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**Report of the Head of Planning and Development**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 25-Nov-2021**

**Subject: Planning Application 2021/90509 Erection of extensions and external alterations 4, Hopton Hall Lane, Mirfield, WF14 8EL**

**APPLICANT**

A Zarif

**DATE VALID**

09-Feb-2021

**TARGET DATE**

06-Apr-2021

**EXTENSION EXPIRY DATE**

30-Nov-2021

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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**

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**Electoral wards affected: Mirfield**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION: REFUSE**

1. The proposed first floor front extension and associated ground floor alterations, by reasons of design, fenestration and use of large areas of black glazing, would appear out of keeping with the design and character of the host dwelling. The extension would introduce a dominating feature to the principal elevation of the dwelling which would appear incongruous within the street scene. To permit the proposed front extension and alterations would be contrary to Policy LP24 of the Kirklees Local Plan, Key Design Principles 1 and 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

2. The proposed first floor rear extension, by reason of its design, scale and massing, would fail to appear subservient in relation to the main dwelling. To permit the proposed first floor rear extension would be contrary to Policy LP24 of the Kirklees Local Plan, Key Design Principle 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

3. The proposed front and rear extensions, by virtue of their design, scale and relationship with the adjacent grade II listed church and Upper Hopton conservation area boundary, would result in less than substantial harm to the setting of the listed building and the setting of the conservation area. No clear and convincing justification or public benefit has been demonstrated which would weigh against this harm. To permit the proposal in its current form would be contrary to Policy LP35 of the Kirklees Local Plan and the aims of Chapter 16 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Cllr Martyn Bolt for the following reasons:

1.2 *“To my mind, the proposed scheme does not have a significant impact on the setting of the Church because views of the house (as extended) from various viewpoints around the Church are severely limited and the propose scheme has been designed to mitigate impacts on the adjacent site as far as is practicable. Also, officers do not seem to have fully considered two additional matters –*

*Firstly, an application for 2 detached dwellings on the site (2010/90332) was approved in September 2010 and, again to my mind, there has been no material change in national or local planning policy in terms of heritage considerations from that point to this and the scheme as approved has, I believe, a far greater impact on the setting of the Church.*

*Secondly, the property retains its permitted development rights, which would allow two storey extensions to both sides of the property and a two storey 3m extension to the rear. Alternatively to the two storey rear extension, the owner could apply for Prior Approval for a single storey, full-width, flat roof extension that projects 8m from the rear of the house. To my mind, if the owner implemented any of these schemes under permitted development rights, then the overall house as extended would have a far greater impact on the significance of the setting of the Church than the current, well-designed scheme.*

*Therefore, I would like the decision made by members rather than it being a delegated decision by officers, in order that members can assess the potential fallback positions of the applicant as outlined above against the merits of the design contained within the current application.”*

- 1.3 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council's Scheme of Delegation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to 4 Hopton Hall Lane in Upper Hopton, Mirfield. The site comprises a two-storey detached dwelling which is constructed from stone for the external walls. It is designed with a gable roof form which is finished in concrete tiles. The dwelling incorporates a flat roofed integral garage to the side elevation.
- 2.2 The dwelling is sited within a large plot with a driveway to the front and a large garden area which extends to the rear. There is a detached garage to the rear of the dwelling. The rear garden area comprises a number of trees which are protected by a Tree Preservation Order.
- 2.3 The surrounding area is predominantly residential in nature which comprises properties which vary in terms of their style and design. Notwithstanding this, the predominant material of construction is stone. The site is located immediately to the north east of a grade II listed church which forms the boundary of the Upper Hopton conservation area.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of extensions and alterations. Each element of the proposal shall be set out below:

#### *Front Extension and Alterations*

- 3.2 A first floor front extension would be located above a section of an existing flat roofed element to the front of the dwelling. It would have a width of 4m and would be designed with a gable roof form which would be set down from the ridge of the host dwelling by approximately 1.3m. The extension and ground floor element to which it would adjoin would feature large areas of obscure black glazing.

#### *First Floor Side Extension*

- 3.3 A first floor side extension would be located above the existing integral garage and flat roofed elements to the side and rear of the dwelling. It would be designed with a gable roof form which would form a continuation of the roof form of the dwelling.

#### *Two Storey Rear Extension*

- 3.4 A two storey rear extension would project 5m from the rear elevation of the host dwelling and proposed first floor side and rear extensions. It would sit flush with the south western side elevation of the dwelling and would be set in from the north eastern side elevation of the integral garage and first floor side extension by 0.7m. It would be designed with a gable roof form which would have an eaves and ridge height to match that of the host dwelling.

#### *Single Storey Rear Extension*

- 3.5 A single storey extension would project an additional 3m beyond the rear elevation of the two storey rear extension, having a total projection of 8m from the rear elevation of the host dwelling. It would be designed with a flat roof form which would include three lantern style roof lights.

#### *External Alterations*

- 3.6 Two new openings are proposed for the south western side elevation of the dwelling. A high level window is proposed at ground floor level which would serve an open plan lounge/kitchen. A window at first floor level would serve the primary opening to an office.
- 3.7 The external materials would be stone and render for the external walls and concrete tiles for the roof.

3.8 The existing detached garage would be demolished as part of the proposal.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2021/93360 – Prior notification for single storey extension of 8m projection. Prior Approval not required.

4.2 2021/93359 – Certificate of lawfulness for proposed erection of extensions and alterations. Refused.

4.3 2010/90332 – Erection of two detached dwellings. Granted.

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

5.1 During the course of the application, the applicant and the applicant's agent were made aware of officers' concerns regarding the proposed development with regard to the impact on the on the host property and wider area which includes the Upper Hopton Conservation Area and Grade II Listed church building.

5.2 The applicant submitted an application for the prior approval of a single storey rear extension and a certificate of lawful development for a two storey rear extension and first floor side extension to demonstrate a realistic fall-back position. The two applications were determined alongside the current application.

5.3 A set of amended plans were also submitted, reducing the footprint of the proposed first floor front extension and demonstrating off-street parking at the site. Due to the nature of the amended plans which reduced the scale of the front extension and demonstrated the existing parking arrangements, the amended plans were not advertised in this instance. The revisions made were considered not to be sufficient to address the concerns raised by officers which also covered the scale of the development to the rear of the site.

5.4 Following discussions between officers' and the applicant, a meeting was held with the applicant on site to discuss potential amendments to the scheme. A number of revisions to the proposal were suggested by officers, which subject to the review of the amended plans and extended publicity, officers considered could be supported. A set of alternative amended plans were submitted for consideration under the current application, which reduced the projection of the first floor rear extension by 0.7m, however the revisions were considered not to be sufficient to overcome the concerns regarding the scale of the extension and the matter that it would not be subservient to the host dwelling. Following further discussions, the applicant requested that the application be heard at the Heavy Woollen Planning Sub-Committee on the basis of the originally amended plans.

5.5 It is noted that there is a discrepancy between the location of the openings at first floor level in the side elevation of the proposed side and rear extensions on the submitted floor plans and elevation drawings. Amended plans have been requested to rectify this discrepancy.

## **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 27<sup>th</sup> February 2019).

6.2 The site is unallocated on the Kirklees Local Plan.

### **6.3 Kirklees Local Plan (KLP):**

**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 33** – Trees

**LP 35** – Historic environment

**LP 51** – Protection and improvement of local air quality

### **Supplementary Planning Guidance / Documents:**

6.4 On the 29<sup>th</sup> of June 2021, Kirklees Council adopted its supplementary planning document on house extensions and alterations. This document indicates how the Council will interpret its policies regarding such built development, with the advice aligning with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. The SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions and alterations and carries full weight as part of the decision-making process.

### **6.5 National Planning Policy Framework (NPPF):**

**Chapter 2** – Achieving sustainable development

**Chapter 12** – Achieving well-designed places

**Chapter 14** – Meeting the challenge of climate, flooding and coastal change

**Chapter 15** – Conserving and enhancing the natural environment

**Chapter 16** – Conserving and enhancing the historic environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice, neighbour letters and in the press. Final publicity expired on 1<sup>st</sup> April 2021.

7.2 As a result of the above publicity, one general comment has been received. A summary of the comments made are as follows:

- Supportive of the extensions as work is required to bring the property up to a modern standard.
- The trees and shrubs in the rear garden and adjacent church grounds support a variety of wildlife in the area. If these can be maintained, then it would be good for the natural environment.

7.3 Officer comments in response to the comments received will be made within section 10 of this report.

7.4 Ward Councillor Martyn Bolt commented on the scheme and requested that the application be decided by the Heavy Woollen Planning Sub-Committee for the reasons outlined at paragraph 1.2 of this report.

## **8.0 CONSULTATION RESPONSES:**

8.1 KC Conservation & Design – Object to the proposal on the harm that would be caused to the setting of the Upper Hopton conservation area and listed church building due to the scale and design of the extensions.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity
- Heritage issues
- Residential amenity
- Highway issues
- Other matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extensions and Alterations Supplementary Planning Guide and Chapter 12 of the NPPF, regarding design.

- 10.2 The site is immediately adjacent to a Grade II listed St John's Church and the boundary of the Upper Hopton Conservation Area. Policy LP35 of the KLP together with Chapter 16 of the NPPF are relevant in this case.
- 10.3 In addition, it is noted that application 2021/93360 is considered a material consideration which will be assessed below. It is considered to establish the principle of having a single storey extension with an 8m projection at the property.
- 10.4 The planning history at the site is noted which includes an application for the demolition of the existing dwelling and the erection of two new dwellings (2010/90332). Whilst the time period for the application to be implemented has lapsed, it still forms a material consideration and shall be considered below.
- 10.5 In this case, the principle of extending the dwelling is considered to be acceptable. The proposal shall be assessed against the considerations above and all other relevant matters within the following sections of this report.

#### Visual Amenity

- 10.6 The proposal is for the erection of first floor front and side extensions, two storey and single storey rear extensions and external alterations. The dwelling is located in a predominantly residential area which comprises properties of a variety of ages, sizes and designs. The application dwelling is set back from Hopton Hall Lane with a driveway to its front elevation. The site is bound by stone walls to the front boundary. Whilst there is some planting to this elevation, this provides minimal screening of the property when viewed from Hopton Hall Lane.
- 10.7 The proposed first floor front extension would be located above an existing projecting element to front of the dwelling. Paragraph 5.13 of the House Extensions and Alterations SPD draws on how front extensions are highly prominent within the street scene and can erode the character of an area if they are not carefully designed. In this case, the extension would be set back from the access road. Whilst the site is relatively open to its principal elevation, there are a number of trees planted along the boundary of Hopton Hall Lane which would reduce the views of the extension when traveling in either direction. Whilst the extension is considered to be subservient to the host dwelling due to its scale, and set down position in relation to the main roof form of the property, the extension would be of a contemporary appearance, and alterations are proposed to the ground floor aspect of the building to create a two storey feature to the front of the dwelling. The use of full length openings and black glazing at first and second floor level would result in the majority of the front of the two storey element being constructed from glazing. This would create a contemporary addition to the dwelling which, in the opinion of officers, would not respect the character of the property or the design and scale of the



existing fenestration, creating an incongruous feature which would appear out of place within the street scene. This would be contrary to the guidance contained with Paragraph 5.14 of the House Extensions and Alterations SPD which sets out how front extensions should not harm the character of the original house or wider area and that the design should match the existing features of the original house.

- 10.8 The proposed two storey rear extension would project 5m from the rear elevation of the host property. It would extend the full width of the rear elevation of the main dwelling and would be set in from the side elevation of the existing integral garage and proposed first floor side extensions by 0.7m. Paragraph 5.8 of the House Extensions and Alterations SPD sets out how two storey rear extension should not normally project out more than 4m from the rear elevation of detached dwellings. In this case, it is noted that the extension would be to a detached dwelling of a relatively large footprint. Subject to consideration of the impact on the neighbouring properties below, it is considered that the additional 1m projection could potentially be supported at the property. Notwithstanding this, the extension, with a width of 14.5m to extend across the majority of the host building, including the proposed first floor side extension, would introduce a significant amount of bulk and massing to the dwelling which would dominate the rear elevation of the property. The two storey extension, by virtue of its width and overall scale, would fail to remain subservient to the main dwelling. This is contrary to the Key Design Principle 2 of the House Extensions and Alterations SPD which sets out how extensions should not dominate the original house.
- 10.9 At ground floor, a single storey extension would project an additional 3m to the rear of the property, extending a total of 8m from the rear of the host dwelling. The House Extensions and Alterations SPD sets out guidance relating to the single storey rear extensions, including how they should be in keeping with the scale and style of the original house and not have a projection greater than 4m in the case of a detached property. In this case, the prior notification for the erection of an 8m extension is considered to provide a realistic fall-back position which would justify the construction of an extension of an 8m projection in this case. Whilst the extension would be designed with a flat roof form, the principle of this has been established by the prior approval application. The extension would feature lantern-style roof lights and would be of an overall modern appearance. When considering the realistic fall-back position, the impact of the single storey rear extension on the visual amenity of the host property and wider area is considered acceptable.
- 10.10 The proposed first floor level side extension would be located above the existing flat roofed, integral garage. The House Extensions and Alterations SPD notes that first floor side extensions should be set back from the front elevation of the dwelling and down from the ridge. In this case, the extension is considered to be subservient by virtue of its projection and design which would be in keeping with the host dwelling. Given the design of the rear extensions, it is considered

that the set down of the ridge would not be feasible in this case. For the above reasons, the impact on the dwelling itself is acceptable. The extension would be set in from the boundary shared with the neighbouring property. The neighbouring property is also set in significantly from the shared boundary, with a flat roofed garage to its side elevation, and is also located at a lower land level. This is considered sufficient to prevent the creation of a terracing effect in this case. The extension would be set back in relation to the access road, and when considering the above factors, is considered not to have a harmful impact on the street scene or wider area. Access to the rear of the property would be retained to either side of the dwelling. For the above reasons, the design of the first floor level side extension is considered to be acceptable.

- 10.11 New openings are proposed to the side elevation of the dwelling. One of these openings would be taken from the existing rear elevation and would therefore reflect the design of the existing openings on the dwelling. The impact on visual amenity is therefore considered acceptable.
- 10.12 Whilst the proposal would introduce a substantial amount of development to the site, a large rear garden area would be retained as a part of the proposal and there would be access to the rear garden to either side of the dwelling.
- 10.13 The application form states that the extensions would be constructed from stone and render, though the submitted plans do not demonstrate the proposed materials for each elevation of the extensions. Given the use of the stone within the surrounding area, should the application be recommended for approval, it is considered that it would be appropriate to condition that the external walls of the extension should be finished in stone.
- 10.14 In summary, the first floor front and two storey rear extensions would result in a significantly adverse impact to the visual amenity of the host property, street scene and local context. The proposal therefore fails to comply with the House Extensions and Alterations SPD, Policy LP24 of the KLP and the aims of Chapter 12 of the NPPF.

#### Heritage Issues

- 10.15 The application site is located within the setting of the Grade II listed St John's church and the setting of the Upper Hopton conservation area. At its closest point, the proposed rear extensions would be located within 3.7m of the boundary of the Upper Hopton conservation area and 8.2m of the Grade II listed church building.
- 10.16 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

- 10.17 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 10.18 Paragraph 199 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). St John's Church is of national importance and is grade II listed. The character and appearance of the Upper Hopton Conservation Area is of importance.
- 10.19 Policy LP35 of the Local Plan requires that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. Chapter 16 of the NPPF, more specifically Paragraph 199, states that great weight should be given to the asset's conservation irrespective of the level of harm caused by the development. The Conservation and Design officer has been consulted during the consideration of the application. Whilst the trees within the grounds of the church and the garden of the application dwelling provide some screening of the application dwelling, the property is visible within views of the church and outside of the conservation area, particularly when viewed from the south. The proposed front extension, by virtue of its design and fenestration, and the rear extensions in terms of their scale and massing, would not be in keeping with the existing building, the local vernacular or the design of the surrounding suburban development. The extensions as such, are considered to detract from important views north eastwards of the conservation area.
- 10.20 Turning to the setting of the listed building, the rear extensions would be visible in views from the burial ground towards the west tower of the church, most notably the proposed first floor rear extension. The rear extensions, due to their bulk, massing and close proximity to the boundary shared with the listed building, are considered to have a harmful impact on these important views and would as such, result in less than substantial harm to the significance of the listed building.
- 10.21 Where any harm to the significance of a listed building or conservation area would be caused, Paragraph 200 of the NPPF sets out how clear and convincing justification would be required. Policy LP35 and Paragraph 202, states that the harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. In this case, no clear and convincing justification has been provided and it is noted that the proposal is for extensions to a private dwelling. As such, there is no public benefits which would weigh against this harm.

10.22 In summary, the proposed development, due to the design and scale of the extensions, would result in less than substantial harm to the setting of the grade II listed building and the setting of the Upper Hopton conservation area. No clear and convincing justification or public benefit has been demonstrated which would weigh against this harm. The scheme is therefore contrary to the Policy LP35 of the KLP and Chapter 16 of the NPPF.

#### Residential Amenity

10.23 The site is located within a residential area. This section will assess the relationship of the proposed development with the neighbouring properties.

#### Impact on 4A Hopton Hall Lane

10.24 The proposed front extension would be set in from the boundary shared with the neighbouring property. It is considered that the distance retained would be sufficient to prevent the extension from having a harmful overbearing or overshadowing impact towards the property. Whilst openings are shown to the side elevation of the extension and also at ground floor level, these would be obscure glazed. Together with the fact that these openings would serve a hall and secondary opening to a bathroom, this is considered to prevent the potential for harmful overlooking towards the neighbouring property.

10.25 The proposed first floor side extension would be located to the side elevation of the neighbouring property, which other than an entrance door at ground floor level, does not benefit from openings in this elevation. The impact of this element on the residential amenity of the property is considered to be acceptable. Whilst there would be two openings in the side elevation of the extension, these would serve a secondary bedroom opening and an ensuite. The ensuite opening is shown on the submitted plans to be obscure glazed. Due to the change in levels, the bedroom opening would look over the neighbouring property. Any overlooking of the amenity space of the property would be at an oblique angle and is therefore considered not to be detrimental to the amenity of the occupiers of the property.

10.26 The proposed rear extensions would project 5m from the rear elevation of the dwelling at first floor and 8m at ground floor. The application dwelling is located at a higher land level to the neighbouring property and is located to the south west. Paragraphs 5.6 and 5.8 of the House Extensions and Alterations SPD set out the general characteristics of single and two storey extensions respectively, both stating that extensions should not project out more than 4m from the rear elevation of a dwelling. Paragraph 5.9 however, states that larger extensions may be acceptable in certain circumstances if this can be justified.

- 10.27 In the case of the ground floor extension, the principle of an 8m single storey extension has been established by the prior notification application. The extension would be set in from the boundary shared with the property by 5m which, when considering the fact that the neighbouring property is also set in from the boundary, with a single storey integral garage to its south western elevation, the impact on the neighbouring property is considered acceptable. No openings are proposed for the side elevation of the extension which would prevent harmful overlooking. In the interest of residential amenity, and in accordance with Key Design Principles 3 and 4 of the House Extensions and Alterations SPD, should the application be recommended for approval, it is considered that it would be appropriate to condition that no openings shall be installed in this elevation of the extension in the future.
- 10.28 Turning to the first floor extension, whilst there would be the potential for some additional overshadowing to the rear amenity space of the property from existing, when considering the distance retained between the extension and the shared boundary, it is considered that this impact would be limited. When taking into account the existing relationship between the two dwellings, with the habitable openings to the rear of the neighbouring property set in significantly from the shared boundary, it is considered that the proposed extension would not have a harmful overbearing or overshadowing impact. The relationship between the properties is considered to justify the extra 1m projection in this case. In the interest of residential amenity, and to prevent harmful overlooking towards the amenity space of the property, it is considered that it would be appropriate to condition that no openings shall be installed in this side elevation of the extension in the future should the application be recommended for approval.
- 10.29 The proposed extensions would not establish a direct relationship with any other of the neighbouring properties and it is considered that the relationships, along with the distance retained, would be sufficient to prevent the proposal from having a harmful impact by way of overbearing, overshadowing or overlooking.
- 10.30 For the reasons set out above, the proposed development is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants, thereby complying with Policy LP24 of the KLP (b), Key Design principles 3, 4, 5 and 6 of the House Extensions and Alterations SPD as well as Paragraph 130 (f) of the NPPF.

#### Highway issues

- 10.31 The proposal would introduce a significant amount of the development to the property, including the addition of 3 new bedrooms. Paragraph 4.42 of the House Extensions and Alterations SPD sets out how the number of parking spaces required are dependent on the size of the property and the prevailing

local characteristics and will be considered on a case-by-case basis. As an initial point of reference, it advises that 4+ bedrooms dwellings should provide a minimum of 3 parking spaces. The amended site plan demonstrates one parking space within the integral garage and four on the driveway. Whilst the garage would not be of a sufficient length to accommodate a vehicle, the plan demonstrates that at least 3 parking spaces could be accommodated. Bin storage at the dwelling currently appears to take place to the side of the integral garage, and this would be unaffected by the proposed development.

- 10.32 As such, the scheme would not represent additional harm in terms of highway safety complying with Policies LP21 and LP22 of the KLP as well as Key Design Principles 15 and 16 of the House Extensions and Alterations SPD.

### Other Matters

#### *Previous Application*

- 10.33 Application reference 2010/90332 was previously approved at the site. Whilst the permission has lapsed, the application forms a material planning consideration. The application proposed the demolition and replacement of the existing dwelling and the erection of a new dwelling within the rear garden of the property. Each application must be assessed on its own merits and considered against the relevant planning policies at the time of its determination. The impact on the conservation area and listed building was assessed as part of the consideration of the application. The current proposal is for extensions to the existing building and is considered not to be directly comparable to the previous scheme which did maintain an open aspect immediately adjacent to the listed church building. Furthermore, this previous application was assessed in relation to now superseded national and local planning policy. In this case, the impact of the proposal has been considered with regard to the KLP, NPPF and House Extensions and Alterations SPD and cannot be supported due to its impact on the visual amenity of the host property and wider area which comprises the Upper Hopton conservation area and grade II listed St John's Church.
- 10.34 Application reference 2021/93360 has been previously approved at the site. The application is for the prior notification of a single storey rear extension and is considered to establish the principle of a having a single storey extension with an 8m projection at the property. The prior notification application is considered to represent a realistic fall-back position should the application for the proposed development be refused. This fall-back position has been afforded weight within the assessment of the application and it is considered, on this basis, that the proposed single storey rear extension could be supported. Whilst the applicant has submitted a certificate of lawful development application (2021/93359) to establish the principle of constructing a two storey rear extension at the property, this application has been refused. Nevertheless, should the principle of erecting a two storey rear extension under

permitted development at the property be established, it is noted that the only one of the single storey rear extension and two storey extension would be able to be constructed. There is considered to be no realistic fall-back position for the erection of further extensions to the property under permitted development, and as such, weight can only be afforded to the single storey rear extension and the fall-back position which has been established by the prior notification application.

### *Biodiversity*

- 10.34 The site is located within the bat alert layer and therefore consideration has to be given to the impact of the proposed development on bats and bat roosts. A site visit was undertaken as part of the application and there was no evidence of bats or bat roosts. Should the application be recommended for approval, a footnote could have been added to the decision notice in accordance with Policy LP30 of the KLP, Key Design Principle 12 of the House Extensions and Alterations SPD and the aims of Chapter 15 of the NPPF.

### *Trees*

- 10.35 There are a number of trees which are protected by a Tree Preservation Order which are located within the rear garden of the property. The trees within the grounds of the church are protected by the designation of the Upper Hopton conservation order. A large area of the trees within the grounds of the church are also protected by a Tree Preservation Order. Whilst the rear extensions would have a significant projection, the protected trees are located towards the rear of the site, and it is considered that sufficient distance would be retained to prevent the proposal from impacting these protected trees in this instance. The trees within the church grounds are located to the front and side of the dwelling. The front extension would be located within the existing footprint of the dwelling. When considering this, along with the distance retained, it is considered that this element would not impact on the amenity of the protected trees in this case. The rear extensions would not project beyond the side elevation of the dwelling and are therefore not considered to impact on the amenity of the trees which are located within close proximity of the boundary to the side elevation of the dwelling.
- 10.36 Key Design Principle 13 of the House Extensions and Alterations SPD sets out how extensions and alterations should seek to retain existing vegetation and trees and enhance the provision through landscaping where possible. Key Design Principle 12 states that proposals should consider how they might contribute towards the enhancement of the natural environment and biodiversity. The application form states that no trees would be pruned or removed as part of the proposal. Whilst the previous hedging to the side of the dwelling has been removed, this would be replaced as part of the development. When taking the above into consideration, the impact on the natural environment and biodiversity as a result of the proposal is considered acceptable, complying with Policy LP30 of the KLP and the aims of the NPPF.

### *Coal Mining Legacy*

10.37 The site is located within a 'high risk' coal mining area. The proposed development is for householder extensions and therefore this falls under the 'exemptions' on the Coal Authority's exemptions list. For this reason, a Coal Mining Risk Assessment or consultation with The Coal Authority has not been undertaken and the proposed development is considered acceptable in this regard.

### *Climate Change*

10.38 On 12<sup>th</sup> November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.39 The proposal represents domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards. For this reason, the proposed development is considered to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

10.40 There are no other matters considered relevant to the determination of this application.

### Representations

10.41 One general comment was received during the course of the application. A response to each of the comments made follows:

- Supportive of the extensions as work is required to bring the property up to a modern standard.

*Officer comment:* This comment is noted. An assessment of the proposal has been set out within this report.



- The trees and shrubs in the rear garden and adjacent church grounds support a variety of wildlife in the area. If these can be maintained, then it would be good for the natural environment.

*Officer Comment:* The comments relating to trees and ecology have been covered in the other matters section of this report. The impact on trees and ecology is considered to be acceptable.

- 10.42 The comments received from Ward Councillor Bolt have been carefully considered. The impact on the conservation area and Grade II listed church have been considered as part of this assessment of the application and are set out in detail in the heritage section of this report. It is considered that the proposal, as a result of the scale and design of the rear extensions and their proximity to the boundary of the listed building and conservation area, would result in harm to their setting. Whilst this harm would be less than substantial, the proposal is for development to an existing residential property, and as such, there would be no public benefit from the scheme which would weigh against the harm caused.
- 10.43 The application for two detached dwellings (2010/90332), whilst lapsed, does form a material consideration and has been addressed within this report. Each application must be considered on its own merits and the impact on the listed building and conservation were addressed within the assessment of the application. The current application relates to extensions to an existing dwelling, and the two proposals are considered not to be directly comparable. It is also noted that since the granting of the previous permission, the NPPF, KLP and House Extensions and Alterations SPD have been adopted and the application must be considered against the current planning policies and guidance.
- 10.44 As previously set out, application 2021/93360 has been approved at the site and is considered to establish the principle of having an 8m single storey extension at the property. This has been afforded weight in the consideration of the application and the single storey rear element of the proposal, is considered acceptable. Whilst a Certificate of Lawful Development application (2021/93359) was submitted for a two storey rear extension and first floor side extension, this was refused as the extension would project beyond a side wall of the original dwelling. Whilst it is acknowledged that a two storey rear extension, to the rear of the main dwelling only could potentially be constructed under permitted development, this has not been supported through the submission of a further Certificate of Lawful Development application. In any case, it is noted that should this fall back position be established, the applicant would not be able to construct both the two storey rear extension and larger single storey rear extension together. The design of the scheme, considered against the NPPF, KLP and House Extensions and Alterations SPD, has been set out within the main body of this report.

## **11.0 CONCLUSION**

11.1 The application for extensions and alterations to 4 Hopton Hall Lane, Upper Hopton, Mirfield, has been assessed against relevant policies in the development plan, as listed in the policy section of this report. It is considered that the development proposals do not accord with the development plan and the adverse impact of granting planning permission on the host building and wider area, which comprises the Upper Hopton Conservation Area and Grade II listed St John's church, would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the NPPF taken as a whole.

11.2 the application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would not constitute sustainable development and is, therefore, recommended for refusal.

**12.0 Reasons for Refusal are set out at the beginning of this report.**

**Background Papers:**

**Application weblink:**

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/90509>

Certificate of Ownership – Certificate A signed.

**Weblink to previous applications referred to in section 4.0 of this report:**

**2021/93360** – Prior notification for single storey extension of 8m projection. Prior Approval not required –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93360+>

**2021/93359** – Certificate of lawfulness for proposed erection of extensions and alterations. Refused –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93359+>

**2010/90332** – Erection of two detached dwellings. Granted –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2010%2f90332+>