve the visual appearance of the garage when viewed from No.1, however the change in materials would not overcome the detrimental overbearing and oppressive impacts of the development.

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 ensure no undue harm as a result of 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. This revised scheme from the previous refusal is not considered to have any adverse impacts on the occupiers of this dwelling.

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 no openings to the rear elevation that could overlook/ impact the privacy of occupiers of this dwelling.

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.

However, it is considered that in terms of residential amenity, the proposed scheme does not overcome the previous concerns. The proposal is therefore 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 5 and 6 of the adopted House Extensions and Alterations SPD, and policies 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 building crosses the boundary line and rainwater flows into neighbouring garden

- The building is unsafe and does not comply with building regulations

Officer response: This is noted, however, this is not a material planning consideration to which significant weight can be afforded in this case is a civil legal matter should any damage be incurred. Similarly alternative solutions for rainwater drainage could be incorporated to ensure such drainage is within the property boundary only.

- The garage has been constructed without planning permission

Officer response: This is noted. Whilst any works undertaken without permission are potentially at risk of enforcement action planning law allows for a retrospective application to be submitted.

- The appearance, design and layout of the garage is dangerous and detrimental to visual amenity

Officer response: This is noted. The impact on visual amenity has been considered under Section 2 of this report.

- Imposing and lack of privacy on neighbouring properties
- Devaluing neighbouring properties

Officer response: This is noted. The impact on residential amenity has been carefully considered under Section 3 of this report

- The structure would be used as living quarters instead of a garage

Officer response: The determination of this application is on the basis of the plans as submitted and no evidence has been submitted to the contrary. Were it considered appropriate a condition could be included to require the use to be incidental to the host property rather than as an ancillary use.

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.

It is considered that the detached garage, as a result of the siting and proximity of the development to 1, Stainecross Avenue, 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.

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: 2024/92983

Officer Recommendation: Refuse

Reason:

1. The detached garage, as a result of the siting and proximity of the development to 1, Stainecross Avenue, 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
Proposed Floor Plans and Elevations	PAD.400.895	-	18/10/2024
Design and Access Statement	-	-	18/10/2024
Application form	-	-	18/10/2024
Climate Change Statement	-	-	23/10/2024

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 have been sought in the processing of this application as it was considered they would not overcome the harm of the development.

Report Dated:

11/12/2024

Low coal