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:	**2025/70/90225/E**
Site Address:	124, Hartshead Lane, Hartshead, Liversedge, WF15 8AJ
Description:	Variation condition 3 (materials) on previous permission 2019/92343 for erection of extension over existing garage and external alterations including rear patio and porch
Recommending Officer:	Nicole Helliwell

DECISION – APPROVE VARIATION/REMOVAL OF CONDITION 3

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 25-Mar-2025

Officer Report

Reference No. 2025/70/90225/E

Site Address: 124, Hartshead Lane, Hartshead, Liversedge, WF15 8AJ

Proposal: Variation condition 3 (materials) on previous permission 2019/92343 for erection of extension over existing garage and external alterations including rear patio and porch.

Site Description

The application site relates to 124 Hartshead Lane, a two-storey detached property located in Hartshead, Liversedge. The site is unallocated on the Kirklees Proposal Plan, however, the southern part of the site is located within the designated Green Belt. The dwelling is predominately constructed in off-white coloured render with elements of stone and incorporates a hipped roof finished in natural blue slates. The dwelling benefits from a sufficiently sized garden, an integral garage and is accessed via a driveway that leads off Hartshead Lane. The surrounding area is characterised by predominately stone built dwellings of varying ages, sizes and styles. The site is not within a conservation area, nor are there any Public Rights of Way (PROW) within close proximity. However, the site is located close to 119, 120 and 121 Hartshead Lane, a group of Grade II listed buildings.

Description of Proposal

The applicant seeks consent to vary condition 3 of previous permission 2019/92343 for the erection of an extension over the existing garage and external alterations including a rear patio and porch, which was granted on 24th September 2019.

Condition 3 of permission 2019/92343 requires the external roofing materials of the extension to match those used in the construction of the existing building and reads as follows:

> *"3. The external roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.*
> ***Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework."*

This Section 73 application seeks to vary the roofing materials of the approved extension. The application form states that the roof of the original dwellinghouse was finished in clay pan tiles which were unique to the area. The house has since been re-roofed, including the extension in natural blue slates.

Relevant Planning History

2019/92343: Erection of extension over existing garage and external alterations including rear patio and porch. Planning application details | Kirklees Council – Conditional Full Permission

Representations

The application was publicised by site notice and press advertisement, which expired on 28th February 2025. As a result of the above publicity, no representations have been received.

Consultation Responses

Not Applicable.

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 Proposals Map, however, the southern part of the site is located within the designated Green Belt. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity and Geodiversity
- **LP 57** - The Extension, Alteration or Replacement of Existing Buildings

Supplementary Planning Guidance / Documents:

Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

In this case, the following SPDs are applicable:

- House Extensions and Alterations SPD (adopted 29th June 2021)

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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.

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 13** - Protecting Green Belt Land
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Assessment

1. Principle of Development

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development for the erection of an extension over the existing garage and external alterations including a rear patio and porch was established under permission 2019/92343. 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.

1. Impact on Visual Amenity

General design considerations are set out in Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. Policy LP24 of the Kirklees Local Plan states that 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.'

Key Design Principle 1 of the House Extensions & Alterations Supplementary Planning Document (SPD) does state 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. Furthermore, Key Design Principle 2 of the SPD goes onto state 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 details.

The proposal seeks to vary the roofing materials of the approved extension to natural blue slates. Although this modification would alter the external appearance of the dwelling, it is noted that the material palette would be more in keeping with the neighbouring properties and would respect the character of the street scene. Therefore, it is considered that the materials would offer a better visual finish than those previously approved.

In view of the above, It is considered that the variation to the development proposed is acceptable from a visual amenity perspective and is in accordance with Policies LP24 of the Kirklees Local Plan and the aims of the NPPF.

2. Impact on Residential Amenity

Section B and C of LP24 states 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(f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The proposed alteration would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site. As such, the proposal would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

3. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Given the nature of the amendments proposed, no alterations would occur to the access and parking arrangements of the approved scheme. Therefore, the impact on highway safety is still considered acceptable and unchanged since the previously issued decision.

Given the above, Officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network. The proposal is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework and advice contained within the Kirklees Highways Design Guide SPD.

4. Other Matters

With regard to other matters that were assessed as part of the previous planning permission (biodiversity and trees), the proposal is unchanged in relation to these aspects and any conditions imposed in regard to these matters to make the development acceptable will be repeated as part of this application.

Conditions Review

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant.

The following conditions relating to the original permission will be re-issued as they are considered to remain relevant:

- 2. Approved Plans
- 4. External walling materials

5. Representations

No representations were received following the statutory publicity.

6. Negotiations

No amendments were sought or received during the course of the application.

7. Conclusion

This proposal is a Section 73 Variation of Condition application to vary condition 3 (materials). In determining a S73, the Local Planning Authority must only consider the 'disputed' condition that is the subject of the application – it is not a complete re-consideration of the application. Therefore, it is a consideration of Condition 3 only. As detailed within the report, given the acceptable design and lack of harm in terms of visual and residential amenity, the variation is considered to be acceptable.

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 the relevant policies in the development plan and other material considerations. The proposal would remain in accordance with the development plan and there are no material

considerations to indicate otherwise. The development would therefore constitute sustainable development and it is recommended for approval.

Recommendation: Approve

Decision Authorisation: Delegated Powers
Application Number: 2025/90225
Officer Recommendation: Grant Variation of Condition 3
Conditions and Reasons:

1. 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, LP22, LP24, LP30 and LP57 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2. The external walls of the existing dwelling and extensions hereby approved shall be finished in an off-white or cream coloured render and stone in accordance with the details shown on the approved plans. This finish shall be thereafter retained.
Reason: In the interests of visual amenity and to accord with Policies LP1, LP2, LP22, LP24 and LP57 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

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.

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 the works may be carried out.

Plans and Specifications Table:

Plan Type	**Reference**	**Revision**	**Date Received**
Plans and details pursuant to 2019/92343			
Location Plan	-	-	12/07/2019
Existing Plans & Elevations	17-017-10	-	12/07/2019
Proposed Plans	17-017-11	A	18/09/2019
Proposed Elevations (excluding roofing materials)	17-017-12	A	18/09/2019
Plans and details pursuant to 2025/90225			
Block Plan	-	-	28/01/2025

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 11/03/2025