
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 01-Feb-2024

Subject: Planning Application 2023/93291 Erection of single storey extension and raised terrace 18, Saint Francis Gardens, Fixby, Huddersfield, HD2 2EU

APPLICANT

J Uppal

DATE VALID

10-Nov-2023

TARGET DATE

05-Jan-2024

EXTENSION EXPIRY DATE

09-Feb-2024

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

[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:

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 has been brought to the Huddersfield Planning Sub Committee at the request of Ward Councillor Zarina Amin on the basis of the impact of the development as a result of overlooking and to allow the consideration of suitable mitigation measures to address this impact.

1.2 The Chair of the Sub-Committee has confirmed that Cllr Z Amin'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 18 Saint Francis Gardens is a large-detached property located within a predominantly residential area with an area of vacant land to the north, and residential properties to the south and west of the site, to the east are the amenity spaces of neighbouring residential properties beyond which is vacant land which hosts vegetation and mature trees.

2.2 The property is an 'L' shaped building, a mix of single and two storeys in height and constructed from stone. The property is to the north-eastern corner within the established cul-de-sac known as Saint Francis Gardens. There is a driveway to the front of the property which leads to an integral garage and amenity spaces are located to the front, side and rear.

3.0 PROPOSAL:

3.1 The application seeks permission for the erection of a single storey extension and raised terrace.

3.2 With the exception of the treatment of the glazing to ensure it is obscured to achieve level 4 standard of obscurity (as identified to a number of the window panels and annotated upon the submitted plans), the works for which permission is sought have been carried out and completed on site. This application seeks planning permission for this development.

Single storey extension:

- 3.3 The proposed single storey extension is located on the eastern side elevation of the property. The extension projects to the side by 2.3 metres and is set back from the principal elevation by 1.7 metres. The depth of the extension is 5 metres and it lies flush with the rear elevation of the property. It has a chamfered corner to the south-east. The eaves height of the structure is 3.47 metres with an overall height of 4.18m. The extension is glazed and finished with aluminium frames of a dark grey colour finish which are infilled with clear glazed panels.
- 3.4 The single storey extension is constructed upon an under build which is a total height of 1.2 metres and is at the same level as the terrace to the rear and the finished floor level of the property.
- 3.5 It is proposed that the glazing within the southern and eastern elevations (including the chamfered section to the south eastern corner) would be treated to ensure it is obscured to achieve level 4 standard of obscurity from the internal floor level to a height of 1.7 metres.
- 3.6 Clear glazed openings have been installed into the rear elevation of the single storey extension and also within the ground floor rear elevation of the main body of the property.

Raised terrace:

- 3.7 The raised terrace/patio is located to the side and rear of the property and partly forms an under-build to the single storey extension to side.
- 3.8 The terraced area projects 2.4 metres from the rear elevation of the property and lies flush with the side elevation of the extension. Due to changes in ground levels to the rear, the terrace is at varying height of between 0.27 metres and 1.03 metres above the external ground level. The terrace has a surfaced finish of off-white porcelain tiles, accommodates a glass balustrade sited beyond the rear elevation of the host property to the northern elevation of the terrace and also accommodates areas which form soft landscaped planters.

4.0 HISTORY OF NEGOTIATIONS:

- 4.1 Details of the windows to be treated to ensure they are obscured to achieve a level 4 standard of obscurity have been submitted within further plans received 6th December 2023.

5.0 PLANNING HISTORY:

- 5.1 The planning history of the site relates to the following:

2006/93878 – Erection of ground and first floor extensions – Conditional Full Permission for the development was granted on 30th October 2006.

- 5.2 As the development granted by permission 2006/93878 has been implemented it is considered that it is limited relevance to the consideration of this application.

5.3 The application has been submitted following a complaint raised with the Council's Planning Compliance Team (ref: COMP/23/0432).

6.0 REPRESENTATIONS:

6.1 The application was advertised in accordance with the legal statutory publicity requirements, as incorporated and set out at Table 1 of the Kirklees Development Management Charter. As such, this application has been publicised by neighbour notification letters.

6.2 As a result of the public consultation period two representations have been received with the summary of comments set out below:

- Lack of privacy resulting from the extension and raised terrace
- Neighbouring garden overlooked and overshadowed
- The extension is overbearing and out of character in terms of appearance
- The original design of the dwelling, including its impact upon privacy has been affected by the development.
- Result of elevated extension is a large, overbearing, overlooking, structure which overshadows a well-used private neighbouring amenity space
- A permanent solution rather than bushes/shrubs is required to screen the development
- Consider that obscure glazing and/or treatment of existing glazing to ensure it is obscured to achieve level 4 standard of obscurity would not sufficiently resolve the issue of privacy and is not a permanent solution.
- Where representations have been made by third parties objecting to another application for a dwelling nearby on the grounds of overlooking, the application was refused.
- Developments at other properties in the area sought to reduce overlooking of the neighbouring dwellings through the use, amongst other things, of obscure glazing;
- Noise arose during the construction phase
- Representation intimates they were informed planning permission was not required for the development undertaken.

6.3 A supporting statement on behalf of the application has been submitted as part of the application submission documents, with the following being a summary of the points raised:

- Given the separation distance of the extension from the neighbouring boundary, and that the extension is single storey in height, it is not considered to result in overshadowing to neighbouring dwellings.
- Extension and raised terrace are set back from shared boundary and would not result in an overbearing impact
- Consider a condition to ensure the glazing is treated to ensure it is obscured to achieve level 4 standard of obscurity a sufficient level of required mitigation.

6.4 Ward Cllr Amin requested the application be reported to Sub-Committee for determination for the reason set out in Section 1 of the report.

7.0 CONSULTATION RESPONSES:

7.1 None

8.0 PLANNING POLICY:

8.1 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).

8.2 The site is without notation on the Kirklees Local Plan. Policies considered relevant to the determination of this application are as follows:

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 53** – Contaminated and unstable land

Supplementary Planning Documents:

- House Extensions and Alterations SPD (2021)

National Planning Policy Framework:

- Chapter 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

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

9.0 MAIN ISSUES

- Principle of development
- Impact upon the character and appearance of the area
- 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. 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 in the National Planning Policy Framework. LP1 goes on further to stating that:

‘The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.’

- 10.2 Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.
- 10.3 Taking account of the development proposed, in this case, it can be stated that the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity, as well as other matters which are discussed in greater detail in the following report.

Impact on visual amenity:

- 10.4 Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of good design. Key Design Principles 1 and 2 of the Council’s adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality and host property.
- 10.5 Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

Principle 1 – states that *“extensions and alterations to residential properties should be in keeping with the appearance, scale, design, and local character of the area and the street scene.”*

Principle 2 – states that *“extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and detail.”*

- 10.6 Within Section 5.17 of the House Extensions and Alterations SPD reference is made to single storey side extensions insofar that they should be offset and complement the original building and that the single storey side extension adhered to the following:
- not extend more than two thirds of the width of the original house;
 - not exceed a height of 4 metres; and
 - be set back at least 500mm from the original building line to allow for a visual break.

- 10.7 The works also include an area of raised terrace. Whilst the House Extensions and Alterations SPD does not specifically refer to terraces, section 5.28 refers to balconies / roof terraces which states that these should be:
- Positioned, and screened if required, so that they do not overlook neighbouring homes or gardens.
 - Sited away from locations that are sensitive to additional noise levels or disruption.
- 10.8 Within section 5.7 of the House Extensions and Alterations SPD direct reference is made to conservatories. This states the following:
- Conservatories and summer rooms are classed as extensions. They should be in keeping with the original house, not overlook a neighbouring property and not over dominate adjacent gardens. A conservatory which would overlook a property next-door will not be allowed unless the view from to the neighbouring boundary is sufficiently screened by a fence, wall or hedge to protect the privacy of adjoining neighbours.*
- 10.9 A 'comply or justify' approach is set out in paragraphs 1.9 – 1.11 of the House Extensions and Alterations SPD and sets out that in cases where proposals depart from the guidance set out there is a need to provide a full justification.
- 10.10 The development comprises two elements: the single storey extension and the raised terrace. In terms of the single storey extension, this is located to the side elevation of the property and is formed over an under-build structure. The design of the extension is that of a glazed structure within a dark grey aluminium frame. Internally it creates an extension to the kitchen/dining room.
- 10.11 Whilst the extension described above has been completed; the submitted plans seeking planning permission demonstrate that the glazing would be treated to ensure it is obscured to achieve level 4 standard of obscurity (south and eastern elevations). The structure is positioned above an under-build at a height of 1.2 metres which is externally faced in stone and render.
- 10.12 The glazed design of the structure is akin to a conservatory. Viewed as a light-weight, contemporary addition to a dwelling, that is itself modern in appearance, this extension would be in keeping with the original house and would not dominate the original form. This would comply with Key Design Principle 2 of the SPD.
- 10.13 The extension, in its own right, would not extend more than two thirds of the width of the original property and is set back from the front wall of the house by more than 500mm. Whilst it is noted that the extension would be more than 4 metres in overall height, it is considered that the additional 0.18cm would cause no undue harm to visual amenity. Due to the location of the extension, this would be largely screened from the street scene and would therefore comply with Key Design Principle 1 of the SPD in terms of the character of the area.

- 10.14 It is acknowledged that the development proposed is to a dwelling which has been substantially developed with first floor and single storey extensions granted consent in 2006 (detailed in section 5 of this report). The development before members would not increase the size / massing of these previously approved extensions; the proposed extension is to the original eastern elevation. It is considered that the cumulative visual impact of extensions would still allow the original dwelling to be clearly read.
- 10.15 In terms of the terraced area, due to the difference in levels, the height of the terrace varies between 0.27m in height and 1.03 metres in height. The terrace is to the rear of the property, including to the rear of the proposed extension. The surface materials are off-white porcelain tiles. The visual impact of the terrace is considered to be modest, this element of the development is considered to be in keeping with the style and character of the host property / wider area.
- 10.16 The extension and raised terrace are considered to relate satisfactorily to the host building and have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2 & LP24 of the Kirklees Local Plan, having regard to principles 1 and 2 of the Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

- 10.17 Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the NPPF seek to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.
- 10.18 Within Section 5.16 of the House Extensions and Alterations SPD reference is made to side extensions ensuring they maintain the quality of the environment for neighbours, and in particular that they ensure reasonable levels of natural light to the habitable rooms in neighbouring properties and position windows to minimise or avoid any potential overlook into neighbouring gardens.
- 10.19 As set out in paragraph 10.8 of this report, Section 5.7 of the House Extensions and Alterations SPD is relevant. This sets out that conservatories be suitably screened to prevent overlooking. In this case the approach undertaken to provide mitigation to prevent overlooking taking place is considered in the following (paragraphs 10.21 – 10.24).
- 10.20 Key Design Principle 7 requires that extensions should ensure that appropriately sized and useable areas of outdoor space is retained and in this instance, due to the extent of curtilage and as demonstrated on the submitted block plan, the development is not considered to result in an overdevelopment of the site as a usable garden space would remain.

- 10.21 The proposed extension is currently clear glazed to the east, south and north elevations. As part of this application, it is proposed that the windows on the south, south-east and eastern elevations would be treated to ensure they are obscured to achieve level 4 standard of obscurity. The height of the obscurity would be from the internal floor level of the extension to a height of 1.7m.
- 10.22 Third party representations have been received during the processing of this application, raising concerns about overlooking from the extension and terrace. It is considered that subject to condition requiring the treatment of the windows to the south, south-east and eastern elevations to ensure they are obscured to achieve level 4 standard of obscurity, suitable mitigation can be ensured which overcomes the impact of the extension as a result of overlooking from the single storey extensions south, south east and eastern elevations.
- 10.23 With regard to the raised terrace, this is to the rear of the extension, with steps leading up to the terrace which begin in line with the side elevation of the extension. It is considered that the impact of potential overlooking from the proposed terrace would not be undue, as it is of relatively narrow depth to the rear of the property; and in conjunction with the obscuration of glazing in the extension.
- 10.24 In this case it is considered there is sufficient justification which ensures that non-compliance with the House Extensions and Alterations SPD (in relation to guidance relating to conservatories as detailed in section 5.7) would not be of such significance as to warrant refusal. Justification in this case relates to the distance the single storey side extension is sited from the shared boundary and the treatment of the south, south-east and eastern elevations to ensure they are obscured to achieve level 4 standard of obscurity. Subject to condition it is considered suitable mitigation can be ensured in this case.
- 10.25 In terms of the separation distance between the extension, terrace and the shared boundary with the neighbouring property, the submitted plans indicate that the extension would be set in from the shared boundary by 2.25m. Whilst the application site is at a higher land level than the garden space to the neighbouring property to the east, it is considered the difference in levels is not to such a degree that the development has a significant impact upon light enjoyed by neighbouring occupiers. As such the development is considered to be acceptable with regard to overshadowing.
- 10.26 Furthermore, taking account the distance of the development from neighbouring occupiers and the size / scale of the terrace and single storey side extension it is considered the development does not have an unduly oppressive or overbearing impact and is acceptable in this regard.
- 10.27 Therefore, it is considered that, subject to condition, the development is acceptable in terms of residential amenity. It is considered there is no significant undue impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking (subject to condition) in relation to ensure the south, south-east and east windows are obscured to achieve level 4 standard of obscurity. With this the development would accord with policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document as well as policies within chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

- 10.28 Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.
- 10.29 In this case the proposed works would not increase the number of bedrooms to the property. There is existing parking available for the property within the red line boundary of the site and this would not be lost as a result of the proposed works.
- 10.30 It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

5 – Other matters:

Climate Change

- 10.31 Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.
- 10.32 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 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.
- 10.33 A Climate Change Statement has been submitted which identifies climate change measures within the build which are considered acceptable for the size of development applied for.

Biodiversity

- 10.34 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.

10.35 Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

10.36 The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is on the basis that the majority of works for which consent is sought have been carried out and it would not serve a useful purpose to require the submission of such information. In addition, the development does not impact on the existing roof of the building and the walls are of modern construction without cracks or crevices. There is not a reasonable likelihood that this part of the building would provide a bat roodt.

Coal legacy

10.37 The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. 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 with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 180 and 189 of the National Planning Policy Framework.

Representations

10.38 Insofar as they are not addressed elsewhere in this report, the third party representations received are addressed as follows:

- Obscure glass or film on the clear glass would not sufficiently resolve the issue of privacy and is not a permanent solution and a permanent solution is required

10.39 It is considered that the method of ensuring the glazing can be obscured to achieve level 4 standard of obscurity can reasonably be undertaken by the application of a film internally to the existing clear glazing. This conclusion is cognisant of the requirements of paragraphs 55 and 56 of the National Planning Policy Framework which sets out the following:

Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects

10.40 It is considered that it would be unreasonable of the LPA to insist that the method of achieving obscenity level 4 to the glass in the south, east and south east elevations should be as a result of replacement of the glazing. It is considered a reasonable approach as an equally effective, alternative is possible (application of a film internally). It is considered such a condition would meet the other requirements in terms of being necessary, relevant to planning and the development, enforceable and such a condition can be worded precisely.

10.41 It should be noted that replacement of glass would be equally possible as the removal of an internally applied film and enforcement action could be undertaken by the Council were such an event to take place in the future following any grant of permission. Finally, it is not considered to be in the interests of sustainable development to require the replacement of glazing when a more environmentally friendly alternative which utilises resources to a lesser extent is possible.

- Where representations have been made by third parties objecting to another application for a dwelling nearby on the grounds of overlooking, the application was refused.

10.42 Each application is assessed on the basis of its own merits in relation to the considerations of all material planning considerations. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.

- Developments at other properties in the area sought to reduce overlooking of the neighbouring dwellings through the use, amongst other things, of obscure glazing;

10.43 This point is noted, with overlooking assessed within the 'impact upon residential amenity' section of this report.

- Noise arose during the construction phase

10.44 This point is noted, separate legislation would have allowed the Council to investigate noise complaints had it been at a nuisance level.

- Representation intimates they were informed planning permission was not required for the development undertaken.

10.45 It is considered this is not relevant to making the planning decision in question and does not constitute a material planning matter.

11.0 CONCLUSION

11.1 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.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Whilst the following is a summary list and full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development. For clarification, in this case, the wording of the requirement of the condition is included below)

1. Development to be completed in accordance with the approved Plans and Specifications.

Requirement: The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

2. Obscuration of the clear glazing within the southern, south-eastern and eastern elevations

Requirement: Within one month of the date of this permission, all clear glazing within the eastern, south-eastern and southern elevations shall be either, fitted with obscure glazing and / or a permanently affixed film, which achieves a minimum privacy rating Grade 4. The obscure glazing and / or permanently affixed film shall be at a height of 1.7m when measured from the finished floor level in the locations detailed upon submitted drawing ref 05 RevA and retained thereafter in accordance with these requirements.

Background Papers:

Application and history files
[Planning Application Details](#)

Certificate of Ownership – Certificate A completed.