KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2018/60/93850/E
Site Address:	rear of, 1, Yew Tree Road, Shepley, Huddersfield, HD8 8DT
Description:	Outline application for erection of one detached dwelling
Recommending Officer:	Nia Thomas

DECISION - REFUSE

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Julia Steadman

AUTHORISED OFFICER

Date: 17-Jan-2019

Officer Report

Site Description

The site relates to an area of garden space to the rear of no. 1 Yew Tree Road in Shepley. The area of grassed amenity space is separated from the main house by a track and has a fence round the area. The other dwellings within the area have amenity areas like this.

There is a row of terraced houses to the southwest of the site.

The site is unallocated on the Kirklees Unitary Development Plan and unallocated on the Kirklees Publication Draft Local Plan.

Description of Proposal

Outline planning permission is sought for the erection of one dwelling with details relating to access and layout being sought. All other matters are to be reserved for any subsequent reserved matters application.

The site plan shows a dwelling and garage to the rear of no.1 – it shows an indicative layout of a dwelling that is 7.7 metres in length and 8.2 metres in width (including the garage).

An access from the existing road which comes off Yew Tree Road is sought.

History of negotiations/amendments received

The case officer has been in the contact with the agent to request additional highways information showing parking on the site and bin/storage collection points. Highways DM objections have been addressed.

Due to other significant concern with the proposal, the case officer has advised the agent that the application cannot be supported – the agent confirmed that no amended plans would be submitted.

Relevant Planning History

2017/90242 – Erection of single storey rear extension and first floor side extension APPROVED (no. 55 Yew Tree Road)

Representations

Final publicity date Expires: 31.12.2018

4 objections have been received. The comments raised are summarised as follows:

- Public access rights not for vehicles for the application site

- Part of the access to the rear of the property is an unadopted road with part of it owned by another party
- Highly congested and dangerous to enter and exit
- Access cannot be turned into a drive – access to the proposed dwelling and garage would be impossible.
- Access would be very narrow – corner is very sharp and often parked cars. Cannot see how this could be made wider
- Stone boundary wall may get damaged by manoeuvres – other houses sometimes have access to their gardens by this access – no opportunity for passing places
- Emergency vehicles have struggled to access this row of houses in the past – additional traffic and residents would make access to these dwellings more hazardous
- Site is on a blind bend and junction and adjacent to gateway that serves 4 other dwellings – not suitable and is increased risk of accidents
- Visual impact on properties on Yew Tree Road would be compromised – rows are symmetrical and gardens flowing – new dwelling would not be in keeping with this. Property would be an obstruction in this regard.
- Very concerned about council not informing of the application – could you let me know what consultation has been undertaken and what is required by law
- Council are aware we are tenants due to recent council tax payments
- Would like legal advice but been unable to do so in the time period
- House is in a conservation area and the area is made of historic stone buildings with some modern infill of houses
- Where this house is proposed though there are distinct rows of old stone properties that give the area its character and visual appeal, and this house would break up that layout and not be in keeping with the area. It would significantly breakup the line of sight between the houses and would damage the conservation area.
- Access for maintenance and for electrical company to neighbouring dwellings would have to be considered
- Historic rights of way run on this land – no mention in the planning application
- Proposed house extends past neighbouring house – this will overshadow the neighbouring house, cause a loss of privacy and significantly impact on light (which already has limited light due to historic nature of the house)
- Very small plot should not be granted planning permission
- Conservatories been refused on front of house – so how can a whole dwelling be a viable plan?

Officer comments will be made in section 6 of this report in response to the above matters raised.

Denby Dale Parish Council – confirmed “no comment”

Consultation Responses

K.C. Highways DM – no objection following the receipt of amended plans.

Policy

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 48 of the National Planning Policy Framework (2018). 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 (2018), 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.

The site is unallocated on the UDP Proposals Map and unallocated on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP):

- D2 – Unallocated Land
- BE1 – Design Principles
- BE2 - Good Design
- BE12 – Space about dwellings
- T10 – Highway Safety
- T19 – Parking Provision
- G6 – Land Contamination

Kirklees Publication Draft Local Plan (PDLP):

- PLP1 – Presumption in favour of sustainable development
- PLP2 – Place shaping
- PLP3 – Location of new development
- PLP21 – Highway Safety
- PLP22 – Parking Provision
- PLP24 – Design
- PLP30 - Biodiversity and geodiversity
- PLP53 – Unstable and contaminated land

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

1) Principle of Development

The site is without notation on the UDP Proposals Map and 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]".

Visual amenity, residential amenity and highway safety will be assessed in this report.

The NPPF (2018) has been introduced and the Kirklees Publication Draft Local Plan is at an advanced stage. Both of these planning policy documents place emphasis on the requirement for good design. It is considered that the principle of a building in this position is unacceptable due to the erection of built form in this location being considered to be backland development which would be considered to be out of keeping with the form of development in the area, thus harmful to the character of the area.

Taking the above into account, it is considered that the principle of the development proposed is unacceptable due to significant harm that would be caused to visual amenity by located an independent dwelling in this position. These concerns shall be expanded on below.

1) Impact on visual amenity

The impact on visual amenity is unacceptable. As stated in the 'principle of development' section of this report, the dwelling would constitute backland development and would harm the character of the area by virtue of approving development in the back garden of the plot. There are no other buildings of this scale located within the back garden areas of nos.1-21 Yew Tree Road.

The proposed built form would appear out of keeping with the character of the area and would be a feature that would not be appropriate in the back garden of a residential plot. The detached gardens and large detached plots are a

characteristic within this area. However, these plots of land have not been built on and therefore this would be a wholly inappropriate feature to introduce in this area which would set a harmful precedent for future backland development.

From the site visit and a review of the aerial photographs of the site, the dwelling would be located in between two rows of terraced dwellings in an area of detached garden areas. Whilst it is acknowledged that there is a row of terraced dwellings (nos. 23 – 31 Yew Tree Road) set back from the main row of terraced properties on Yew Tree Road, this is a historic row of properties and a detached dwelling set back from these will not be in-keeping with the character with this area, forming a poor relationship with the established dwellings.

It is acknowledged in terms of visual amenity and considering the development against Policies BE1 and BE2 of the UDP that no elevations have been provided to demonstrate the design of the dwelling and how it would relate to neighbouring houses in terms of its scale/height – this is because scale has been reserved for any subsequent reserved matters application, should outline permission be granted.

However, the layout of the dwelling means that it would result in an odd relationship being created with the surrounding built form and would constitute an out of character feature in the area, which would be harmful to visual amenity.

The dwelling would not, on balance, result in overdevelopment of the site given that there is a reasonable garden area within the site which is associated with the dwelling. Many of the dwellings within the area have large plots, this is a characteristic of the area.

For the above reasons, the proposed dwelling would not “add to the quality of the area” and is not “visually attractive as a result of a good layout”, thus failing to comply with Chapter 12 of the National Planning Policy Framework.

Overall

In all, the proposal is considered to be significantly harmful to the visual amenity of the area and the proposal fails to comply with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

2) Impact on residential amenity

The impact on residential amenity is not acceptable by virtue of the proposed layout.
The following section of this report discusses the impact of the built form on adjacent properties and their amenity space. It is considered that the layout

would not result in acceptable relationships with neighbouring dwellings and an appropriate design could not be achieved to address these concerns.

Impact on no.1 Yew Tree Road

It is noted that no. 1 Yew Tree Road is within the applicant's ownership and it has habitable room windows in the elevation facing towards the application site. Consideration has to be given to future occupiers of no.1 Yew Tree Road as the recommended distance set out in policy BE12 of the UDP would be 21 metres as it is likely that there would be habitable room windows in this elevation of the proposed dwelling. In this case, the relationship between the dwellings would be indirect and any openings would face onto the access point. Additionally, Policy PLP24 of the Kirklees Publication Draft Local Plan does not stipulate specific distances between dwellings.

Floor plans have not been submitted at outline stage and therefore it could be argued that overlooking concerns could be addressed through redesigning the dwelling to avoid having habitable room windows in close proximity to these windows. However, by virtue of the proposed layout which is to be considered at this stage, it is likely that the main openings would be in the front and rear elevations to give a reasonable level of amenity for the occupiers of the proposed dwelling.

Impact on no. 31 Yew Tree Road

No. 31 Yew Tree Road is an end of terrace dwelling which does not have any openings in the side elevation closest to the application site. There would be a distance of less than 1 metre retained between side elevation of this dwelling and that of the proposed dwelling, which would slightly increase towards the rear of the site due to orientation of this neighbouring dwelling. However, the proposed dwelling would still be within close proximity to the shared boundary with this neighbouring dwelling and, due to the set back of the proposed dwelling, would result in both an overbearing and overlooking impact upon the amenity space associated with this dwelling. It is considered that the close proximity of a dwelling in this location would result in an oppressive impact for the users of this neighbouring garden space.

Impact on no. 33 Yew Tree Road

No. 33 Yew Tree Road is a distance of just under 30 metres away from the rear elevation of this proposed dwelling and therefore the recommended distance of 21 metres to comply with UDP policy BE12 would be achieved. However, it is acknowledged that the garden space associated with this dwelling is closer to the application site and therefore habitable room windows at an elevated level could cause possible overlooking over and above the existing (approximately 7 metres to the boundary). It is noted that that are windows in no. 55 Yew Tree Road which overlook this area – however, from research into the approved plans (2017/90242) and site visit photos, it is likely that these are serving habitable rooms and therefore given the distance of just over 7 metres to the boundary with this dwelling, the potential overlooking

could harm residential amenity. However, floor plans have not been submitted and scale has not been applied for at this stage (therefore a single storey dwelling could be conditioned if appropriate). However, in this case, the layout is likely to result in habitable room windows being inserted into this elevation which would lead to undue harm to residential amenity. It is noted that by attempting to address the harm caused by the proposed dwelling's relationship with neighbouring dwellings, a contrived design would be required and would also result in a poor level of amenity for future occupiers of the proposed dwelling (by virtue of high level windows for example). Therefore, the layout results in significant residential amenity concerns.

The proposed dwelling could also result in overlooking to the garden spaces to the north east of the site if habitable room windows were inserted in the side elevation of the dwelling to try to overcome the concerns raised above. Considering this, it is concluded that the submitted layout of the dwelling would unacceptably affect residential amenity given the close proximity and relationship to neighbouring dwellings, as discussed above.

Overall

In all, the proposed layout is considered to result in undue harm to residential amenity to surrounding neighbouring occupants and therefore fails to comply with UDP policies D2 and BE12, Policy PLP24 of the Kirklees Publication Draft Local Plan and the Core Planning Principles of the National Planning Policy Framework in relation to residential amenity.

3) Impact on Highway Safety

Following consultation with Highways DM, initial concerns were raised regarding the provision of storage and collections points, driveway and access were required to be dimensioned on a plan, along with the provision of two car parking spaces. Due to the lack of this information, Highways DM were unable to undertake a sufficient assessment of the proposal.

The agent provided this information and Highways DM now have no objection to the proposed development. Two car parking spaces can be provided on site – one on the driveway and one within the integral garage. The measurements of this garage would need to be 6m x 3m, however, this could be secured via condition should the recommendation have been to approve.

Furthermore, if the application was to be approved, a condition would be recommended relating to the area marked to be used for parking within the site being surfaced from a permeable hardstanding material.

Overall, with the imposition of relevant conditions, the proposals would be satisfactory from a highway safety and efficiency perspective, complying with Policies T10 and T19 of the UDP and Policies PLP21 and PLP22 of the Kirklees Publication Draft Local Plan.

4) Other matters

Ecology

The site is in the bat alert layer. Given that the proposal is for the erection of a new building and there is not a large area of woodland surrounding the site or buildings that will be demolished, there will be no harmful impact on ecology as a result of the proposal. The proposal is considered to comply with Policy PLP30 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework.

Coal Mining

The site is in a low coal mining risk area and therefore a coal mining risk assessment or consultation with the Coal Authority is not required. Due to the above, no information is required and the proposal complies with Chapter 15 of the National Planning Policy Framework.

5) Representations

Four objections have been received. The concerns raised are summarised and addressed as follows:

- Public access rights not for vehicles for the application site
- Part of the access to the rear of the property is an unadopted road with part of it owned by another party
- Highly congested and dangerous to enter and exit
- Access cannot be turned into a drive – access to the proposed dwelling and garage would be impossible.
- Access would be very narrow – corner is very sharp and often parked cars. Cannot see how this could be made wider
- Stone boundary wall may get damaged by manoeuvres – other houses sometimes have access to their gardens by this access – no opportunity for passing places
- Emergency vehicles have struggled to access this row of houses in the past – additional traffic and residents would make access to these dwellings more hazardous
- Site is on a blind bend and junction and adjacent to gateway that serves 4 other dwellings – not suitable and is increased risk of accidents

  Officer comment: Highways DM requested an amended plan to show the access dimensioned on a plan, along with parking spaces and bin collection points marked on the plan. A plan indicated the above was submitted and confirmed as being acceptable by Highways DM. As such, it is considered that there would be no highway safety implications as a result of proposed development. Concerns relating to the stone wall being damaged is not a material consideration – this is a private matter. No further information has been provided in relation to the ownership of the land and Certificate A has been signed.

- Visual impact on properties on Yew Tree Road would be compromised – rows are symmetrical and gardens flowing – new dwelling would not be in keeping with this. Property would be an obstruction in this regard.
  Officer comment: see visual amenity section of this report. There is significant concern raised by officers in relation to the impact on visual amenity.

- Very concerned about council not informing of the application – could you let me know what consultation has been undertaken and what is required by law
- Council are aware we are tenants due to recent council tax payments
- Would like legal advice but been unable to do so in the time period
  Officer comment: The Council's Development Management Charter sets out how planning applications are to be publicised. In this instance, the application has been publicised in accordance with the Charter (with the erection of a site notice and posting of neighbour notification letters).

- House is in a conservation area and the area is made of historic stone buildings with some modern infill of houses
  Officer comment: the site is not located within a conservation area. The context of the proposed development is fully understood by the case officer following the site visit.

- Where this house is proposed though there are distinct rows of old stone properties that give the area its character and visual appeal. This house would break up that layout and not be in keeping with the area. It would significantly breakup the line of sight between the houses and would damage the conservation area.
  Officer comment: see visual amenity section of this report. The impact on visual amenity is a significant concern of officers. As set out above, the site is not located within a conservation area.

- Access for maintenance and for electrical company to neighbouring dwellings would have to be considered
  Officer comment: this is not a material planning consideration. The granting of planning permission does not override private legal matters relating to access and ownership.

- Historic rights of way run on this land – no mention in the planning application
  Officer comment: the Council's mapping system has been reviewed and there are no current public rights of way on this land.

- Proposed house extends past neighbouring house – this will overshadow the neighbouring house, cause a loss of privacy and significantly impact on light (which already has limited light due to historic nature of the house)

Officer comment: see residential amenity section of this report. There is concern in relation to the impact the development would have upon residential amenity of neighbouring occupants.

- Very small plot should not be granted planning permission
  Officer comment: see visual amenity section of this report. The proposal would not, on balance, result in the overdevelopment of the site.

- Conservatories been refused on front of house – so how can a whole dwelling be a viable plan?
  Officer comment: see visual amenity section of this report. As set out in the main report, there is significant concern regarding the impact upon visual amenity.

Conclusion

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.

This application has been assessed against relevant policies in the development plan and other material considerations. 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 and other material consideration.

Recommendation - REFUSE

Decision Authorisation - Delegated Powers
Application Number: 2018/93850
Officer Recommendation: Refused
Reasons for Refusal:

1. The proposed detached dwelling would be located within a residential garden which would constitute backland development. The development of this site would result in a form of development which would be wholly out of character with the surrounding area and would have no relationship with any existing pattern of development with the properties in the immediate vicinity. The proposal would be significantly harmful to visual amenity and would not "add to the quality of the area" and would not be "visually attractive as a result of a good layout". To approve a dwelling in this location would be contrary to Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan as well as Chapter 12 of the National Planning Policy Framework.

2. By virtue of the proposed layout, the dwelling would result in close relationships with existing properties that would result in a form of development that would cause harm to residential amenity in terms of overlooking and overbearing. To address these concerns would lead to a poor level of amenity for future occupiers of the proposed dwelling. As such, to approve a dwelling in this location would be significantly harmful to existing occupiers of surrounding property as well as future occupiers of the proposed development, contrary to Policies D2 and BE12 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and guidance contained within the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed site plan	1895 02	A	07.01.2019
Location plan	1:1250	-	17.12.2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer has been in contact with the agent to request additional highways information showing parking on the site and bin/storage collection points. The initial highway concerns have subsequently been addressed. Other fundamental concerns relating to the principle of development and subsequent impact on visual and residential amenity remain. The case officer has advised the agent that the application cannot be supported and the agent confirmed that no amended plans would be submitted.

Report Dated: 16.01.2019