
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 21-Jun-2018

Subject: Planning Application 2016/91200 Erection of single storey rear extension, dormer window to rear and porch to front, formation of retaining wall and associated works 23, Spa Wood Top, Whitehead Lane, Lockwood, Huddersfield, HD4 6AY

APPLICANT

Mr A Patel

DATE VALID

13-Apr-2018

TARGET DATE

08-Jun-2018

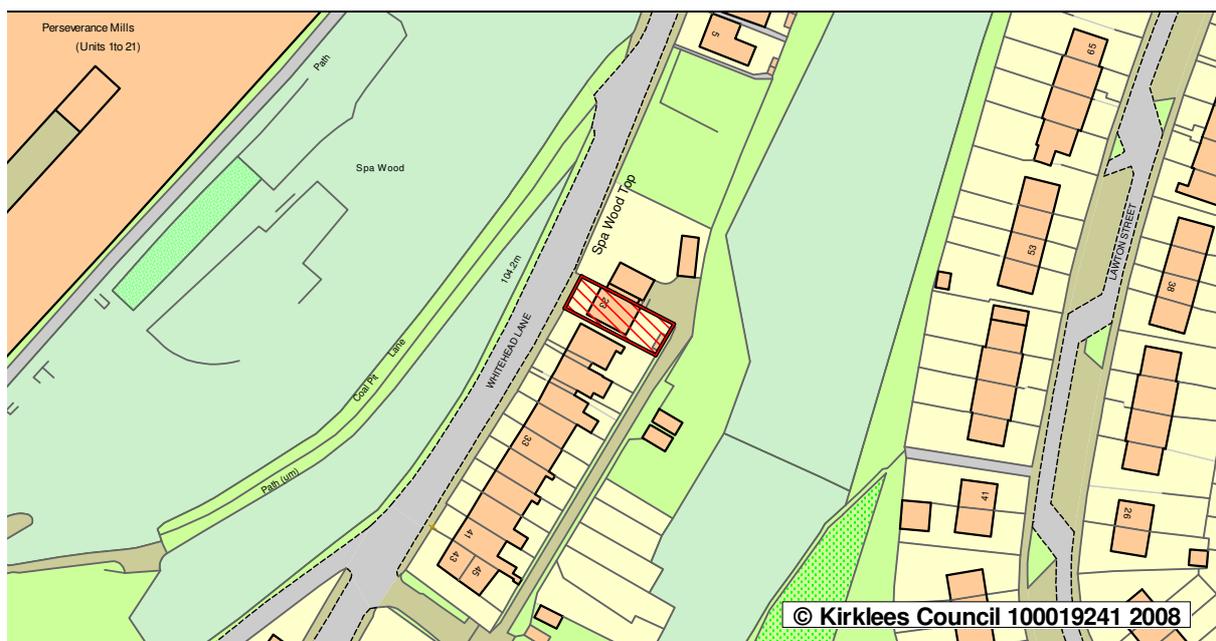
EXTENSION EXPIRY DATE

15-Aug-2018

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Newsome

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Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application is brought to the sub-committee for determination following a request from Ward Councillor Julie –Turner Stewart which states:

“My reasons for referring the decision to the Planning Sub-Committee are as follows:

- The negative impact the proposal will have on the visual amenity – it dominates the environment to the rear of the property.
- The design, appearance and materials – the proposal, particularly the materials of the roof extension, are out of keeping with the lovely terrace houses along the street. The owner doesn’t hide the large crack at the side of the building, which should be underpinned, and could be dangerous.
- The loss of trees should be a valid reason for objection, but as they’ve already been lost, I assume you wouldn’t want to take that into consideration?”

1.2 The Chair of the Sub Committee has confirmed that Councillor Stuart-Turner’s reason for making this request [is valid] having regard to the Councillors’ Protocol for Planning Sub Committees.

2.0 SITE AND SURROUNDINGS:

2.1 23 Spa Wood Top is a two-storey detached dwelling built mainly in stone, with the right-hand side elevation rendered, and a stone slate roof. It is situated at the northern end of a row of traditional terraced houses, with the main elevation facing west. It is elevated above the highway and has a small amount of amenity space at the rear. To the left or north side is a single-storey outbuilding (described as a former bakehouse on the plans) that has recently been renovated and is now attached to the main dwelling.

2.2 The garden is bounded by a recently rebuilt blockwork retaining wall, behind which is an unsurfaced track giving shared vehicular and pedestrian access to no. 23 and the other properties in the row (25-45 Spa Wood Top). The wall also extends around the back of the former bakehouse.

2.3 The property is currently vacant and undergoing renovation, improvement and extension works including the erection of a rear dormer and rear single-storey extension. There is a narrow belt of woodland to the rear of the site on the other side of the shared access track. The wider area is mainly residential.

3.0 PROPOSAL:

3.1 The application is for:

1. The erection of a single-storey rear extension projecting 4m and set in 1.2m from the existing south side wall, with a very gently sloping monopitch roof, in artificial stone;
2. The erection of a front porch measuring 2m by 1.3m, total height 3.2m;
3. The formation of a rear roof extension, 5.5m in width and 2.1m high, with a flat roof and clad with horizontal mid-brown artificial boarding;
4. The formation of a retaining wall to the rear of the site, forming a boundary between the existing rear garden and the green lane above, and forming a new side boundary to the land rear of the bakehouse. This is to be the same height as the original retaining wall but constructed in blockwork;
5. Alterations to the existing building consisting of the formation of 2 no. rooflights to the front elevation, and the insertion of 2 no. high level windows to the south side elevation at ground floor and 2 no. landing windows to the north elevation at first and second floor.

3.2 Most of these works had already been commenced at the time of the case officer's most recent site visit on 21st September 2017 and the extension and dormer appeared to be complete externally although the porch had not been commenced. At the time of the case officer's original site visit on 10th May 2016 however the only operations that had been done were some groundworks and the demolition of the original rear retaining wall.

3.3 The plans indicate that the existing rear roof extension is to be modified by having a new eaves overhang constructed so that the dormer would no longer give the appearance of having been built directly on top of the original rear wall.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 COMP/16/0304: Alleged unauthorised material change of use of outbuilding to dwellinghouse. Investigation ongoing. This outbuilding forms part of the application site. The applicant acknowledges that the outbuilding is being used as a dwelling and is in principle prepared to put in an application for its change of use. The outcome of this enforcement complaint is not considered to be relevant to the current application.

- 4.2 2018/91830 – 21 The Bakehouse, Spa Wood Top (adjacent) Certificate of lawfulness for existing use of building as a single dwellinghouse. Pending

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

- 5.1 19-Jul-2016: Amended plans received showing formation of new retaining wall which was omitted from the original plans, removing the land within the access lane above from the red line boundary and deleting the reference to it as “garden”.
- 5.2 03-Nov, 11-Dec-2017: Further amended plans making changes to the dormer and extension, and showing the extent of the retaining wall as built.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council’s Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

The site is part-unallocated, part within Urban Greenspace on the UDP Proposals Map.

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions: design principle
- **BE14** – Extensions: scale
- **T10** – Highway safety

6.3 The site is without designation on the Draft Local Plan.

- **PLP 1** – Presumption in favour of sustainable development.
- **PLP 2** – Place shaping.
- **PLP21** – Highway safety and access.
- **PLP24** – Design.

National Planning Guidance:

6.4 National Planning Policy Framework (NPPF)

- Core Planning Principles
- Section 7 – Requiring good design
- Section 11 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by site notice and neighbour notification, both in respect of the original plans and further neighbour notification letters when the amended plans were received in July 2016. The publicity period ended 25-Jul-2016. Later amendments were not re-publicised as these did not significantly alter the plan or the development applied for.

13 representations have been received from local residents (6 separate addresses). The concerns raised can be summarised as follows:

1. Single-storey extension would block natural light to rear of our property;
2. The land next to No 23 Spa Wood Top has been sectioned off and several mature trees on council land are in danger of being removed
3. Part of a dry stone wall removed to make way for a driveway both of these are not on the planning application.
4. The planning application notice has also been removed from the lamp-post outside the property and it was also noted that a hand written date had been added to the planning notice prior to it being removed.
5. Bakehouse should be preserved for its historical value. Bakehouse has recently been re-tiled and re-battened, which seems confusingly at variance with the architect's plans to demolish, and it may become an extra room;
6. There is a crack up the side wall of the house caused by subsidence, with no attempt to underpin or shore up, leading to safety risks. Other Building Regulation compliance issues raise, including building over drains and quality of workmanship.
7. Land at side of house belongs to Kirklees Council and spoil has been dumped there;
8. The Freeholder, Estates & Management Ltd, have very strict rules about construction and alterations;
9. Possible impact on unadopted grassy lane at rear over which other local residents have a right of access;
10. If it is going to be a house in multiple occupation more parking will be required and the road safety, parking and access problems made worse.

Councillor Julie Stewart-Turner – See “information” above. Additional comments made:

“From the feedback I’m receiving from residents, it seems that the work on the ground doesn’t match with the planning application. It seems that the owner is aiming to build a second house on land which is more in keeping for a garden tenancy. I’m also told that the owner wishes to make the house an HMO, and that does raise concerns about vehicles, as this road has several complications. If you are minded to approve this application, I would like to refer it to committee please? I think there are several issues that need further investigating.”

8.0 CONSULTATION RESPONSES:

8.1 **Statutory: There are in this instance no statutory consultees.**

8.2 **Non-statutory:**

KC Arboricultural Officer – No objections

KC Planning Conservation & Design – No objections (informal response only)

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The dwelling itself is without notation on the UDP Proposals Map. Some of the associated land is within Urban Greenspace – this designation has not, however, been continued on the Draft Local Plan, which shows the site wholly without designation.
- 10.2 Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations including the avoidance of overdevelopment, visual and residential amenity, and highway safety]”.
- 10.3 The boundary with Urban Greenspace, as shown on the UDP Proposals Map, cuts across the rear yard of the dwelling and includes at least some of the land to the rear of the bakehouse. Since the urban greenspace designation is not to be carried forward in the Local Plan, only limited weight will be placed on this factor. Furthermore the land within the application site to the rear of the dwelling and bakehouse does not provide any opportunities for public

recreation, public access, or other benefits to the local community. Given the scale and nature of the proposal, it is considered that it would not conflict with the aims of Policy D3 (urban greenspace) or those of Chapter 8, paragraphs 74-78 of the NPPF. It is appropriate in principle subject to an assessment of design, amenity and highway safety issues, and any other material considerations, to be assessed in detail later in the report.

- 10.4 Other policies of relevance in the UDP are Policy BE1 (development should be visually attractive and retain a sense of local identity), BE2 (development should be in keeping with its surroundings and take into account the topography of the site), and T10 (development should not create or materially add to highway safety problems). Policies PLP21, PLP24 and PLP30 within the PDLP can in principle be given considerable weight. All these considerations are addressed later in this assessment.

Urban Design issues

- 10.5 Each element of the proposal will be considered individually.

10.6 *Rear extension:*

The design of the rear extension is considered not very sympathetic to the existing dwelling by reason of its massing and roof style. It is however noted that the erection of a single-storey extension projecting up to 4.0m with a flat or monopitch roof could, in principle, be permitted development under the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) Schedule 2 Part 1 Class A, subject to a number of other restrictions, including that it does not exceed 4.0m in height and (if within 2m of the boundary) the eaves height does not exceed 3.0m. The extension would comply with these restrictions. The walling materials used (coursed artificial stone) are not a perfect match for the existing dwelling but are considered to be of similar appearance. It is considered in summary that the extension would not have a materially different impact to what would be possible under permitted development rights and using this as a potential 'fallback' position is therefore acceptable in terms of its impact on visual amenity and no serious concerns are expressed with this element of the application.

10.7 *Porch:*

The porch would be a very modest addition, which would require planning permission on account of its height (3.2m) but it is considered that it has been appropriately designed and would complement the appearance of the dwelling, subject to the condition that the external materials match those on the existing dwelling.

10.8 *Rear roof extension:*

This is rather a large structure in relation to the existing rear roof slope and most of the properties in this row do not have dormers or second-floor extensions. It is noted that under the GPDO, a dormer can be constructed to the rear elevation of a detached property if it does not exceed the height of the highest part of the original roof or exceed the cubic content of the original roof space by 50 cubic metres, subject to certain other restrictions. In this instance, it would be approximately 18 cubic metres, but still needs planning permission because it fails to comply with the condition in GPDO part 1 class B that the face of the extension must be set back 200mm from the external face of the rear wall, which in this case has not been done. The current plans, however, show a new

eaves overhang constructed so that the dormer would no longer give the appearance of having been built directly on top of the original rear wall. It is considered on balance that this is an acceptable solution – it can be conditioned that this is done within a specified timescale. Dormers or other roof extensions built under permitted development rights are subject to the condition that materials used are of similar appearance to those used on the existing building. In this instance the facing materials (mid-brown horizontal boarding) do not match the host building but are not considered inappropriate or harmful to amenity in themselves, and it would be difficult to find facing materials that would closely match the stone slates of the existing roof.

10.9 *Retaining wall and associated works:*

It is considered that the demolition of the original stone retaining wall and its replacement, the additional walling adjacent the former bakehouse, and the excavation carried out, do not in themselves have a significant impact on the visual character of the property and would not harm visual amenity. This is provided that the blockwork is finished in stone coloured render and not left as plain blockwork. It can be conditioned that this is done within a specified timescale.

10.10 In conclusion, it is considered that the extensions and other works shown on the plans would not have a significant impact on visual amenity, subject to conditions.

Residential Amenity

10.11 *Rear extension:* The proposed rear extension would exceed the recommended 3m projection set out in Policy BE14 by 1m. Given that it would be single-storey with a flat roof and would be approximately 2.0m from the boundary wall with the neighbouring property, it is considered that it would not cause undue overbearing impact or loss of light. It is noted that the original version of the plans showed it coming closer to the boundary. It is noted that under Permitted Development Rights, it is in principle possible to build a single-storey rear extension projecting up to 4.0m to a detached house, even if it is on the common boundary. It should be conditioned that no windows should be formed in the side elevation facing no. 25 as these would not be fully screened and could be intrusive.

10.12 *Rear roof extension:* It is considered that the roof extension would not cause significant obstruction to light or overbearing impact upon the neighbouring properties and it would not have any windows in the side elevations. This element is, again, similar to what could be done under permitted development rights, except for the materials.

10.13 *Porch:* The porch would be a very small structure and would be approximately 5m from the boundary with no. 25, so it would not have a material impact on the amenities of neighbouring residents.

10.14 *Retaining wall:* It is considered that the formation of the new retaining wall and associated works are not harmful to residential amenity.

- 10.15 *Other works*: The landing windows would face what is currently undeveloped land, to the north, but it should be conditioned that they are obscurely glazed and non-opening so that they do not affect possible future development on the land to the north of the site, which is not in the applicant's ownership. The ground floor windows to the lounge are 1.5m above ground level and therefore not high enough to prevent a view out, but they would only overlook a blank wall and the side passageway and in any case they could be formed without planning permission. The rooflights would not have any impact on neighbouring properties.
- 10.16 In conclusion, it is considered that the proposed development would not result in an unacceptable loss of amenity to any other residential properties or adjacent land.

Landscape issues

- 10.17 There are no trees on the application site itself. There is a block of trees covered by a Tree Preservation Order located within a north-south belt further uphill to the east of the application site, on the other side of the shared access track, and on a plot of land about 20m to the north of the site boundary. This is identified as 9A/16/w1 and was registered 26-Jul-2016, approximately 2 months after this planning application was first made. It is considered that none of the protected trees are affected by the development. The alleged felling of two protected trees on the land to the north of the site by the applicant is not considered to be a material consideration in determining this proposal. It is considered that the development has no impact on the wider landscape.

Highway issues

- 10.18 Most of the properties in this row lack off-street parking and so a certain amount of on-street parking already occurs. It is considered that whilst the increase in the size of the dwelling from 2 to 3 bedrooms could conceivably give rise to additional parking demand, it is very unlikely that any resultant increase in on-street parking could materially affect highway safety. Again, it should be noted that in principle a single-storey rear extension and dormer could be built without planning permission in any case. It is therefore considered to comply with the aims of Policy T10, and those of PLP21.

Representations

- 10.19 Concerns relating to residential amenity, highway safety and trees have been addressed previously in the report but are highlighted here together with other issues raised, and officer responses:

1. Single-storey extension would block natural light to rear of our property;
Response: A single-storey extension of up to 4m can in principle be built to the rear of a detached property without needing prior planning permission. The proposed extension has been moved further away from the side boundary line by having the WC deleted, so it would have less impact than the plans as originally submitted.

2. The land next to No 23 Spa Wood Top has been sectioned off and several mature trees on council land are in danger of being removed. Land at side of house belongs to Kirklees Council and spoil has been dumped there;

Response: The land in question does not form part of the application site. The alleged felling of trees and tipping of spoil on Council-owned land can be addressed under other legal powers. It would appear that at least some of the spoil has been removed from the land since the initial phase of development works. It is the subject of an ongoing court case and negotiation involving Physical Resources and Procurement, Legal Services and the developer.

3. Part of a dry stone wall removed to make way for a driveway both of these are not on the planning application.

Response: When the case officer visited the site there was any sign of any new driveway or access being formed. In the event of such works being undertaken without planning permission, enforcement action could be considered.

4. The planning application notice has also been removed from the lamp-post outside the property and it was also noted that a hand written date had been added to the planning notice prior to it being removed.

Response: It is considered that the publicity carried out is satisfactory and has allowed anyone who considers themselves affected by the development to make representations. The case officer adds the hand written date to the site notice when this is posted.

5. The bakehouse should be preserved for its historical value. Bakehouse has recently been re-tiled and re-battened, which seems confusingly at variance with the architect's plans to demolish, and it may become an extra room;

Response: It appears that the bakehouse is to be retained although the plans as originally submitted show it being demolished. The alleged unauthorised use of the bakehouse is the subject of an ongoing enforcement case and, more recently, an application for a lawful development certificate has been submitted in respect of this building. It is not considered to be material to the current application.

6. There is a crack up the side wall of the house caused by subsidence, with no attempt to underpin or shore up, leading to safety risks. Other Building Regulation compliance issues raise, including building over drains and quality of workmanship.

Response: Issues relating to the structural soundness of a building and other compliance issues are generally considered to be within the remit of the Building Regulations, not the planning system.

7. The Freeholder, Estates & Management Ltd, have very strict rules about construction and alterations;

Response: On the basis of the evidence available it has not been established conclusively that this is a leasehold property. Certificate A was filled in on the application form to indicate that the applicant is the sole owner of the land and on this basis it is assumed that the applicant is the sole owner of the house and its curtilage. In any case in terms of the ownership certificate, an owner is deemed to be a person with a freehold interest or leasehold interest with at least 7 years left to run.

8. Possible impact on unadopted grassy lane at rear over which other local residents have a right of access;

Response: The demolition of the rear boundary wall and its replacement by a new, and longer, retaining wall, has been carried out without any apparent effect on the stability of land to the rear. It should be noted however that the stability of neighbouring land is normally treated as a private civil matter unless it would affect land within the adopted highway.

9. If it is going to be a house in multiple occupation;

Response: Under Schedule 2, Part 3, Class L GPDO, a dwellinghouse (C3) can be changed to a small HMO (C4) without the need to seek planning permission.

10. More parking will be required and the road safety, parking and access problems made worse.

Response: It is considered unlikely that the extensions would give rise to an increase in on-street parking, and since there is a general lack of private parking on this part of Whitehead Lane it would be difficult to justify a refusal on these grounds.

Ward Councillor Julie Stewart-Turner's comments:

11. The negative impact the proposal will have on the visual amenity – it dominates the environment to the rear of the property. The design, appearance and materials – the proposal, particularly the materials of the roof extension, are out of keeping with the lovely terrace houses along the street. The owner doesn't hide the large crack at the side of the building, which should be underpinned, and could be dangerous.

Response: These issues have been examined in depth in paragraphs 10.5-10.10 of the assessment above. It is considered that the development is acceptable in terms of visual amenity subject to conditions. Any structural problems with the building would be under the remit of Building Regulations, not the planning system.

12. The loss of trees should be a valid reason for objection, but as they've already been lost, I assume you wouldn't want to take that into consideration?"

Response: The trees allegedly felled by the applicant are on Council-owned land. This means that effective action can be taken under legal powers other than the planning system and this could include a compensatory replanting scheme.

13. From the feedback I'm receiving from residents, it seems that the work on the ground doesn't match with the planning application. It seems that the owner is aiming to build a second house on land which is more in keeping for a garden tenancy. I'm also told that the owner wishes to make the house an HMO, and that does raise concerns about vehicles, as this road has several complications.

Response: The plans have undergone multiple revisions and now accurately reflect the works carried out, except for the roof extension which the applicant has agreed to alter. The change of use from a dwelling house to a small HMO (House in Multiple Occupancy) does not need planning permission in itself. The condition of the site does not indicate that the applicant intends to build another house, although any future application would be assessed on its own merits.

Ecology

- 10.20 The site is in the bat alert layer. Based on observations on the first site visit by the case officer, the dwelling does not contain any obvious high-level gaps or cavities that would be likely to provide bat roost potential. It is noted also that the formation of a dormer and the conversion of the attic could, subject to the requirements of the GPDO part 1 Class B, have been undertaken without planning permission. Furthermore it is probable that the noise and disturbance caused by the renovation and improvement works carried out so far would have resulted in the loss of any bat roost potential, if the building ever had any. There do not appear to be any other structures on site that are likely to have the potential to support bat roosts – it is remotely possible that the old retaining wall may have done although this is unlikely as it would have been only just above head height and subject to frequent disturbance from people using the garden. It is considered, in summary, that the development would not have any significant impact on ecology or biodiversity and that in the circumstances it will be sufficient to add the standard precautionary footnote.

Other Matters

- 10.21 The application is not considered to raise any further material planning issues.

11.0 CONCLUSION

- 11.1 It is considered that the proposal is in principle appropriate development in this location. It is considered that the extensions and other works shown would, subject to suitable conditions, conserve the character of the area and visual amenity, and would avoid harm to the residential amenity of neighbouring property. The works would not affect highway safety or ecology. It is therefore recommended that conditional planning permission is granted.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

- 1. Roof extension to be modified by formation of new roof overhang within 2 months of permission**
- 2. New retaining wall to be rendered in a stone coloured finish within 1 month of permission**
- 3. Porch materials to match host building**
- 4. Landing window to be obscurely glazed and non-opening**
- 5. No new side-facing windows formed in side elevation facing no. 25.**

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91200>

Certificate of Ownership – Certificate A signed.