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:	2019/62/92346/W
Site Address:	16, Greenroyd Croft, Birkby, Huddersfield, HD2 2DQ
Description:	Alterations to existing decking and replacement planting
Recommending Officer:	Sam Jackman

DECISION - Refused

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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 18-Dec-2019

SITE DESCRIPTION – 2019/92346

16 Greenroyd Croft, Birkby is a detached property located in the corner of a cul-de-sac, within a residential area of similar properties. The property has been extended with a rear conservatory and a 2 storey side extension along with a large detached garden room. Historically the rear garden was level; for the first 6m before steeply sloping down towards the rear boundary with a difference in levels of approx. 2.5m.

DESCRIPTION OF PROPOSAL

The proposal is to level the rear garden by creating a raised decking area with a length of 24.6m across the whole of the rear garden by 3.5m to 4.3m in part. This would result in the decking being set in from the rear boundary by 2m and 1.3m. Along the rear boundary would be screening in the form of 4 new trees and hedge. The height of the decking would be 2.3m with the addition of a 1.5m high fence.

Currently the applicant has erected the decking area up to the rear boundary, this would be reduced to the above submitted amended scheme.

HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

No negotiations have taken place with the applicant/agent due to the application being retrospective and no obvious solution could be reached to make the application acceptable.

An extension of time was requested to agreed to allow the applicant time to seek a committee request, however no committee request was received and the decision was made under delegated powers in line with the Delegation Agreement.

RELEVANT HISTORY

2005/92739**:** erection of two storey and single storey extension - granted

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2005%2F92739

2018/92208 – tree works – approved to remove 5 Lombardy popular trees, where a condition included the trees were replaced with 2 Oak and 2 Rowan, 1.5m-2 in height in the same place. These have not been planted and currently the decking covers the area.

COMP/19/0030 – decking and outbuilding

PUBLIC/MEMBERS RESPONSE

Final publicity date Expires: 3.9.19

No letters of representation have been received in respect of this application.

Councillor Sokhal, requested information about the application which was sent on the 8th November with no committee request received.

CONSULTATION RESPONSES

K.C Trees – objections raised.

POLICY

The statutory development plan comprises:

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).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):
LP 1– Achieving sustainable development
LP 2 – Place shaping
LP 22 - Parking
LP24 – Design
LP 30 - Biodiversity and geodiversity
LP 33 - Trees

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, together with Circulars, Parliamentary 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

Principle of development:

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.”

In this case, the key assessment of the application is its impact on visual and residential amenity and protected trees.

Impact on visual amenity:

Visual amenity and general design considerations are set out in Policy LP24 of the Local Plan, which seeks to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity, this is also supported by Policies in Chapter 12 of the NPPF.

The proposed decking would be at the rear of the property and would have little impact on the street scene, within Greenroyd Croft, however the proposed decking is a large structure and can easily be seen on aerial photos. Furthermore there is a significant change in levels between the application site and Ashleigh Dale to the north. The proposed decking is particularly prominent from the rear of no. 12 and partly from the rear of no.14 Ashleigh Drive. The proposal appears as a larger timber structure at the end of the properties garden with an overall height of 4 metres when the under build is combined with the boundary fence above. Such a large scale timber structure is considered to be uncommon and out of character with the local area. Prior to works commencing on the decking, the boundary was mainly vegetated with trees present in the natural slope of the garden of the host property similar to most of the other properties in the row. This provided a much softer boundary and a much less stark impact when viewed from the rear of no.12.

It is noted that the applicant intends to screen the decking with new trees and hedge and also paint the structure, however no details have been submitted to demonstrate this with regards to the species or height of the vegetation or the colour of the decking. Furthermore vegetation would take many years before the decking is fully screened if at all given the steepness of the garden. It may also be difficult to grow some plants given that the slope is north facing with limited natural light which would be further shadowed by the proposed decking itself. The painting of the structure whilst changing its colour is not considered to significantly reduce its prominence. Furthermore it would not be possible to secure the screening or painting for lifetime of the development as it could be removed after set period of time. Therefore only limited weight can be given to the benefits of the proposed screening and painting.

In conclusion the scale of the decking, in particular when viewed from the rear of no. 12 Ashleigh Drive combined with its larger overall width at 24.6 metres and coverage at 98 square metres would be detrimental to visual amenity and out of keeping with the character and appearance of the local area. Such a development would therefore be contrary to Policy LP24 of the Local Plan and Policies in Chapter 12 of the NPPF.

Impact on residential amenity:

With regard to residential amenity, Policy LP24 advises that proposal should ensure that a high standard of amenity is achieved for future and neighbouring occupiers this is also supported by Policies in Chapter 12 of the NPPF.

The main properties that would be affected by the development are no.s 14 and 17 Greenroyd Croft and no.s 12 and 14 Ashleigh Dale.

With respect to the properties on Greenroyd Croft whilst the decking has raised the garden levels adjacent to these properties there is existing vegetation which when combined with the 1.5 metre high boundary treatment limits overlooking. It is also not considered that the decking would cause a detrimental impact on these properties in terms of overshadowing or overbearing.

Turning to properties on Ashleigh Dale, the decking would be 4 metres high when viewed from their rear garden and it is considered that the scale of such a structure would have a detrimental overbearing impact on these properties, in particular no. 12. The raised nature of the decking could also allow for some looking impact given that the boundary treatment is 1.5 metres high, but it is acknowledged that the boundary treatment would for the most part block detrimental overlooking. With regard to overshadowing the decking is located to the south of no.12's garden and it would increase overshadowing to the southern part of the garden. Whilst it is noted protected that trees were present on the boundary and would have had some impact, the impact of a permeant structure with an overall height of 4 metres for the full width of the garden is considered to more detrimental than the trees which previously occupied the site.

Therefore it is considered that the introduction of the decking/ fence at this height and projection would be an overbearing and oppressive feature and would have a detrimental overshadowing impact to no. 12 Ashleigh Dale which would be detrimental to residential amenity. Such a development would therefore be contrary to Policy LP24 of the Local Plan and Policies in Chapter 12 of the NPPF.

Impact on highway safety:

In terms of highway safety there are no highway issues as the drive is not being affected by the proposal, as such would meet the aims of Policy LP22

of the Kirklees Local Plan with respect to highway safety and advice in Chapter 12 of the National Planning Policy Framework.

Ecology

In terms of ecology the key impact of the proposal is its impact on protected trees. Policy LP33 is therefore relevant which states that proposals should normally retain any valuable or important trees where they make a contribution to public amenity. The application has also been assessed by the Councils Arboricultural Officer.

In this instance this boundary between host property and no.12 Ashleigh Dale was previously occupied by 5 Lombardy Poplar trees, protected under Tree Preservation Order (TPO) 02/79. These trees were removed under application 2018/92208 after concerns were raised regarding the potential for them to fall over. The consent was granted subject the planting of replacement trees in the form of 2 Oaks and 2 Rowan trees. The replacement trees would need to be 1.5 -2 metres in height and would have to be planted in the location shown on the submitted plans.

Whilst the plans indicated the position of the replacement trees, there are significant concerns that the replacement trees would not grow successful with the adjacent decking structure in place. Due to the change in levels at the site and position of the decking to the south of the planting area. Therefore there is concerns that the decking is significantly higher than the ground level up to 4 metres higher and that the decking would overshadow the replacement trees and most likely prevent the growth and establishment of these trees in their first years.

If the trees do survive and have developed a crown, which is considered to be unlikely in the professional opinion of the Councils Arboricultural Officer, they will be 1m from a fence at 4m high and therefore their developing crown structure will be in constant conflict with the proposed decking and fence. It is therefore considered that the decking will effectively prevent the replacement valuable protected trees from establishing which would be contrary to policy LP33 and Chapter 15 of the NPPF.

Representations:

It should be noted that no representations have been received as a result of site publicity.

Councillor Sokhal, requested information about the application which was sent on the 8th November with no committee request received.

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 application of policies in the NPPF that protect areas or assets of particular importance provide clear reason for refusing the development proposed.

Decision Authorisation - Delegated Powers
Application Number: 2019/92346
Officer Recommendation: REFUSE

1. The proposed decking, by reason of its appearance, overall scale, including its height and width and prominence in the rear garden of no.s 12 and 14 Ashleigh Dale to the north of the application site would create a feature which is out of keeping with the character and appearance of the local area to the detriment of visual amenity. To permit such a development would be contrary to Policy LP24 (a & c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. The proposed decking, by reason of its overall scale, including its height and width would lead to a detrimental overbearing and overshadowing impact on the private amenity space no.12 Ashleigh Dale to the north of the application and when viewed from the rear of no.12. To permit such a development would be contrary to Policy LP24 (b & c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The proposed decking, by reason of its overall scale, including its height and width would, layout and orientation would prevent replacement protected trees from growing along the boundary of the application site and no.s 12 and 14 Ashleigh Dale. The decking would therefore lead to the loss of valuable protected trees. To permit such a development would be contrary to Policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan 1:1250			
Block Plan 1:500	1921.1		26.7.19
Existing layout	1921.2		26.7.19
Proposed layout	1921.3		26.7.19

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 Planning 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 did not undertake any negotiations with the applicant due to the fact no solution could be achieved to overcome the officers concerns.

Recommendation and Authorisation Box

12.12.19

Report Dated:

Coal – low risk