

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:	2025/70/90343/E
Site Address:	Batley Carr Dental Surgery, 41, Town Street, Batley, WF13 2HQ
Description:	Variation of condition 2 (plans) on previous permission 2023/93265 for erection of front extension to form entrance with associated external alterations
Recommending Officer:	Nicole Helliwell

DECISION - Variation of Condition - Approved

**I hereby authorise the approval/refusal* (delete as appropriate) of this
application for the reasons set out in the officer's report and
recommendation annexed below in respect of the above matter.**

Kerri Simpson

AUTHORISED OFFICER

Date: 08-Apr-2025

Officer Report

Reference No. 2025/70/90343/E

Site Address: Batley Carr Dental Surgery, 41, Town Street, Batley, WF13 2HQ

Proposal: Variation of condition 2 (plans) on previous permission 2023/93265 for erection of front extension to form entrance with associated external alterations

Site Description

The application relates to Batley Carr Dental Surgery, a dental practice situated in Batley. The wider area is characterised by residential, commercial and industrial properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The applicant seeks consent to vary condition 2 of previous permission 2023/93265 for the erection of a front extension to form entrance with associated external alterations, which was granted on 8th January 2024.

Condition 2 of permission 2025/90343 relates to the plans and details approved under the application and reads as follows:

“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, LP48, LP49, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council’s Highways Design Guide SPD and the aims of the National Planning Policy Framework”*

The Section 73 application seeks to vary the approved plans due to design changes. The proposed alterations are as follows:

- Alterations to the projection and design of the approved two storey front extension

Relevant Planning History

- **2023/93265:** Erection of front extension to form entrance with associated external alterations. [Planning application details | Kirklees Council](#) - Conditional Full Permission

- **2007/92833:** Erection of dental surgery and 2 shops and 2 no. First floor flats. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2007/90492:** Erection of dental surgery and 2 shops and 2 no. First floor flats. [Planning application details | Kirklees Council](#) – Refused
- **2005/90165:** Erection of new dental surgery building. [Planning application details | Kirklees Council](#) - Conditional Full Permission
- **92/03058:** Change of use to dental surgery/office and associated parking area. [Planning application details | Kirklees Council](#) - Conditional Full Permission

Representations

The application was publicised by site notice, which expired on 7th April 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. 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 48** - Community Facilities and Services
- **LP 49** - Educational and Health Care Needs
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

In this case, the following SPDs are applicable:

- 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 4** - Decision-Making
- **Chapter 8** - Protecting Healthy and Safe Communities
- **Chapter 12** - Achieving Well-Designed Places
- **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 a front extension to form entrance with associated external alterations was established under permission 2023/93265. 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.

2. 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.'*

The proposal seeks to reduce the projection of the approved two-storey front extension such that it would infill the area between the waiting room and the de-con room and would not project further than the principal elevation. Furthermore, alterations would be made to the fenestration within the front elevation of the enlargement. Given that the amendments proposed would be of an appropriate design and scale, they are considered to respect the appearance and character of the surrounding area.

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.

3. 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 alterations would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the approved 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.

4. 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.

5. Other Matters

With regard to other matters that were assessed as part of the previous planning permission (climate change), 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:

- 3. External materials

The following conditions shall be reworded:

- 1. Time
- 2. Approved plans (The plans and specification table will be amended to reflect the plans approved under this Section 73 application)

6. Representations

No representations were received following the statutory publicity.

7. Negotiations

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

8. Conclusion

This proposal is a Section 73 Variation of Condition application to vary condition 2 (development in accordance with the approved plans). 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 2 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: 2025/90343

Officer Recommendation: Grant Variation of Condition 2

Conditions and Reasons:

1. The development hereby permitted shall be begun before 8th January 2027.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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, LP48, LP49, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building and retained thereafter.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, the aims of Chapter 12 of the National Planning Policy Framework.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing

access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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 2023/93265			
Existing GA	(EX)001	-	09/11/2023
Climate Change Statement	-	-	09/11/2023
Plans and details pursuant to 2025/90343			
Location Plan	(EX)002	-	10/02/2025
Proposed GA	(20)001	-	10/02/2025

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: 17/03/2025

