

**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: **2026/NM/90407/W**

Site Address: 50, Birkby Lodge Road, Birkby, Huddersfield, HD2  
2BG

Description: Non material amendment to previous permission  
2025/92104 for erection of two storey side extension  
and extension to existing porch (within a Conservation  
Area)

Recommending Officer: Joshua Merriman

**DECISION – Refusal**

**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.**

Danielle Cooper

***AUTHORISED OFFICER***

**Date: 01-Apr-2026**

## **Application no: 2026/90407**

ADDRESS: 50, Birkby Lodge Road, Birkby, Huddersfield, HD2 2BG.

### **THE SITE**

The application site refers to 50, Birkby Lodge Road, Birkby, Huddersfield, HD2 2BG, a two-storey semi-detached property faced in render with a pitched, tiled gable roof, and black uPVC windows and doors lying on PRow HUD/346/10. The application dwelling lies in a relatively varied street scene, being surrounded by properties of varying sizes, scales, characters, ages, and appearances. Furthermore, the dwelling benefits from a large hard-standing driveway area to the front and side, as well as garden space to the rear.

### **THE PROPOSAL**

Non material amendment to previous permission 2025/92104 for erection of two storey side extension and extension to existing porch (within a Conservation Area).

### **PLANNING HISTORY**

The most relevant planning history relates to the following planning applications

2022/92695 – Work to trees within a conservation area – Part Granted/Part Refused.

2022/93482 – Work to trees within a conservation area – Granted.

2022/93759 – Erection of single storey front and side extension and formation of vehicular access (within a Conservation Area) – Refused.

- The proposal, by virtue of its prominent siting, large size and scale, and design, would result in a development that is not subservient to the host dwelling nor would it harmonise with the existing dwelling or the wider character and appearance of the area. Instead, the proposal would result in an extension that would compete in prominence with the dwelling and would constitute a visually jarring feature in the locality, thereby causing detrimental harm to the visual amenities of the host dwelling and wider locality, as well as less than substantial harm to the significance of the Birkby Conservation Area. Additional harm would be caused to the Birkby Conservation Area by virtue of the partial removal of the stone wall to the front of the site and the removal of part of the front garden which adds to the verdant character of the area. No public benefits have been demonstrated to outweigh this identified less than substantial harm to the conservation area.
- The proposed extension, by virtue of its close proximity to No.52 Birkby Lodge Road, scale and design, would result in undue harm to the

amenity of No.52 in terms of loss of light, overshadowing and being oppressive and overbearing.

- The application provides insufficient information to determine the impact upon the protected Ash Tree to the front (east) of the site as a result of the proposed development. This is because the proposed scheme fails to consider the protected Ash tree or its root protection area and the application fails to provide details on acceptable driveway design which would avoid any tree root damage or ground compaction.

2023/90775 – Erection of single storey front and side extension (within a Conservation Area) – Conditional Full Permission.

2023/92266 – Demolition of part of boundary wall to create entrance for off street parking (within a Conservation Area) – Conditional Full Permission.

2024/90079 – Discharge condition 5 (arboricultural method statement) on previous permission 2023/92266 for demolition of part of boundary wall to create entrance for off street parking (within a Conservation Area).

2024/90785 – Work to tree in CA – Granted.

2025/90753 - Removal of stone pillars (within a Conservation Area) – Conditional Full Permission.

2025/92104 – Erection of two storey side extension and extension to existing porch (within a Conservation Area) – Conditional Full Permission.

*Officer Note: To ensure the acceptability of previous permission 2025/92104, negotiations were undertaken to reduce the scale of the proposed two-storey side extension and ensure it was set back at the first floor.*

## **CONSULTATIONS**

Accessible Homes Team (Informal) – No correspondence had been made between the applicant/agent and the accessible homes team.

*Officer Note: Given that the measures proposed as the reasoning for this amendment were not highlighted in the original application, or any recent applications at the property, it is considered that correspondence with the Accessible Homes Team would be required to investigate this issue and seek relevant advice.*

*Furthermore, the proposed alterations and the increase in scale are not considered to adequately address or meet the needs of a disabled applicant as presented. It must be noted that the increase in scale of the approved side extension with no additional interior aids is not considered to provide this.*

## **ALLOCATION AND POLICIES**

The site is allocated in the Birkby Conservation Area within the Kirklees Local Plan (adopted 2019). The site is also located within proximity of PRow HUD/346/10, within a bat alert layer, and has had permitted development rights removed.

The following legislation, policy and guidance is considered relevant to the determination of this application:-

#### *Kirklees Local Plan*

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP21 Highway and Access
- LP22 Parking
- LP24 Design
- LP30 Biodiversity and Geodiversity
- LP35 Historic Environment

#### *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.

- Chapter2 Achieving sustainable development
- Chapter12 Achieving well-designed places
- Chapter14 Meeting the challenge of climate change, flooding and coastal change
- Chapter15 Conserving and enhancing the natural environment
- Chapter16 Conserving and enhancing the historic environment

#### *Supplementary Planning Documents / guidance*

- Kirklees Highway Design Guide (adopted November 2019)
- House Extensions & Alterations SPD (adopted June 2021)

- The Biodiversity Net Gain Technical Advice Note

#### *Legislation*

- The Town & Country Planning Act 1990 (as amended).
- The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- The Planning and Compulsory Purchase Act 2004.
- The Conservation of Habitats and Species Regulations 2017

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

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas.

Insofar as the amendments relate to matters which affect the consideration of the above policies, these are discussed within the 'Assessment' section of this report.

## **ASSESSMENT**

The 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.

With regard to the protocol for non-materials amendments, paragraph 2.3 sets out four key tests for assessing the acceptability of proposed changes to the approved scheme. These are as follows:

Is the proposed change inconsequential in terms of its scale (magnitude, degree etc.) in relation to the original approval?

The case officer made it clear during the original application that the two-storey side extension must be reduced in overall scale, with the first floor set back to allow for a visual break and ensuring the proposal was subservient to the host property. This non-material amendment seeks to restore the originally proposed extension which was not considered to appear subservient to the host dwelling, or allow a visual break, and as such would have been refused had the original application not been amended accordingly.

It is therefore considered that the proposed change is not inconsequential in terms of magnitude and scale when compared to the original approval.

In the Authority's view would the proposed change result in a detrimental impact either visually or in terms of living conditions?

The proposed changes to the two-storey side extension would mean the first-floor element of the proposal was not set back from the ground floor, and the extension itself would not be subservient to the host property. In turn, this would detrimentally impact the property visually, allowing for no visual break between the host dwelling and extension, as well as allowing a side extension

which is not subservient to the host property and therefore does not comply with the Councils House Extensions and Alterations SPD.

In the Authority's view would the interests of a third party or body who participated in or were informed of the original decision be disadvantaged in any way?

The interest of any third party or body who participated in or were informed of the original decision would not be disadvantaged in any way.

In the Authority's view would the amendment be contrary to any policy of the Council?

The proposed amendment to 50 Birkby Lodge Road would cause the development to no longer comply with Policies LP1, LP2, and LP24 of the Kirklees Local Plan, Chapters 2 and 12 of the National Planning Policy Framework, and policies within the Councils House Extensions and Alterations SPD.

## **CONCLUSION**

The amendments shown on drawing No's. 100 and 101 are not considered appropriate to be regarded as a non-material amendment to the previous planning approval 2026/90407 and refusal is recommended.