

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:	2025/70/91544/W
Site Address:	16, Rutland Road, Milnsbridge, Huddersfield, HD3 4RA
Description:	Variation of conditions 2 (plans) and 4 (materials) on previous permission 2023/91848 for erection of single storey rear extension and detached outbuilding
Recommending Officer:	Molly Storer

DECISION – VARIATION OF CONDITION APPROVED

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: 09-Sep-2025

THE SITE

16 Rutland Road is a two-storey detached property located in Milnsbridge, Huddersfield. The site is located on a corner of Rutland Road. The external walls of the property are faced in brick under a tiled roof. Within the wider curtilage of the site, the property benefits from outdoor amenity space to the rear and on-site parking amenity space to the front.

Within the wider streetscene there is a strong sense of similarity established. This is because all of the properties share a similar style of design and construction, two-storey and detached, faced in matching exterior construction materials.

The application site is adjacent to the boundary of the Milnsbridge Conservation Area (which is to the east). In addition, designated Urban Green Space is located to the rear of the site.

THE DEVELOPMENT

Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for variation of conditions 2 (plans) and 4 (materials) on previous permission 2023/91848 for erection of single storey rear extension and detached outbuilding.

Condition 2 of 2023/91848 states the following:

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 Policies LP1, LP2, LP21, LP22, LP24, LP30, LP33, LP35 & LP51 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8 & 15 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 9, 12, 14, 15 & 16 of the National Planning Policy Framework.

Condition 4 of 2023/91848 states the following:

4. The external walls of the outbuilding hereby approved shall be faced in timber cladding and stone. The materials of construction shall be thereafter retained. Reason: In the interests of visual amenity and to accord with Policies LP2 and LP24 of the Kirklees Local Plan, Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document and Policies within Chapter 12 of the National Planning Policy Framework.

PLANNING HISTORY

At the application site:

2019/92335 – Erection of two storey side extension. Granted Conditional Full Permission. This has been implemented.

2022/93440 – Erection of single storey rear extension and detached outbuilding. Granted Conditional Full Permission.

To neighbouring properties:

93/02162 – 14 Rutland Road – Erection of detached double garage. Granted Conditional Full Permission.

REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (2015).

The application has been publicised on the Council's website, by site and press notice and by neighbour notification letters. The expiry date of the publicity period was 9th September 2025.

One objection was received these are summarised below:

- The permission is for a detached outbuilding and the building is attached to the neighbouring garage.
- The applicant does not state how the condition should be varied on the application form.
- There are significant changes between the variation of condition plans and the previously approved plans.
- The outbuilding is considerably bigger than previously approved.
- The larger garage means the neighbouring house cannot access to maintain their garage to change the roof.
- The outbuilding is overbearing, intrusive and oppressive.
- The north wall has been built in breeze block.
- A substantial amount of spoil is to be used from the build site and placed behind the stone shed wall/Neighbouring Garage (boundary) of number 14, thus raising the ground level by approximately 1 metre.

CONSULTATIONS

No consultations were required.

ALLOCATION AND POLICIES

Kirklees Local Plan (2019):

- LP1 – Achieving Sustainable Development

- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP33 – Trees
- LP35 – Historic environment
- LP51 – Protection and improvement of local air quality

Supplementary Planning Guidance/Documents:

- House Extensions and Alterations SPD
- Highways Design Guide SPD

Insofar as they are relevant to the consideration of this application the following Assessment makes reference to the applicable policy / legislation.

ASSESSMENT

This application is made under S73 of the Town and Country Planning Act 1990, which allows for the ‘determination of applications to develop land without compliance with conditions previously attached’. In addition to removing conditions, S73 enables the varying of a condition’s wording. The effect of a granted S73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if they remain relevant. Conversely, the time limit for development to commence cannot be extended through a S73.

The starting point for a S73 application is the previously granted planning permission, which must carry significant material weight. The principle of erecting a single storey rear extension and detached outbuilding at this site was established under permission 2023/91848. As such, it is considered that the principle of development remains established by the way of the previous application.

The 2023/91848 consent required the development to commence within 3 years of the date of the decision. This work has commenced. The cover letter with this application sets out amendments proposed relate to the detached garage only.

The assessment will deal with the merits of the proposed variations only.

The determining issues are considered to relate to impact upon visual and residential amenity and are assessed as follows:-

Visual Amenity

Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

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.

The proposed plans show that the proposal would see the following changes (it should be noted that the application is in relation to amendments to the proposed outbuilding only and not in relation to the rear extension, which was included in the previous approval).

- Brick to the north and west facing elevations.
- Stepped access to the garage located in the middle of the garage.
- Increased size of outbuilding (with only a 50mm gap between the proposed outbuilding and the neighbours garage).

There are multiple changes made to the original proposal (listed above). With regards to the removal of wood cladding to the north and west facing elevations which is to be replaced with brick – this is considered acceptable as there is brick used in the surrounding areas. Furthermore, this material is not overly seen from public viewpoints.

Although the increase in size will mean that the outbuilding is still relatively large, the element which is to be extended is shown on the approved plans to be located under a canopy with a wall to the rear therefore the open area of the garden will remain the same. The total garden space at the property is of a sufficient area to support it without appearing cramped and the outbuilding will still be set to a lower topographical ground level, with the same amount of garden to be excavated as previously approved. The height and roof form of the proposal will remain the same.

The position of the proposed shed will remain the same and will still be within the curtilage of 16 Rutland Road. It will be located adjacent to a detached stone garage at the neighbouring property of 14 Rutland Road. The agent has provided evidence to show that the outbuilding is detached from this garage.

The change in location of the stepped access is not considered to have any negative visual amenity impacts.

The outbuilding is still considered to not be highly visible from publicly accessible vantage points in the conservation area. It is therefore considered

that the proposal would still not lead to harm to the significance of the Milnsbridge Conservation Area.

The changes as a whole are considered to have an acceptable impact upon visual amenity and the character of the host property / wider locality.

Having regard to the details set out in the submitted plans it is considered the proposal is acceptable and that subject to condition the development is undertaken in accordance with the submitted plans and that the materials accord with those set out on submitted plans 2227 A(10)-04 the proposal is acceptable.

It is therefore considered that approving these details and varying these conditions would not cause detrimental harm to the visual amenities of the locality and that the variations are in compliance with Local Plan Policy LP24 and LP35 and Chapter 12 and 16 of the National Planning Policy Framework.

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 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 property most likely to be affected by this variation is No.14 Rutland road as the outbuilding is to be positioned within a 50mm separation distance. Firstly, it is considered that privacy will not be significantly impacted as a result of the design amendment this is due to no new windows being proposed to face this property. Furthermore the stepped access would be moved further away from this property.

Although closer in proximity the extension would still be set adjacent to the stone detached garage within the curtilage of No. 14. The height of the proposed outbuilding will be the same as the height of the garage at No. 14 as previously approved, therefore, the solid side elevation of the garage will still sufficiently mitigate any detrimental impacts of overbearing or overshadowing. Furthermore, the extended outbuilding will be built under the previously approved canopy meaning that the roof form will not change. It should be noted that the extended outbuilding would still be within the curtilage of No.16 and would still be detached from the garage at No.14.

The proposed alterations would not result in any further harm upon the residential amenities of the neighbouring properties. 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.

REPRESENTATIONS:

- The permission is for a detached outbuilding and the building is attached to the neighbouring garage.
- The applicant does not state how the condition should be varied on the application form.
- There are significant changes between the variation of condition plans and the previously approved plans.
- The outbuilding is considerably bigger than previously approved.
- The bigger garage means the neighbouring house cannot access to maintain their garage to change the roof.
- The outbuilding is overbearing, intrusive and oppressive.
- The north wall has been built in breeze block.
- A substantial amount of spoil is to be used from the build site and placed behind the stone shed wall/Neighbouring Garage (boundary) of number 14, thus raising the ground level by approximately 1 metre.

Officer note:

As noted in the report above the outbuilding will remain within the curtilage of No.16. The extended outbuilding will be built under the previously approved canopy meaning that the roof form and height will not change. Evidence has been provided to show that the outbuilding is not attached to the neighbouring property and still falls under the definition of a 'detached outbuilding'. It is considered that for these reasons the outbuilding is still not considered to be overbearing, intrusive or oppressive. The change of materials from that approved is also considered acceptable.

Conditions

It is considered that as the 2023 consent has commenced, there is no need for a condition relating to a time limit for the development to be begun to be included upon any grant of permission.

For the avoidance of doubt and given any grant of permission relates to the development as a whole, the condition relating to materials of construction of the extension would be included upon any grant of permission.

Given the extent of the submitted detail it is considered an appropriate approach for a condition of approval to ensure the materials as proposed be included upon any grant of permission.

Condition 5 of the 2023 permission would be retained as worded upon any grant of permission.

CONCLUSION & RECOMMENDATION

There has been no significant change to the site allocation since the 14th August 2023 consent (2023/91848). It is therefore considered that, subject to the wording of conditions being amended, where relevant, to ensure any grant of permission aligns with the submitted details (where relevant) and details

submitted as part of this application, as well as the inclusion of all informative notes imposed on the 14th August 2023 consent (2023/91848) being re-imposed on this Section 73 application the proposal is acceptable.

It is therefore concluded that the variations to the approved plans proposed under this Section 73 application are acceptable and do not alter the conclusions reached and the recommendation made for application 2023/91848.

Recommendation

APPROVE

Decision Authorisation: Delegated Powers

Application Number: 2025/91544

Officer Recommendation: Variation of Conditions Approval

Conditions

1. The development hereby permitted shall be carried out in 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, LP31, LP35 and LP51 of the Kirklees Local Plan, the aims of the Council's House Extensions and Alterations SPD and the National Planning Policy Framework.

2. The materials of construction of the outbuilding hereby approved shall be in accordance with those detailed within submitted drawing 2227 A(10) -04. The materials of construction shall be retained thereafter.

Reason: In the interests of visual amenity and in accordance with Policies LP01, LP02 & LP24 of the Kirklees Local Plan, Principles 1 and 2 the Council's adopted House Extensions and Alterations Supplementary Planning Document and policies within Chapter 12 of the National Planning Policy Framework.

3. The external walls of the rear extension hereby approved shall in all respects match those used in the construction of the existing dwelling and be thereafter retained.

Reason: In the interests of visual amenity and to accord with Policies LP2 & LP24 of the Kirklees Local Plan, Principles 1 and 2 of the Council's adopted House Extensions and Alterations SPD, Policies 1 & 2 of the Holme Valley Neighbourhood Plan and policies within Chapter 12 of the National Planning Policy Framework.

4. Prior to the first use of the outbuilding hereby approved, one bat box shall be incorporated into the dwelling; the box shall be long-lasting

Schwegler 'woodcrete' type or similar and shall be located away from sources of light, at least 5 metres above ground. Once installed, the bat box shall thereafter be retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Chapter 15 of the National Planning Policy Framework and Principle 12 of the Council's adopted House Extensions and Alterations Supplementary Planning Document.

NOTE: The Council's GIS system indicates that a bat roost may be present on site. Bats are a European protected species under regulations of the Conservation of Habitats and Species Regulations 2017. It is an offence for anyone to 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.

Plans and specifications schedule: -

Plan Type submitted as part of application 2025/91544	Reference	Version	Date Received
Proposed Outbuilding Plans	2227 A(10)-04	-	05/06/2025
Covering letter	-	-	09/06/2025
Application form	-	-	05/06/2025
Plan Type submitted as part of application 2023/91848			
Existing Plans and Elevations	2227 A(00)-01	-	21/06/2023
Proposed Plans and Elevations	2227 A(10)-01	-	21/06/2023
Application form	-	-	21/06/2023

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 2024 and otherwise actively engaged with the applicant in dealing with the application. The agent was contacted to provide evidence that the outbuilding was detached.

