

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 96A

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
NON-MATERIAL AMENDMENTS**

Reference No: **2025/NM/91107/E**

Site Address: 5, Hopton Hall Lane, Upper Hopton, Mirfield, WF14
8EP

Description: Non material amendment to previous permission
2022/90403 for demolition of existing garage and
erection of single storey side extension and link

Recommending Officer: Edward Cheseldine

DECISION – REFUSE NON-MATERIAL AMENDMENT

**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.**

Sarah Longbottom

AUTHORISED OFFICER

Date: 30-May-2025

Overview

The application is to seek a non-material amendment to application for previous permission 2022/90403 for demolition of existing garage and erection of single storey side extension and link.

The amendment seeks to reduce the volume of the link extension and to change the external walling material of the side and rear elevation from natural stone walling to render.

This application will be assessed having regard to S96A of the Town & Country Planning Act 1990: "*In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted*" and the Council's **Protocol for dealing with non-material amendments**.

The four key tests in the Protocol are:

1. Is the change inconsequential in terms of its scale in relation to the original approval?

The principle of the volumetric increase was established pursuant to application 2022/90403. The amendment will set a wall of the link by 0.45m away from the side extension. The amendment represents a decrease in volume, which is inconsequential in terms of scale.

If so, three further tests need to be met:

2. Would the change result in a detrimental impact either visually or in terms of living conditions?

Further to the previous assessment in terms of if a S96A is required, an assessment will be made on the impact in terms of visual amenity and residential amenity.

The application site rests in the Green Belt. Application 2022/90403 was previously assessed against National Planning Policy Framework (NPPF) paragraph 154c (145c), and Local Plan Policy LP57 in terms of Green Belt policy.

The appearance of the extension should have regard to the scale and character of the original building, whilst respecting its Green Belt setting. Aside from the changes to the eastern elevation, amendments are requested

for a change of material to introduce render on the side and rear elevation of the side extension and render on the rear elevation of the link. The render would be a 'buff stone' colour.

In terms of an impact to the Green Belt setting, the extensions are set down marginally from fields to the east due to a change in land levels. Public Right of Way MIR/71/10 rest 100m to the east. The render will also be visible as vehicles and pedestrians travel northbound on Hopton Hall Lane.

The original application detailed natural buff stone on the side and rear of the dwelling, which is being changed to a render material. The material will be present from aspects on Hopton Hall Lane as people travel northbound. Given the Green Belt location of the building and the presence of these elevations, the material change would amount to a new Green Belt assessment, which would in turn not be inconsequential in itself. The change would be from a natural stone material which is commonly found in the Green Belt, to a render material presenting a visual change.

Given the details were previously approved and conditioned to preserve the openness and rural character of the Green Belt, a new assessment must be undertaken. The applicant may wish to apply for a Section 73 application to vary Condition 2 & 4 of the permission reference 2022/90403 in this instance.

3. Would the interests of a third party who participated or were informed of the original decision be disadvantaged in any way?

The dwelling is relatively isolated with residential development to the north of the dwelling. The nearest residential dwelling to the south, is on Fairways, it is 30m from the dwelling. Given the location of the extensions and reduction in volume, it is not necessary to advertise the amendments.

4. Would the amendment be contrary to any policy of the council?

Application 2022/90403 was previously assessed against National Planning Policy Framework (NPPF) paragraph 154c (145c), and Local Plan Policy LP57 & LP24.

The application site rests in the Green Belt. A full assessment of NPPF paragraph 154c, and Local Plan Policy LP57 & LP24 should be undertaken through a Section 73 application.

The proposed changes to the permitted scheme must not result in the development falling outside the description of the development as set

out on the Decision Notice e.g. by seeking to add a pitched roof to an extension described on the notice as a 'flat roof' extension.

The proposed changes would not fall outside of the description of development, which is "Demolition of existing garage and erection of single storey side extension and link".

The proposed change must not contravene any condition attached to the original permission.

The proposed amendments to the materials of construction would conflict with Condition 4 of the original approval which states:

Notwithstanding the plans hereby approved, the external facing materials shall be exactly as labelled on dwg 2005-006 rev P02 and sampled on the submitted 'Materials Board (ref 2005-007).

Reason: *To respect the rural character of the Green Belt, in accordance with Policy LP57 of the Kirklees Local Plan, The House Extensions and Alterations SPD and Chapter 13 of the National Planning Policy Framework.*

Given the details were previously approved and conditioned to preserve the openness and rural character of the Green Belt, a new assessment must be undertaken. The applicant may wish to apply for a Section 73 application to vary Condition 2 & 4 of the permission reference 2022/90403 in this instance

The proposed change should not require a further restriction to make it acceptable (e.g. an amendment seeking to introduce a window which would only be acceptable if it is kept obscurely glazed).

The proposal would not require mitigation and further restrictions to make it acceptable.

The proposed change would not result in any material increase in height, scale, width or depth of a building.

The proposal does not affect/would not result in any material increase in height, scale, width or depth of the building.

The proposed change would have been likely to have been approved had it formed part of the original application.

The proposed amendments need to be assessed further in respect of

Assessment

The reduction in scale of the building is acceptable the scale of the dwelling is suitable. In terms of the material change as an assessment of Green Belt

Policy is required, it is not considered the material change amounts to an inconsequential change.

Conclusion

On the basis of the above, the proposed change would not be acceptable under the non-material amendment procedure and as such is recommended for refusal. The applicant may wish to apply for a Section 73 condition to vary conditions 2 & 4 of permission reference 2022/90403.