

**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: 2021/62/92737/E

Site Address: 11 , Ouzelwell Lane, Thornhill Lees, Dewsbury, WF12 9EP

Description: Demolition of existing dwelling and erection of new dwelling

Recommending Officer: Jennifer Booth

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: «Current_Date»

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OFFICER REPORT

Site Description

11 Ouzelwell Lane is a detached, two storey dwelling. The property has a rendered front elevation with a road facing gable and brick elevations to the side and rear. The dwelling has a garden and a drive to the front, garage attached to the side and an enclosed garden to the rear.

The property is located on a residential street with properties of varying ages although predominantly of brick construction and of a similar size to the host property.

Description of Proposal

The applicant is seeking consent to demolish the existing house and construct a replacement dwelling.

The new dwelling would have a width of 12m and a depth of 17m on the ground floor reducing to 13m at first floor. The design has a gable feature on the front facing onto the road. The roof for the main part would pitched with a large perpendicular pitch for the rear and a lean to element for the single storey. The eaves height of the dwelling would be 5.1m with an overall height of 7.8m.

There would be a gap of 0.9m between the new dwelling and the boundary with no.9 and a gap of 1.4m from the side of the new dwelling and the boundary with the adjacent no.13. The plans indicate that there would paving at the front of the property to provide a drive for three vehicles with a depth of 5.5m and a width of 8.7.

There would also be a paved area at the front of the gable feature with a width of 5.3m and a depth of 4.5m. The rear yard area would have a width of 14.3m and a depth of 4m.

The plans indicate that the walls of the dwelling would be blockwork and render with tiles for the roof covering.

Relevant Planning History

None

History of negotiations

The submitted plans raised significant concerns in terms of design, scale, bulk and massing of the new dwelling which would result in harm to the character of the host property and the wider area, given the incongruous appearance of the resultant house. Although the Kirklees Development Management Charter

together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. As there were multiple issues, these were considered too significant under this application. As such, amended plans have not been sought.

Representations

The application was advertised by neighbour letters, which expired on 11/09/2021

As a result of the above publicity, no representations have been received.

Consultation Responses

K.C. Environmental Health – would support subject to conditions

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 on the Kirklees Local Plan Proposals Map

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP3** – Location of new development
- **LP11** – Housing mix and affordable housing
- **LP20** – sustainable travel
- **LP21** – Highway Safety and access
- **LP 22** – Parking
- **LP 24** - Design

- **LP28** - Drainage
- **LP 53** - Contaminated land

Kirklees Council has adopted (as of 29th June 2020) supplementary planning documents for guidance on house building, house extensions and open space. Although the period for a potential judicial review has not yet expired, it is now being considered in the assessment of householder planning applications, with some weight attached. 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 these SPGs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

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, and 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 2- Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable travel
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Negotiations
- 7) Conditions
- 8) Conclusion

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the KLP, which stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The site currently hosts a detached dwelling and is located on a residential street with a mix of house types. On this basis, the site is in a sustainable location for residential development. The principle of developing the site for residential use is considered acceptable, for it would encourage a more effective use of land than the current situation and contribute positively to delivering a sufficient supply of homes. It would accord with policies LP1, LP2, LP11 and LP20 of the KLP and chapters 5, 9 and 11 of the NPPF.

2 –Impact on visual amenity:

As highlighted previously, the site currently hosts a detached dwelling and Ouzelwell Lane is a residential street with other residential properties and some diversity in terms of the age and style of properties. That being said, the replacement dwelling would have a significant footprint covering the majority of the site, leading to a cramped form of development. The new house would be significantly larger in terms of scale than the surrounding dwellings. LP24 of the KLP and Principle 2 of the House Building SPD requires new dwellings to respect and enhance the character of an area. Given the character of Ouzelwell Lane, the scale of the development proposed would not relate well and is, therefore unacceptable.

The parking area and paving to the front would have a very sterile and harsh appearance. Principle 12 of the House Building SPD does state that parking areas should not dominate street frontages and as such, this scheme is failing to meet the aspirations of the House Building SPD.

The amenity space to the rear would be very limited relative to the size of the proposed dwelling. Point 9.3 of the House building SPD does state that “The size of private gardens should be influenced by the size of the dwelling”, and whilst the rear yard would extend across the width of the site, the very limited depth would not result in an acceptable level of amenity space.

LP24 of the KLP together with Principle 13 of the House Building SPD place a strong emphasis on the appropriate use of materials in terms of visual amenity and character of the area. The materials proposed for the front elevation with the use of blockwork and render would, on such a wide

dwelling, be out of character with the wider street scene and incongruous in terms of the appearance of the new dwelling.

Principles 14 and 15 of the House Building SPD go into further detail regarding appropriate fenestration and roof type. The proposals here include a pitched roof form the main element with fairly non-descript fenestration with the exception of the gable feature. Given the mix of house types, although limited, the windows and roof would not necessarily fail on these points.

Summary

Having taken the above into account, the replacement dwelling proposed would cause harm in terms of visual amenity of both the host dwelling and the wider area, therefore failing to comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout, Principles 2, 12 & 13 of the House Building SPD and the aims of chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Building SPD goes into further detail with respect to Principle 6 in terms of privacy, overshadowing/loss of light and preventing overbearing impact and Principle 17 for outdoor space.

Impact on 9 Ouzelwell Lane

The replacement dwelling would result a significant bulk and massing close to the shared boundary with the adjacent dwelling to the north which both fails to meet Point 7.19 of the House Building SPD as it is substantially less than 2m (0.9m) and would result in significant overshadowing for most of the day, a substantially overbearing impact on the amenity space and windows of the adjacent neighbour. There are windows proposed in the side elevation which for the most part would not serve habitable spaces. However, the plans do show a bedroom window which will face the neighbours garden as it will be approx. 1.5m beyond the rear of the neighbour's house and would result in a loss of privacy. If this window were to be obscure glazed, the privacy would be retained however, the resultant living conditions for the occupant of the bedroom would be unacceptable. The impact of the new dwelling on the amenities of the occupiers of the adjacent 9 Ouzelwell Lane in terms of overbearing, overshadowing and overlooking would be significant and the proposal therefore fails LP24 of the KLP along with Principle 6 of the House Building SPD.

Impact on 13 Ouzelwell Lane

The replacement dwelling would result a significant bulk and massing close to the shared boundary with the adjacent dwelling to the south which would also fail to meet Point 7.19 of the SPD as this would be only 1.4m from the boundary and the overall scale of the new dwelling which would result in a substantially overbearing impact on the amenity space and windows of the adjacent neighbour. There are windows proposed in the side elevation which for the most part would not serve habitable spaces. However, the plans do show a bedroom window which will face the neighbours side elevation. As this side elevation is for the most part blank with a single landing window, it is not considered that this would result in a loss of privacy. The impact of the new dwelling on the amenities of the occupier so the adjacent 13 Ouzelwell Lane in terms of an overbearing and oppressive impact fails LP24 of the KLP and Principle 6 of the House Building SPD.

Impact on 1 – 4 Ouzelwell Terrace

Given the separation between the proposed new house and the neighbours on the opposite side of the road of approx. 22m, the proposed replacement dwelling would have no significant impact on the amenities of the occupiers of the neighbouring 1 – 4 Ouzelwell Terrace.

Impact on 33 & 35 Ouzelwell Road

There is approx. 18m between the rear most extent of the new dwelling and the neighbouring properties to the rear. This separation does not quite meet the ideal separation of 21m indicated in the House Building SPD, however, it is noted that the rear most element is single storey and there is screening along the rear boundary along with an outbuilding on the neighbours side which would mitigate the impact. Given the proposed relationship, the new dwelling would have no significant effect upon the amenities of the occupiers of the neighbouring 33 & 35 Ouzelwell Road.

Having considered the above factors, the new dwelling proposed would result in significant adverse impacts, in terms of overlooking, overbearing and overshadowing of the adjacent 9 Ouzelwell Lane and overbearing of the adjacent 13 Ouzelwell Lane, thereby failing to comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Principle 6 of the House Building SPD and Paragraph 130 (f) of the National Planning Policy Framework.

4 – Impact on highway safety:

The site currently hosts a three bedroom house with a drive for one vehicle and a garage. The new dwelling would have five bedrooms on the first floor with another bedroom in the roof space. The plans submitted indicate parking for three vehicles would be provided on the front with a large, paved area. The arrangement shown is acceptable in terms of size with a width of 8.7m and a depth of 5.5m. However, cars would have to either reverse in or out of the space onto the highway. Furthermore, the amount of paving would have a harsh and sterile appearance with no landscaping proposed to soften its

appearance. There are other issues with the proposals which are such that the agent has not been approached to alter the scheme. However, if a more modest scheme is negotiated in the future, parking should be shown with bin storage and appropriate landscaping. The parking arrangements as shown would be acceptable in terms of highway safety to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Principle 12 of the House Building SPD. The design element of Principle 12 has been addressed in the visual amenity section of this report.

5– Other matters:

Contaminated Land

The property is close to a potential source of contaminated land given it is near a land fill site, coal pits/mine and a refuse tip. If minded to approve, Environmental Health have requested the full raft of conditions relating to the provision of phase 1 report, phase 2 report, remediation strategy and validation report, in order to comply with LP53 of the KLP.

Carbon Budget

The proposal is a small scale development to replace an existing dwelling. As such, aside from the provision of an electric charging point. 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.

There are no other matters for consideration.

6 – Representations:

None

7 – Proposed conditions

None as the recommendation is for refusal.

8 – Conclusion:

This application to erect a replacement dwelling at 11 Ouzelwell Lane has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Building SPD, the National Planning Policy Framework and other material considerations.

The proposed replacement dwelling, by reason of the scale, bulk and massing would result in an incongruous feature within the wider area. To permit the dwelling would be contrary to policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, Principle 2 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.

The proposed parking area and hardstanding to the front of the proposed dwelling, would have a harmful effect on the character of the area having a harsh and sterile appearance. To permit the hardstanding to the front of the property would be contrary to policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, Principle 12 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.

The limited amenity space proposed would have an adverse effect upon the amenities of the future occupiers of the replacement dwelling which would be contrary to LP24 of the Kirklees Local Plan, Principle 17 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

The significant use of render on the front elevation would, given the size of the replacement dwelling, result in an incongruous feature which would be out of character with the wider area. To permit this would be contrary to LP24 of the Kirklees Local Plan, Principle 13 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.

The proposed replacement dwelling, by reason of its scale, bulk and massing would result in overshadowing of the rear elevation and amenity space of the adjacent 9 Ouzelwell Lane for the majority of the day as well as form an overbearing and oppressive impact. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

The proposed bedroom window on the north side elevation would result in an unacceptable degree of overlooking of the amenity space of the adjacent 9 Ouzelwell Lane. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

The proposed replacement dwelling, by reason of its scale, bulk and massing would result in an overbearing and oppressive impact on the amenity space and rear elevation of the adjacent 13 Ouzelwell Lane. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

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. For the reasons set out

above it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

RECOMMENDATION

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2021/92737

Officer Recommendation: Refuse

Reasons for refusal

1. The proposed replacement dwelling, by reason of the scale, bulk and massing would result in an incongruous feature within the street scene and would appear harmful to the character of the wider area. To permit the dwelling would be contrary to policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, Principle 2 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.
2. The proposed parking area and hardstanding to the front of the proposed dwelling, would have a harmful impact on the character of the area, having a harsh appearance that would not relate well to existing development or within the street scene. To permit the hardstanding to the front of the property would be contrary to policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, Principle 12 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.
3. The limited amenity space associated with the dwelling proposed would not provide a high standard of amenity for future occupants and consequently have an adverse effect upon the amenities of future occupiers contrary to LP24(b) of the Kirklees Local Plan, Principle 17 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.
4. The significant use of render on the front elevation would, given the size of the replacement dwelling, result in an incongruous feature which would be out of character with the wider area. To permit this would be contrary to LP24 of the Kirklees Local Plan, Principle 13 of the House Building SPD and advice within chapter 12 of the National Planning Policy Framework.
5. The proposed replacement dwelling, by reason of its scale, bulk and massing would result in overshadowing of the rear elevation and amenity space of the adjacent 9 Ouzelwell Lane for the majority of the day as well as forming an overbearing and oppressive impact to the occupants. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan in terms of being detrimental to the amenities of the neighbouring property, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.
6. The proposed bedroom window on the north side elevation would result in an unacceptable degree of overlooking of the amenity space of the adjacent 9 Ouzelwell Lane resulting in a loss of privacy to the

occupants. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan, in terms of being detrimental to the amenities of the neighbouring occupants, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

7. The proposed replacement dwelling, by reason of its scale, bulk and massing would result in an overbearing and oppressive impact on the amenity space and rear elevation of the adjacent 13 Ouzelwell Lane. To permit the replacement dwelling, as proposed, would be contrary to policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Principle 6 of the House Building SPD and paragraph 130 (f) of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Existing plans	S01	884012	04/08/2021
Proposed plans	S02D	884013	04/08/2021
Design & Access statement	-	884010	04/08/2021
Work specifications	S03	884014	04/08/2021
Coal Mining Risk Assessment	-	887438	04/08/2021

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 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 submitted plans raised significant concerns in terms of design, scale, bulk and massing of the new dwelling which would result in harm to the character of the host property and the wider area, given the incongruous appearance of the resultant house. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. As there were multiple issues, these were considered too significant under this application. As such, amended plans have not been sought.

Report Dated 27/09/2021

