

**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: 2021/62/911111/E

Site Address: 6, Deer Croft, Farnley Tyas, Huddersfield, HD4 6BR

Description: Erection of single storey rear extension (within a Conservation Area)

Recommending Officer: Katie Wilson

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.

Emma Thompson

AUTHORISED OFFICER

Date: 08-Oct-2021

Officer Report – 2021/91111

Site Description

The application site is 6, Deer Croft, Farnley Tyas. It is a recently built 2-storey link-detached house with single storey element at the front. It has 3 bedrooms and 2 off street parking spaces (an integral single garage and space for one car on driveway in front). The walls are natural stonework and the roofs are dual pitched and surfaced in stone tiles. It is located on relatively flat land at the entrance to a short residential cul-de-sac within a larger residential estate, where dry stone wall boundaries are a feature. Access to the site is from the main road via Field Lane.

The application site is in Farnley Tyas conservation area and permitted development rights were removed within Classes A-E of Part 1 of Schedule 2 of the GPDO 1995 as amended with planning approvals 2011/92253 and 2014/92203.

Description of Proposal

Planning permission is sought for erection of a single storey rear extension (within Conservation Area)

- Rectangular footprint 2.5m projection x 2.8m wide
- Dual pitched roof, 2.2m eaves level and 3.3m to ridge line.
- Oak framed structure, floor to ceiling windows to all sides and gable end. Patio doors to south east side elevation.
- Flagged area around the perimeter externally.

History of negotiations/amendments received

The applicant was informed of the intended recommendation for refusal but wished it to be determined based on the submitted scheme

Relevant Planning History

2011/92253 - Outline application for redevelopment of Beech Farm for residential use including demolition of existing farm structure. Proposed location for biomass boiler (within a Conservation Area). – Section 106 outline permission granted.

[Planning application details | Kirklees Council](#)

Permitted development rights removed as follows:

22. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking or re-enacting that Order) no development or alterations included within Classes A-

E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To ensure that unsatisfactory extensions do not result in close overlooking of adjoining properties and to ensure that the development continues to preserve & enhance the Conservation Area and to accord with policy B5 of the Unitary Development Plan & the NPPF – National Planning Policy Framework.

2011/92308 – Construction of three dwellings and associated highways improvements, approved – within wider development.

2014/90777 – Erection of 2 dwellings, approved at the April 2014 Sub-Committee. Within wider development

2014/90975 – Erection of 7 dwellings, approved at the July 2014 Sub-Committee. Within wider development.

2014/92203 – erection of 5 houses (within a Conservation Area). Conditional full permission.

[Planning application details | Kirklees Council](#)

Removed permitted development rights removed as follows:

19. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking or re-enacting that Order) no development or alterations included within Classes A-E of Part 1 of Schedule 2 to that Order shall be carried out.

Reason: To ensure that unsatisfactory extensions do not result in close overlooking of adjoining properties and to ensure that the development continues to preserve & enhance the Conservation Area and to accord with policy B5 of the Unitary Development Plan & the NPPF – National Planning Policy Framework.

Adjacent site – Keepers Way:

2014/92355 – erection of 5 dwellings (within a conservation area)

[Planning application details | Kirklees Council](#)

Representations

Final publicity date Expires: 13th May 2021. No representations received.

Kirkburton Town Council comments: No comments received.

Consultation Responses

K C Conservation & Design officers: Object

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated but within Farnley Tyas Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 24** – Design
- **LP 35** – Historic Environment

Kirklees Council has adopted supplementary planning guidance on house extensions which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 16 – Conserving the historic environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity (including any heritage considerations)
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology (e.g. bats)
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan (KLP), policy LP1 of the KLP 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 NPPF.

In terms of extending and making alterations to a property policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”. This should be assessed in conjunction with the House Extension and alterations SPD (particularly key design principle 7 (outdoor space) and chapter 12 of the NPPF.

The site is also located within Farnley Tyas Conservation Area and, therefore, consideration has been given to the impact on the historic environment in relation to policy LP35 of the KLP, the Kirklees house extensions and alterations SPD and guidance in chapter 16 of the NPPF.

Whilst the principle of a proposed extension is normally acceptable, in this instance given the restricted amount of the existing outdoor space, it is considered by officers that it would not be possible to enlarge the existing house without overdevelopment of the site.

Key design principle 7 (outdoor space) of the Kirklees house extensions and alterations SPD states that *extensions and alterations should ensure an appropriately sized and usable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposal.* It goes on to say that, *if, following the proposed extension, the outdoor space is too small or significantly out of character with the local area permission will be refused....and ... In general circumstances, front gardens will not be considered adequate useable private amenity space due to the lack of overall privacy for occupants.*

In this instance, the footprint of the existing property is already nearly 50% (around 42%) of the domestic curtilage and the front garden (which is visible from Field Lane and properties in Deer Croft) is taken up with required driveway parking space, paved access to front entrance (also where waste bins are located) and small area of planting. As such, it is considered that the front garden would not provide adequate usable private amenity space. If this area is added to the footprint of the existing property then the outdoor amenity space would be reduced to approximately 29%.

In officers' opinion, it would not be possible to extend the existing property without failing to ensure an appropriately sized and usable area of private outdoor space is retained for the existing 3-bed house. Building in this restricted back garden area would not promote good design and is contrary to policy LP24 of the KLP and key design principle 7 of the Kirklees House extensions and alterations SPD.

It is also noted that when planning permission 2014/92203 was granted for the erection of 5 houses (including the house subject to the current

application), permitted development rights were removed for development or alterations within Classes A-E of Part 1 of Schedule 2 of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking or re-enacting that Order).

Class A covers the enlargement, improvement or alterations to a house such as front, rear or side extensions as well as general alterations such as new windows and doors.

The reason for removing permitted development rights was to ensure that unsatisfactory extensions do not result in close overlooking of adjoining properties and to ensure that the development continues to preserve & enhance the Conservation Area. These matters are expanded upon later in this report.

2 –Impact on visual amenity and Conservation Area:

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district. With regard to extensions, it states under part c, that proposals should promote good design by ensuring *'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details'*.

Chapter 16 of the National Planning Policy Framework regarding the historic environment are also relevant which set out considerations in respect of the historic environment. Comments have also been provided by the Conservation and Design Officer.

Key design principles 1 (local character and street scene) and 2 (impact on the original house), and 5 (rear extensions) given in the Kirklees Householder extensions SPD reflect the above.

In this instance, the existing house is recently built and regarded as the original building. It is a 2-storey, 3 bed link detached house and by comparison the proposed single storey rear extension would be small and subservient to the original building.

The application site is within Farnley Tyas Conservation Area and no 6 Deer Croft forms part of a recent housing development of tightly knit streets with stone-built houses with traditional detailing that responds well to the traditional character of Farnley Tyas and the locality.

The house at the application site, like others in the same development, has natural stone walls and relatively small windows, which together with close knit layout, drystone wall boundaries and some barn door details, mimic that of a traditional agricultural complex, which is in keeping with the character of

the area. Regarding materials and details, this house, like all the others in the same development has natural stone walls and relatively small windows, which together with close knit layout, drystone wall boundaries and some barn door details, mimic that of a traditional rural village, which is in keeping with the character of the area.

The proposed extension would introduce a timber framed and largely glazed structure onto the rear elevation of a predominantly stone structure and into a back garden that is (like neighbouring properties) already restricted in size. The rear elevation of this property is also at the entrance to Keepers Way and clearly seen from both Field Lane and Keepers Way.

In officers' opinion this would not be in keeping with the materials and details of the host dwellinghouse, adjacent properties and local character, contrary to Policies LP24 and LP35 of the KLP and key design principles 1, 2 and 5 of the Kirklees house extensions SPD and also Chapters 12 and 16 of the NPPF.

In terms of the impact upon Farnley Tyas conservation area, policy LP35 of the KLP is relevant and states, amongst other things that, development proposals affecting designated heritages assets (such as this) should preserve or enhance the significance of the asset. It goes on to say that consideration should be given to the need to ensure that proposals within conservation areas conserve those elements which contribute to their significance.

The conservation area was designated as an area of high architectural and historic interest in the 1980's. The character of the conservation area is a rural village of largely stone built houses which have an intimate relationship to the natural landscape surroundings. The houses within the conservation area are close knit and appear to have been developed along the principal thoroughfares but also in an organic nature.

The application site is part of a recent re-development of the farm complex surrounding Beech Farm (ref: 2011/92253 and 2014/92203).

As required by Chapter 16 of the NPPF, the current application has been submitted with a heritage statement that gives details of the history of the conservation area and the existing character of the area. It asserts that the materials are sympathetic to the existing dwelling, area and street-scene and as it is a small scale structure the impacts would be minimal and will have a positive effect on the conservation area, and no effect on amenities of any neighbouring properties.

The current application has been assessed by the Council's conservation and design officers. They note that 6 Deer Croft forms part of a recent housing development of tightly knit streets with stone-built houses with traditional detailing that responds well to the traditional character of Farnley Tyas and the locality. Their opinion is that the proposed extension would not be in keeping with the materials and details of the adjacent properties forming part of the same development and the townscape of Keepers Way, nor would it be

in keeping with the traditional character of the conservation area. The proposed development would be contrary to Policies LP24 and LP35 of the Local Plan as well as Chapters 12 and 16 of the NPPF.

They also recommend that as 6 Deer Croft only has a small garden and its rear elevation forms part of the townscape of Keepers Way, Conservation and Design do not consider there is scope for extension to this property.

It is also noted that section 2 (advice before you begin) of the Kirklees House extensions and alterations SPD states that if your home is in a Conservation Area, additional design criteria will typically apply and submission of a formal pre-application to the council is recommended. In this instance the recommendation has not been followed.

3 – Impact on residential amenity:

Policy LP24, part c, goes on to stipulate that extensions should *minimise the impact on residential amenity of future and neighbouring occupiers*.

Key design principles 3 (privacy), 4 (habitable rooms and side windows), 5 (overshadowing/loss of light), and 6 (preventing overbearing impact) and 7 (outdoor space) of the Kirklees householder extensions SPD expand upon LP24 and are discussed below.

In this instance, there would be three households potentially affected by the proposals; these are addressed as follows:

5, Deer Croft – This is a similar 2-storey house to the south east of and attached to the side of the garage at the application site.

In terms of privacy, it is the patio doors and floor to ceiling window in the facing side elevation of the proposed garden room that have potential to enable overlooking impact. Key design principle 4 of the Kirklees house extensions & alterations SPD states that extensions should consider the design and layout of habitable room and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and overlooking. It lists rooms that would be regarded as habitable or non-habitable. Amongst the list of habitable rooms are conservatories. The proposed extension would be used as a garden room, which in officers' opinion would be akin to a conservatory. It goes on to advise that side windows should not be included in extensions where they would unacceptably overlook neighbouring gardens or otherwise constrain the development potential of adjoining land.

In this instance, although the proposed garden room would be set in from the mutual boundary around 3.0m, where there is a dry stone wall around 1.2m high, it would be possible to overlook this neighbouring properties' back garden, to the detriment of residential amenity.

In terms of overshadowing, key design principle 5 of the Kirklees house extensions and alterations SPD states that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property. It goes on to say that the starting point for assessing overshadowing impact will be the 45 degree guidelines.

In this instance as the proposed garden room extends just 2.5m and is set in from the mutual boundary around 3.0m and so there is unlikely to be any significant loss in light level. The proposed extension would also be located to the north west of the back garden at 5, Deer Croft and so is also unlikely to block a significant amount of direct sun light.

Regarding preventing overbearing impact, key design principle 6 of the Kirklees house extensions and alterations SPD says that they should not unduly reduce the outlook from a neighbouring property. In this instance as the proposed extension is single storey and set in from the mutual boundary around 3.0m it is considered that this impact would be relatively limited.

To conclude, it is considered that the proposal could have an overlooking impact on this neighbouring property but would not have a significantly overshadowing or overbearing impact.

1, Keepers Way – This is a 2-storey end terraced house located to the south west and its front elevation faces onto the rear of the house at the applications site. There is a gap of around 16.0m between the facing elevation with Keepers Way cul-de-sac in between.

In terms of privacy, the approved plans for 1, Keepers Way (ref: 2014/92355) show that it has a living room and kitchen window at ground floor level with 2 bedroom windows above on the front elevation and the Kirklees house extensions SPD (key principle 4) regards all except the kitchen window, as habitable rooms, and so greater weight given to protecting them from overlooking and overshadowing. The proposed garden room / conservatory is also regarded as a habitable room.

Key design principle 3 of the Kirklees house extensions SPD seeks to ensure reasonable levels of privacy for inhabitants, future occupants and neighbours. It sets out minimum separation distances in general between the original house and neighbouring properties.

In this instance the relevant distance recommended is no less than 21m between facing windows of habitable rooms.

As stated above there is an existing separation distance between facing elevation of approximately 16.0m and so the existing situation is already significantly short of that recommended in key design principle 3.

The committee report for planning permission 2014/92355 (which included 1, Keepers Way) acknowledges that there would be a significant shortfall between habitable room windows of houses within the redevelopment area of Beech Farm (citing policy BE12 of the Kirklees UDP – the requirements of

policy BE12 are now seen in key principles 3 and 4 of the Kirklees house extensions and alterations SPD).

It goes on to say that 'within the supporting text of policy BE12 the principle criteria for determining space requirements should be good design. In the case of the Beech Farm development, the whole design ethos is to achieve a close knit, tight development which would replicate the idea of a historic Pennine rural village such as Farnley Tyas. This means that distances less than the policy requirement would be acceptable, internally within the site, in this case to ensure that the development would represent a good quality design which closely replicates the historic fabric of the village'.

It is also noted that permitted development rights were removed for development or alterations within classes A-E of Part 1 of Schedule 2 of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking or re-enacting that Order) without written consent of the LPA. The reason was to ensure that unsatisfactory extensions do not result in close overlooking of adjoining properties and to ensure that the development continues to preserve and enhance the Conservation Area.

The current proposal would reduce the separation distance a further 2.5m to 13.5m between habitable room windows (7.5m less than recommended). Whilst there would be some screening provided by dry stone wall boundary (around 1.5m high), given that the proposed extension is to a habitable room with largely glazed sides and directly opposite the front of 1, Keepers way, it is considered that on balance there would be potential for an invasion of privacy.

In terms of overshadowing and overbearing, as the proposed extension is single storey and orientated to the north east, it is considered that the potential for these impacts would be very limited over and above that of the existing house at 6, Deer Croft.

2, Keepers Way – this is a 2-storey house, very similar to 1, Keepers Way and attached to its south eastern side. It too has habitable room windows at ground and first floor level with slightly different window styles.

In terms of privacy, in this instance there would be an indirect relationship between the windows at 2, Keepers Way and those in the proposed extension and a slightly greater separation distance of approximately 14.2m. However, as the proposed extension would have largely glazed sides and is to a habitable room, it is considered that on balance there would also be potential for an invasion of privacy.

Regarding overshadowing and overbearing, again as the proposed extension is single storey and orientated to the north east, in officers' opinion the potential for these impacts would be very limited over and above that of the existing house at 6, Deer Croft.

Field Lane boundary and beyond - The proposed extension would be close to the boundary with Field Lane and the bridle way that runs along it. Beyond it

is a gate giving access to a field surrounding a former agricultural building, now commercial unit.

There are several existing habitable room windows to other buildings in the same Beech Farm redevelopment, that are slightly closer to the Field Lane. Given these circumstances it is considered that there would be no significant overshadowing, overbearing or overlooking impacts on this neighbouring land.

No other properties would be affected by the proposed development.

Existing occupants

The property has very limited private outdoor amenity space. The footprint of the existing 3-bed house is almost 50 percent of the domestic curtilage. The front garden is not adequate to provide usable private amenity because it is overlooked from adjacent bridleway and other properties within the estate. This would leave the rear garden which is only approximately 29 percent of the domestic curtilage. As such any extensions would be overdevelopment of the site and the principle of the proposed extension is unacceptable, contrary to policy LP24 of the Kirklees Local Plan and key design principle 7 (outdoor space) of the Kirklees House extensions and alterations Supplementary Planning Document.

In summary, the proposal would significantly compromise the amenity of existing occupants and fail to minimise the impact on the residential amenity of future and neighbouring occupiers due to overlooking impacts upon 5, Deer Croft and 1 & 2 Keepers Way.

4 – Impact on highway safety:

In this instance the proposal would not amount to an intensification of the existing use that would require additional off street parking spaces, and it would not affect the existing parking provision or waste collection arrangements at the site.

As such there would be no impact upon highway safety from the proposed development and it complies with policy LP21 and LP22 of the KLP and key design principles 15 and 16 of the Kirklees house extensions and alterations SPD.

5 – Other matters:

Carbon Budget

On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards

Biodiversity

Protected species (bats):

The site is in an area recorded as a bat alert area.

Bats are protected species and the NPPF requires planning authorities to take account of priority species within planning policies.

An assessment in relation to the bat alert layer guidance - flow diagram has been carried out and as a result no survey is required, however a precautionary footnote shall be added to the decision notice in order to comply with the aims of chapter 15 of the NPPF.

There are no other matters considered relevant to the determination of this application.

Trees

With regards to Key Design Principle 13 - Vegetation and tree planting. Extensions and alterations should seek to retain existing vegetation and trees and enhance this provision through landscaping where possible.

In this instance, there are no trees at the site and given the very restricted amount of outdoor amenity space, it is considered that it would not be possible to enhance through landscaping.

Flood Risk

With regards to Key Design Principle 14 - Drainage and flood risk. Extensions and alterations should ensure that all new developments are resilient and resistant to flood risk.

In this instance the site is in flood zone 1 and there is no flooding data at the site or surrounding. As such the risk of flooding is very low and in officers' opinion no resilient or resistance measures are required.

6 – Representations:

No representations received.

7 – 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: 2021/91111****Officer Recommendation: REFUSE****Reason for refusal:**

1. The extension proposed would significantly reduce the limited and private amenity space of the host dwelling resulting in an overdevelopment of the site contrary to Policy LP24 of the Kirklees Local Plan and key design principle 7 (outdoor space) of the Kirklees House extensions and alterations Supplementary Planning Document.
2. The proposed extension would introduce a timber framed and predominantly glazed structure onto a largely stone building within a small back garden. The development would not be in keeping with the existing design and materials of the host building appearing incongruous and detrimental to adjacent properties, street scene and local character and Conservation Area. The development is therefore, contrary to policy LP24 and LP35 of the Kirklees Local Plan and Key design principles 1 (local character and street-scene), 2 (impact upon the original house) and 5 (rear extensions) of the Kirklees House extensions and alterations Supplementary Planning Document and Chapters 12 and 16 of the National Planning Policy Framework.
3. The proposed extension due to its largely glazed walls, its use as a habitable room and close proximity to other habitable room windows at 1 and 2 Keepers Way and the back garden at 5, Deer Croft would result in overlooking of neighbouring spaces at close quarters. This would fail to minimise the impact on residential amenity of future and neighbouring occupiers and is contrary to policy LP24 of the Kirklees Local Plan and key design principles 3 and 4 of the Kirklees House extensions and alterations of the Kirklees House extensions and alterations Supplementary Planning Document

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	Dwg no. LP01		17.03.2021.
Site plan and existing and proposed plans and elevations	Dwg no. 2021/020/03		17.03.2021.
Supplementary information: Conservation / heritage statement.			17.03.2021.

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 applicant was informed of the intended recommendation for refusal but wished it to be determined based on the submitted scheme. For the reason set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report Dated:

06.10.2021
