
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 20-Jul-2023

Subject: Planning Application 2022/93096 Erection of extension and external staircase 57, Fixby Road, Fixby, Huddersfield, HD2 2JB

APPLICANT

N Uppaland Family

DATE VALID

10-Oct-2022

TARGET DATE

05-Dec-2022

EXTENSION EXPIRY DATE

25-Jul-2023

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[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Ashbrow

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

That permission be REFUSED for the following reasons: -

1. The proposed extension, by virtue of its scale and appearance and considered cumulatively with existing extensions, would result cramped and incongruous overdevelopment of the site. This would not be subservient to the original property and would fail to harmonise with either the visual amenities and character of the original property or the wider street scene. This would be contrary to Policy LP24 (a and c) of the Kirklees Local Plan and Policies within Chapter 12 of the National Planning Policy Framework.

2. The proposed extension would have a harmful impact upon the residential amenities of the occupiers of No. 59 Fixby Road as a result of its scale, massing, projection from the rear of the host property and proximity to the shared boundary. This would be contrary to Policy LP24 (b) of the Kirklees Local Plan and Policies within Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to Planning Committee at the request of Ward Councillor A Pinnock.

1.2 Councillor A Pinnock has confirmed the reason for their request is as follows:

“The extension is necessary for the expansion of the business and will create more opportunities that will benefit the local area such as an increase in the range of goods and produce, selling more localised products and create more employment all around. This is a win-win for our area. In addition, I understand that no objections have been received for the public, highways or environmental health. I request that the sub-committee members do carefully consider the officer’s concerns, however is my view the application should be granted as requested for reasons outlined above.”

1.3 The Chair of the Sub-Committee has confirmed that Cllr A Pinnock’s reasons for the referral to the Committee are valid having regard to the Councillor’s Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

2.1 This application relates to no. 57 Fixby Road. This is an extended semi-detached property comprising a retail unit at ground floor with residential accommodation at first floor. Parking for the customers of the shop is to the front of the property with access for servicing located to the rear and taken from Broomfield Road. Within the associated ‘blue edged’ land within the control of the applicant is the attached no. 59 Fixby Road, a residential property.

- 2.2 A large-detached garage/store to the south of no. 57 and accessed from Broomfield Road is also within the blue edged land. This building has an extant permission for its conversion to one dwelling under application number 2019/92709 and more recently 2022/93373.
- 2.3 No. 59 Fixby Road also benefits from a recent approval of planning permission under application number 2022/92971 for the erection of a two storey side extension and single and two storey rear extension.
- 2.4 The host property is not within a defined local, district or town centre but it is within an area identified by the Coal Authority as being at low risk of ground movement due to former mining activity.
- 2.5 Development surrounding the site is mainly residential with semi-detached dwellings constructed from brick and render.

3.0 PROPOSAL:

- 3.1 Permission is sought for the erection of a ground floor extension of the retail unit and external staircase to 57 Fixby Road. The extension would serve the retail area and also provide ancillary storage for the retail use.
- 3.2 It is proposed that the existing internal staircase which provides access to the first-floor residential accommodation would be removed and replaced with an external staircase located on the eastern elevation of the building facing Broomfield Road.
- 3.3 With regards to the proposed extension, the works would be to the rear of the extended building in the form of an L-shaped flat roof single storey rear extension.
- 3.4 The existing staggered extension to the rear of the property is ~3.8m projection where adjacent no. 59. This increases to ~6.8m viewed along the eastern elevation.
- 3.5 The extension would project a further 6.2m viewed along the western elevation, adjacent no. 59. It would project 3.3m from the existing southern elevation of the building. This would result in an 'L' shaped extension which would be set in from the eastern elevation of the property facing Broomfield Road by 4.55 metres to allow for some vehicle access to be retained.
- 3.6 The resulting extension would, cumulatively, project 10m from the original rear elevation of the property at its greatest extent.
- 3.7 It is proposed that the extension would be flat roofed at a total height of 3.45 metres. It would contain a roller shutter door in the eastern elevation to provide access to the store.
- 3.8 The proposed construction material would be red/brown brick to match the existing building work.

3.9 Within an email dated 29th June additional justification and information has been provided by the planning agent for this application which can be summarised as follows:

- The shop serves a locality with few others in the vicinity, primarily providing top up goods & services
- A recently approved housing development nearby would be served by the store
- Increased range of goods would be possible with potential the shop would operate as a 'Morrisons Daily'
- The development would see investment and up to 10 part time jobs created
- The impact to no.59 would be reduced by the construction of the approved extension to that property.
- Both 57 and 59 are in the same ownership
- The proposal is considered to have limited visual impact

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 57-59 Fixby Road

2019/92708 Certificate of lawfulness for proposed change of use of ground floor from residential to retail
Refused

4.2 59 Fixby Road

2022/93971 Erection of two storey side and two and single storey rear extensions with external alterations
Conditional Full Permission

4.3 57 Fixby Road

1989/07343 Erection of 2 storey extension to form enlarged sales area to shop, 2 bedrooms and bathroom
Conditional Full Permission

2000/90473 Erection of extension to shop and living accommodation and store extension to detached garage
Conditional Full Permission

2001/93249 Variation of condition 4 relating to parking, loading and unloading on previous permission 2000/90473 for erection of extension to shop and living accommodation to detached garage
Conditional Full Permission

2005/94734 Alterations to existing garage
Refused

2006/94561 Erection of storage unit
Conditional Full Permission

2011/92679 Installation of ATM and associated works
Conditional Full Permission

2019/92708 Certificate of lawfulness for proposed change of use of ground floor from residential to retail
Refused

4.4 Storage unit to rear of No. 59

2019/92709 Erection of extension and alterations to form one dwelling and widening of vehicular access to Fixby Road
Conditional Full Permission

2022/93373 Erection of extensions and alterations to outbuilding and garage to form one dwelling
Conditional Full Permission

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

5.1 The application before members forms one of three applications submitted at similar times. Following slight amendments to the other proposals (house extensions to No. 59 and a slight amendment to an extant permission to convert and extend the outbuilding/garage on Broomfield Road to one dwelling), these were considered to be acceptable.

5.2 Following a site visit, Officer's raised concerns regarding this application and whilst Officer's note that the shop with flat above, no.59 Fixby Road and the Broomfield Road outbuilding all fall under the same ownership, it was considered that the proposed extension to the store would impact on the amenity of future occupiers of no. 59 by reason of its overall projection (discussed in more detail in the following sections of this report). Amended plans were submitted to modify the proposed site plan.

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) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

6.2 The site is located within an area which is without notation on the Kirklees Local Plan. The site is also within an area of low risk of ground movement as a result of former mining activity by the Coal Authority.

Kirklees Local Plan (2019):

6.3 The most relevant policies of the Kirklees Local Plan (2019) are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP13 – Town Centre Uses
- LP21 – Highways and access
- LP22 – Parking

- LP24 – Design
- LP30 – Biodiversity and geodiversity
- LP48 – Community facilities and Services
- LP52 – Protection of Environmental Quality
- LP53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

6.4 Highway Design Guide SPD.

National Planning Guidance:

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 20/7/2021, the National Design Guide published 10/10/2019 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance.

6.6 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining planning applications, the following chapters being considered applicable in this case:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision making
- Chapter 6 – Building a strong, competitive economy
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal changes
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

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

7.2 The application has been advertised by neighbour letter, the publicity period expired 1st December 2022. No responses have been received.

7.3 The amended plans and additional information provided was not re-publicised as this did not fundamentally alter the scope and scale of the development proposed.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

None

8.2 Non-statutory:

K. C. Highways Development Management – No objection

K.C. Environmental Health – No objection subject to conditions imposed regarding hours of use for deliveries and the reporting on unexpected land contamination should any be encountered.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF.
- 10.2 The scheme will be assessed taking into account local planning policy guidance in Policies LP1, LP2 and LP24 of the Kirklees Local Plan which supports the guidance contained within the NPPF. Policy LP24 is particularly relevant in this instance in relation to design and states that extensions should be subservient to the original building in terms of scale, materials and details and minimise the impact on the residential amenity for future and neighbouring occupiers. Chapter 12 of the NPPF also considers the above, accompanying KLP policies.
- 10.3 The application has been submitted with a Planning Statement (dated September 2022) that identifies that the extension would increase the retail area within the shop but will principally provide covered ancillary storage. Having regard to Policy LP13, and the fact that the proposal seeks to extend the existing store/shop it is considered unnecessary in this case to require submission of a sequential assessment. The proposal is not of a scale that requires a retail impact assessment.
- 10.4 The current storage for the shop is within a detached outbuilding to the south. However, there is an extant permission to convert this outbuilding to one dwelling. This was approved under application 2019/92709, and more recently under application no. 2022/93373.
- 10.5 Section 11 of this assessment sets out the conclusions in relation to the principle of the development in light of all other material considerations.

Urban Design issues

- 10.6 The NPPF offers guidance relating to design in Chapter 12 (Achieving well-designed places) whereby paragraph 126 provides a principal consideration concerning design which states:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

- 10.7 Policy LP24 (design) of the Council's adopted Local Plan sets out that proposals should promote good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings.

- 10.8 Paragraph 130 of the NPPF is also of relevance, in particular the following sections:

- *b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- *c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing of discouraging appropriate innovation or change *such as increased densities)*

- 10.9 The property is located on the corner of Fixby Road and Broomfield Road. It is within a streetscene where other properties are of a similar design to the original host pair of semi-detached properties.

- 10.10 The attached neighbouring property at No. 59 Fixby Road serves a dwelling. This has been extended via a single storey rear extension and conservatory. More recently permission has been granted for larger two storey side / rear extensions and a single storey rear extension.

- 10.11 The proposal under consideration consists of two elements (extension and external staircase) which shall be addressed separately within the following section of this report:

- 10.12 *Extension:* This would be attached to an existing extension with a differing roof form. It would cover most of the open space to the rear of the building and result in a cumulative projection of 10m to the original rear of the property. Given the scale of the proposal, and having regard to previous extensions at the site, the proposal would not result in a subservient addition to the property. There are no similar sized additions to the rear of properties in the locality.

- 10.13 The impact of the extension, where there are already significant extensions to both the ground floor retail area and first floor accommodation, would appear incongruous within the streetscene. It would appear cramped and overdeveloped with competing roof forms. This is exacerbated by the prominent location of the unit at the junction of two roads and other development undertaken, and extant permissions to extend property, on other 'blue edged' land adjacent the application site.
- 10.14 The proposed rear extension is considered not to respect the form, scale and layout of the townscape.
- 10.15 The proposed extension would not create a harmonious addition to the building and the continuing piecemeal development would result in a site appearing substantially overdeveloped. Despite the use of appropriate materials to the walls, the design and scale of this element is considered visually unacceptable.
- 10.16 *External staircase:* It is proposed that the internal staircase which provides access to the first floor flat would be removed and replaced by an external staircase, accessed from the Broomfield Road (east) elevation. This part of the development is small in scale and would ensure that the residential flat can be accessed separately to the operation of the retail unit. Whilst no details have been submitted in terms of the construction materials, these could be controlled by condition, and it is recommended such a condition requires the stairs to be metal and of a black colour finish. As such, there are no concerns regarding the visual impact of this element of the scheme.
- 10.17 Taking all the above into account, the proposed extension would cumulatively extend the built form of development to the rear of the building by 10 metres from the original property when considered in conjunction with the existing development. It would cause significant harm to the visual amenity of the host property and the wider street scene. The design and presence of the proposed extension would read as an overdevelopment of the plot. The proposal is therefore concluded to be contrary to Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would not be a subservient addition to the building in keeping with the existing building and the policies within Chapter 12 of the NPPF.

Residential Amenity

- 10.18 Paragraph 130 of the NPPF requires that planning decisions ensure developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Furthermore, Policy LP24 (b) of the Kirklees Local Plan sets out that:

Proposals should promote good design by ensuring:

b. they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary

- 10.19 Part (f) of paragraph 130 of the NPPF is also relevant and sets out that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible which promote health and wellbeing with a high standard of amenity for existing and future users.
- 10.20 In terms of the impact on neighbouring properties, the residential property most affected by the development is No. 59 Fixby Road. There is an existing extension and conservatory to the rear of this property and recent planning approval sought to extend this dwelling to the rear by 4 metres at ground floor and 2 metres at first floor.
- 10.21 The proposed 'L' shaped extension would project off the side (west) elevation of the existing extension adjacent to the boundary line by a further 6.2 metres, resulting in a 10 metre projection elevation close to the shared boundary. This would have a height of 3.45 metres which would be substantially greater in terms of impact than that of a 2-metre high boundary screen which could be constructed in any event.
- 10.22 It is noted that there is no existing boundary screening between the store and No. 59 at present. These properties being within the same ownership at present. However, the impact of the proposal on any future occupier needs to be assessed, irrespective of ownership.
- 10.23 The proposed extension is to the east of No. 59 and therefore there would be some loss of direct sunlight during the morning. Furthermore, the size and scale of the proposed structure would be oppressive and would have an overbearing impact to the occupiers of No. 59 and its rear garden area having a harmful impact upon the outlook from the ground floor windows of this property.
- 10.24 The conversion of the existing store on Broomfield Road to a dwelling would result in the following relationship between the proposed extension and this dwelling. The rear elevation of the proposed extension would sit adjacent to the side elevation of the dwelling's garage. Neither the side elevation of the new dwelling or the rear elevation of the proposed extension would contain openings and therefore there would be no significant impact from overlooking as a result of the works. Due to the orientation of the extension in relation to the amenity space for the new dwelling, there would be limited harm to the occupiers of this new dwelling.
- 10.25 With regards to the impact of the external staircase, the closest property to this feature would be 84 Broomfield Road which faces the side elevation of the property albeit with the dwelling itself being situated further to the south. Due to the overall size and scale of the stairway with no formal platform or terrace which could be used as amenity space for the first floor flat, it is considered that the proposed staircase would not result in an overall loss of amenity to neighbouring properties.
- 10.26 There are no other properties that would be directly impacted because of the proposals. The response of the Environmental Health Team is noted and in the interests of the amenity of neighbouring occupiers, to prevent noise having a harmful impact, it is recommended that should permission be granted, delivery hours associated with the store be restricted to 07.30 to 18.30 hours Mondays to Fridays and 08.00 to 13.00 hours on Saturdays.

- 10.27 To conclude. The scale and massing of the extension, in conjunction with its close proximity to the attached neighbouring property, would result in a development that would be significantly oppressive, causing an unacceptable loss of amenity to the occupiers of No. 59 Fixby Road. This element of the proposal would fail to comply with Policy LP24 (b) of the Kirklees Local Plan in terms of amenity for neighbouring properties and paragraph 130 (f) of the National Planning Policy Framework.

Highway issues

- 10.28 Policies LP21 and LP22 of the Kirklees Local Plan and the Council's adopted Highways Design Guide relate to access and highway safety as well as parking standards and are considered to be relevant to the consideration of this application.
- 10.29 The proposal is primarily for storage with a slight increase to the floor area of the shop. As demonstrated on the submitted plans, parking for delivery to the storage area would be accessed off Broomfield Road. Highways Officers have raised no issues relating to the existing or proposed parking areas or servicing arrangement and therefore there are no objections on highway grounds.
- 10.30 The proposal incorporates waste storage within the site, it is noted that waste storage for the recently approved dwelling (Broomfield Road) would be separate from the site the subject of this application and it is considered that waste storage can be suitably provided for.

Other Matters

- 10.31 *Carbon Budget* – On 12th 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 predates 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.
- 10.32 The proposal is within a sustainable location. As such, no special measures were considered to be required in terms of the planning application with regards to carbon emissions particularly as there are controls in terms of Building Regulations which would need to be adhered to as part of the construction process. Indeed, the expansion of the retail offer at the site could reduce short car journeys for retail provisions elsewhere.
- 10.33 *Land Quality & Coal mining legacy* – LP53 of the Kirklees Local Plan and paragraphs 174 and 183 of the NPPF are relevant which seek to ensure that a site is suitable for the new use taking account of ground conditions and land stability, including from natural hazards of former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

- 10.34 The Council's Environmental Health Team recommend the inclusion of a condition requiring the submission of a scheme of investigation, remediation and verification in regard to land quality, should unexpected contamination be encountered during the construction phase of the development. Subject to inclusion of this condition the proposal is considered acceptable in terms of land quality.
- 10.35 The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided within any decision notice. As such it is considered that the proposal is acceptable with regard to ground quality / stability in accordance with policy LP53 and paragraphs 174 and 183 of the National Planning Policy Framework.
- 10.36 *Biodiversity* – Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.
- 10.37 Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.
- 10.38 The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from the Council's Ecology & Biodiversity Team it is considered that a Bat Survey was not required in this instance. This conclusion is drawn on the basis the existing property, in this case, appears to be well sealed and maintained with little opportunity for bats. Furthermore, the extension would have no impact on the existing roof structure of the host property as the proposal is single storey.
- 10.39 *Community Facilities and Services* – Policy LP48 of the Local Plan and Chapter 8 of the NPPF both encourage proposals that retain and enhance the provision and quality of existing community facilities and services that meet the needs of all members of the community. This can include 'local' and 'established' shops. Paragraph 93d of the NPPF states that planning decisions "should ensure that established shops... are able to develop and modernise and are retained for the benefit of the community".
- 10.40 The Agent has set out how the development would comply with the above Policies, as summarised in paragraph 3.9 of this report. Significant weight is afforded to the community benefits the extension/ reconfiguration of the shop would bring. This could also encourage a national supermarket to provide facilities at the site, as set out in the supporting statement. This must be balanced against the permanent harm the development would cause to both the visual and residential amenities of the area. Taking all factors into account, it is concluded that the harm cause would outweigh the benefits in this specific instance.

11.0 CONCLUSION

- 11.1 This application has been assessed against relevant policies in the development plan the National Planning Policy Framework and other material considerations.
- 11.2 The proposed development is considered to cause unacceptable harm to residential amenity and the visual amenity of both the host property and wider street scene. It is concluded that the development would be contrary to policies within the local plan and national planning policy as discussed within the 'visual amenity' and 'residential amenity' sections of this report.
- 11.3 The proposal would provide a small-scale extension to the existing retail unit and contribute to the operation of the existing business. In addition, there is potential for the development to lead to an increase in employment opportunities. However, whilst these factors weigh in favour of the development, in this case the identified harm is considered not be outweighed by any other material considerations.
- 11.4 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. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF. It is considered that therefore the proposed development would not constitute sustainable development and is therefore recommended for refusal.

12.0 RECOMMENDATION: That permission be refused for the reasons set out at the beginning of this report.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate A signed