
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92739 Variation conditions 2 (plans) and 4 (materials) on previous permission 2015/93715 for erection of detached dwelling, extension to existing dwelling and formation of parking area 51, High Street, Hanging Heaton, Batley, WF17 6DR

APPLICANT

C Goodwin, Charlotte
Goodwin Developments
Ltd

DATE VALID

16-Aug-2019

TARGET DATE

11-Oct-2019

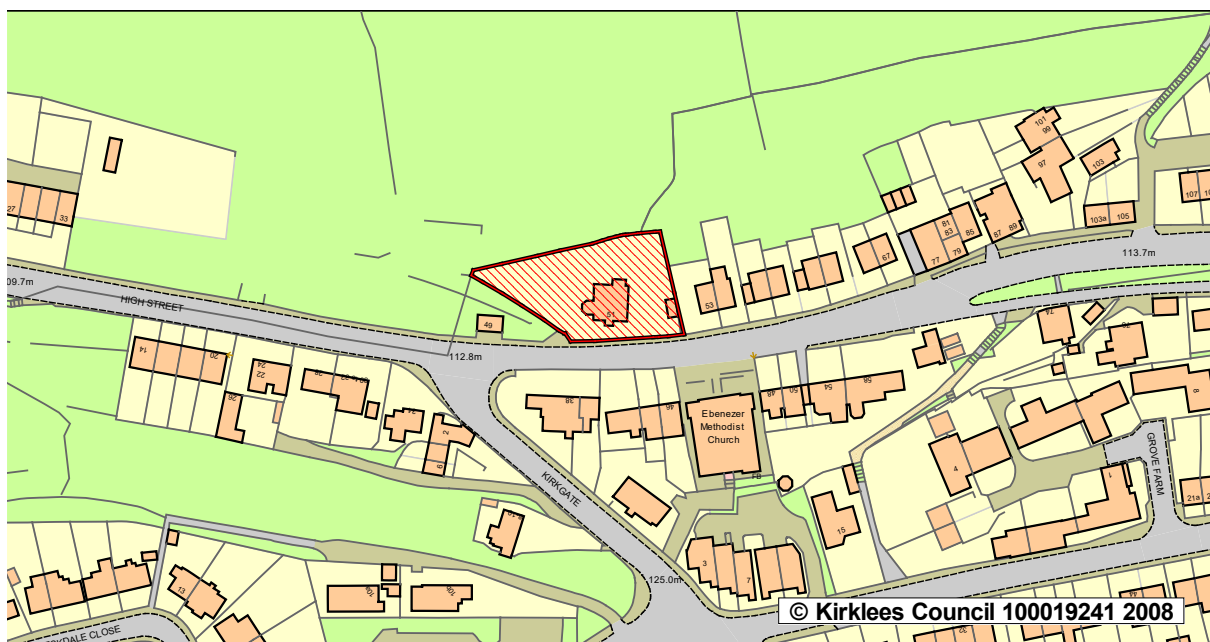
EXTENSION EXPIRY DATE

25-Oct-2019

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury East

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee as the applicant is Charlotte Goodwin, an elected member of Kirklees Council.

1.2 This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 51, High Street, Hanging Heaton, is a detached house built into a steep north facing hillside with relatively recent extensions to the rear and western side. It is 3-storeys at the rear (north facing) and single storey to the front (south facing). To the eastern side is the plot of land for the proposed house, where currently there is a detached single garage and off street parking area at upper level accessed from High Street. To the rear of the garage is a retaining wall with overgrown garden at the base that slopes down and away in a series of terraces to the northern boundary at the bottom of the garden.

2.2 Beyond the boundary to the north are open fields of the lower valley and long distant views over Batley. To the south is High Street with stone built houses and church behind on raised ground. To the east are a line of more recent brick built semi-detached houses fronting onto High Street with gardens at the back sloping down and away from the rear elevation, terraced in places. To the west of the application site is a small commercial building and more north facing valley side.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission to vary conditions 2 (plans) and 4 (materials) on previous permission 2015/93715 for erection of detached dwelling, extension to existing dwelling and formation of parking area. The applicant proposes variation as follows:

- Condition 2 (approved drawings) – proposed new repositioned rectangular footprint, new roof design raising eaves and ridge height, 3 new dormer windows in the front roof slope, altering internal floor heights and layout, additional bedroom, alternative fenestration, and providing 3 off street parking spaces.
- Condition 4 (materials) – proposed use of artificial stonework to the front elevation and render to the remaining sides.

3.2 Further details of these changes are provided later in this report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2011/90413 - First Floor Extension to Form Bedrooms and Bathroom. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2011%2F90413>

4.2 2015/93715 - Erection of detached dwelling and extension to existing dwelling, and formation of parking area. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F93715>

4.3 2018/91159 - Erection of two storey side extension and extension to existing decking. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91159>

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 During the course of the application there was a request for a streetscene drawing and a plan showing 3 off-street parking spaces. These are drawing numbers 1916/04 and 1916/02B respectively.

6.0 PLANNING POLICY:

6.1 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.

Kirklees Local Plan (2019):

- 6.2 **LP 1** – Achieving sustainable development
- LP 2** – Place shaping
- LP 21** – Highway safety
- LP 22** – Parking
- LP 23** – Core walking and cycling network
- LP 24** – Design
- LP 53** – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 **Highways Design Guide** Supplementary Planning Document

National Planning Policy Framework:

- 6.4 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2** – Achieving sustainable development
- Chapter 5** – Delivering a sufficient supply of homes
- Chapter 8** – Promoting healthy and safe communities
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making effective use of land
- Chapter 12** – Achieving well-designed places
- Chapter 15** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised via one site notice and letters delivered to addresses abutting the application site. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 Representation from occupants of one property were received in response to the Council's consultation. The following is a summary of the concerns raised:
 - Top storey windows will cause an invasion of privacy, this could be alleviated by repositioning them in the rear elevation.
 - Responses to these comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

K C Highways Development Management: No objection in principle, but plans should be amended to show 3 off street parking spaces.

The Coal Authority: No objections subject to repeating condition 6 on the original decision notice.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

- Scope of this application
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Scope of this application

- 10.1 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. S73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 When assessing S73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.3 In this case, in the past a previous owner and agent confirmed that construction was well advanced for the extension of existing house (in relation to the 2015 permission). Subsequently planning permission was granted for two storey side extension (ref: 2018/91159). Its application form declared that work had already started on previous approval (2015/93715) and at the officer site visit an extension at ground floor level was under construction. At the officer site visit for the current proposal the 2018/91159 permission appears to have been implemented. Notwithstanding the above, the applicant could develop the site in accordance with the 2015 permission in relation to the proposed detached dwelling, and this fall-back is a material consideration to which significant weight must be given. The principle of the erection of a detached dwelling at this site has already been accepted by the council.

- 10.4 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant's ability to complete the originally-approved development.

Urban Design issues

- 10.5 The extant permission would allow a 3-bed detached house with L-shaped footprint built into the hillside with 4-storey at the back (including one in the roof cavity) and integral single garage. There would be external access to the rear garden down both sides of the house.
- 10.6 The current proposal would provide a 4-bed detached house on a rectangular footprint approximately 0.5m wider but 3.0m shallower in depth. It would be in roughly the same position but set back from the road frontage a further 3.0m and projecting slightly less at the rear. Three levels at the back and two at the front (including roof space) and no integral garage. External access to the rear garden is restricted to the western side adjacent to the boundary with the existing house at 51, High Street.
- 10.7 When viewed within the street-scene the main difference is that the eaves and ridge height would be raised approximately 1.0m at the front and three separate dormer windows formed in the roof slope replacing velux windows.
- 10.8 Each dormer would be 1.2m wide with dual pitched roof set down from ridge around 1.1m and front elevation in line with the front wall of the house.
- 10.9 In terms of scale and in relation to the neighbouring properties to either side, whilst the currently proposed house would be slightly taller than 51, High Street, it would remain below the ridge level of 53, High Street.
- 10.10 The proposed new dormer windows would introduce a new feature into the street-scene however, given that the proposed property is further back from the road side and there are a variety of housing types and styles in the area, it is considered that the proposal would not significantly affect the residential character of the area.
- 10.11 With regards to external wall materials, condition 4 would require the extant planning permission to be built with natural stone walls to the front elevation and artificial stone for the side and rear elevations. The reason for this was in the interests of visual amenity and to accord with policy BE1 of the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.
- 10.12 The current proposal seeks to change condition 4 to the use of artificial stone walling to the front elevation and render for the side and rear elevations. Given that the side and rear walls of 51, High Street are predominantly rendered and that the neighbouring property at 53, High Street appears to have stone effect brickwork to the front elevation, in officers' opinion the proposed change of external wall materials would also be in keeping with the character of the area. This is provided that the colour of render is cream / off white or similar to the stonework on the front elevation and this can be controlled by condition.

- 10.13 To conclude, the proposal would promote good design and enhance the character of the townscape. This is in accordance with policy LP24 of the Kirklees Local Plan and guidance given in chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.14 Outside the site boundary, the nearest neighbouring property is at 53, High Street. This is a relatively recently built semi-detached house to the east of the application site. It is 2-storeys at the front and 2 ½ storeys at the back, with raised terracing at the rear.
- 10.15 The current proposal is likely to have some additional overbearing and overshadowing impact upon the raised platform to the rear of this neighbouring property, as the proposed footprint would be approximately 1.0m closer to the mutual boundary and the overall height would be around 1.0m higher than the approved scheme. However, in officers' opinion this would not be significantly greater than the permission that can be implemented.
- 10.16 In terms of overlooking impact, no openings are shown in the facing elevation and it is recommended that new openings are controlled by condition. Provided that this is applied it is considered that the proposal would minimise impact on residential amenity of future and neighbouring occupiers, compliant with policy LP24 of the Kirklees Local Plan.
- 10.17 Should the applicant wish to erect a raised terrace on the rear elevation leading from bedrooms 3 and 4 at lower ground floor level then this is likely to require further planning permission.
- 10.18 In relation to nos.44 and 46 High Street, these are traditional 2-storey on the opposite side of the road and on raised ground. Whilst the current proposal would be taller than the already approved permission and has 3 dormer windows in the facing elevation, it is also set back a further 3.0m from the road side. As such there would be a separation distance of approximately 26.0m between elevations with High Street and garden areas located in between. Given this separation distance, it is considered that there would be very limited overshadowing or overlooking effect in these circumstances.
- 10.19 It is also noted that there are similar relationships between houses on opposite sides of the road, nearby and along other stretches of High Street.
- 10.20 In relation to the existing house at 51, High Street, in officers' opinion the current proposal is likely to have some additional overbearing and overshadowing impact, but relatively limited over and above that of the house already permitted.
- 10.21 In terms of overlooking no openings except a doorway at lower ground level are shown in the facing elevation and it is recommended that new openings are controlled by condition.

Highway issues

- 10.22 The site is accessed from High Street, a classified C road and at present there is a detached single garage and parking spaces on the site. This proposal amends the layout of the proposed detached dwelling. The proposed dwelling is shown set further back from the highway, and the previously proposed integral garage is omitted.
- 10.23 During the course of this application amended plans have been sought to provide 3 off street parking spaces. The revised plans have been assessed by the Council's Highways Development Management officers who raise no objection to the amended scheme subject to conditions relating to visibility, retaining walls, surfacing of parking areas and driveway gradient.
- 10.24 Provided the above conditions are applied, the proposal would be in the interests of highway safety and compliant with Policies LP21 and LP22 of the KLP.

Representations

- 10.25 Representation from occupants of one property were received in response to the council's consultation. The following is a summary of the concerns raised:

- Top storey windows will cause an invasion of privacy, this could be alleviated by repositioning them in the rear elevation.

Response: Given that this proposal sets the front elevation of the house approximately 3.0m further back from the road frontage and forms a separation distance of around 26.0m between front elevations with High Street in-between, in officers' opinion this would not be unduly detrimental to the residential amenities of the occupants of houses on the opposite side of the road. It is also noted that these properties are on raised ground and there are similar established relationships between houses on opposite sides of the road further along High Street.

Other Matters

- 10.26 ***Contaminated and unstable land (historic coal mining activity)*** - the application site falls within a defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards.
- 10.27 The Coal Authority previously commented on planning approval 2015/93715 in January 2016 and recommended the imposition of a condition to ensure intrusive site investigations and condition 6 was imposed accordingly.
- 10.28 The Coal Authority were consulted with the current proposal and raise no objections to the current proposal and that the condition referred to above needs to be duplicated on any re-issued consent. Provided this is done the proposal would comply with Policy LP53 of the KLP and the aims of chapter 15 of the NPPF.

- 10.29 **Air quality** - In order to promote sustainable methods of transport and to address district wide issues surrounding poor air quality, condition 7 was applied to planning approval 2015/93715 in relation to the approved dwelling. It required an electric vehicle recharging point to be installed prior to occupation. It is recommended to repeat this condition on any re-issued consent. This would be in accordance with the NPPF as well as 'air quality and emissions – technical guidance.

Conditions

- 10.30 S73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-applied conditions (attached to the previous permission ref: 2015/93715, approved on 01/03/2016), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-applied in any subsequent approval of a S73 application, as the effect of the S73 approval is the issue of a fresh grant of permission. It is, however, appropriate to review those conditions before they are re-applied in light of the council's decisions made since the original permission was granted. Several of the conditions of permission ref: 2015/93715 are no longer applicable, therefore their wording should be amended to remove the need for resubmissions of previously-approved details.
- 10.31 Each of the 13 conditions of permission ref: 2015/93715 is considered as follows:

Condition 1 (three years to commence development) - as permission ref: 2015/93715 has been implemented (development commenced with the erection of the extension), this condition does not need to be re-applied.

Condition 2 (approved plans and documents) – The wording of this condition would not change except to reflect relevant policies in the KLP. The list of drawings and documents on the new decision notice would be varied to include the drawings illustrating the proposed re-designed detached dwelling.

Condition 3 (sample of facing and roofing materials) – this condition would be re-applied in the interests of visual amenity, but updated to take into account relevant KLP policies.

Condition 4 (materials) – This condition would be re-worded to reflect the currently proposed walling materials.

Condition 5 (facing materials of the extension) – This condition would be removed as the extension has already been erected.

Condition 6 (intrusive site investigation works) – This condition would be re-applied as it has not been discharged and reworded to take into account relevant KLP policies, in the interests of human health and the environment.

Condition 7 (an electric vehicle charging point) - This condition would be re-applied and reworded to take into account relevant documents and KLP policies, in the interests of sustainable transport.

Condition 8 (surfacing of vehicle parking areas) – This condition would be re-applied in the interests of highway safety and sustainable drainage.

Condition 9 (gradient of driveway) – This condition would be reworded and re-applied in the interests of highway safety and to provide adequate and safe access to the site.

Condition 10 (clearance of sight-lines) – This condition would be re-applied and reworded to ensure adequate visibility in the interests of highway safety.

Condition 11 (details of footway crossings) – This condition would be reworded and re-applied in the interests of highway safety and to provide adequate and safe access to the site.

Condition 12 (retaining walls) – This condition would be re-worded and re-applied to ensure any new retaining structures do not compromise the stability of the highway.

Condition 13 (removal of permitted development rights) – This would be re-worded to reflect relevant KLP policies and re-applied in order to prevent overdevelopment of the site and not detract from the amenities of the neighbouring properties.

11.0 CONCLUSION

- 11.1 It is considered that the submitted plans for an alternative house design would still be acceptable in terms of visual and residential amenity, and the revised layout would not cause unacceptable highway impacts. The use of artificial stone to the front elevation and render elsewhere would also be acceptable in terms of visual amenity. Furthermore, the amendments are considered acceptable in relation to all other relevant planning matters.
- 11.2 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.
- 11.3 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

12.0 CONDITIONS (Summary list - Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Development in accordance with the approved plans
2. Sample of all facing and roofing materials
3. Artificial stone to front elevation & render (colour to be approved) to other elevations
4. Intrusive site investigation works
5. One electric vehicle recharging point
6. Vehicle parking areas to be surfaced and drained
7. Driveway gradient
8. Nothing to be planted/erected within 2 metres of the back of the carriageway
9. Details of footway crossings
10. Details of Retaining walls
11. Removal of permitted development rights for extensions and out buildings within the curtilage of the new dwelling.

Background Papers:

Web link to application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F92739>

Certificate of Ownership – Certificate A signed and dated 16/08/2019

Planning application 2015/93715:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F93715>

Planning application 2018/91159:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91159>