# KIRKLEES METROPOLITAN COUNCIL
# INVESTMENT & REGENERATION SERVICE

## DEVELOPMENT MANAGEMENT

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

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS**

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|---|---|
| Reference No: | **2023/62/90378/W** |
| Site Address: | 25, Bishops Way, Meltham, Holmfirth, HD9 4BW |
| Description: | Erection of two storey side extension |
| Recommending Officer: | Tom Hunt |

**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.**

Teresa Harlow

***AUTHORISED OFFICER***

**Date: 03-May-2023**

# Officer Report

## Site Description

2023/90378 – 25, Bishops Way, Meltham, Holmfirth, HD9 4BW

The application site relates to a two-storey, detached residential property. It is constructed of natural stone with some timber cladding to a gable frontage and has a tiled side gable roof. It has a large driveway bounded by timber fencing and a link attached, double garage adjoining its neighbour's garage forward of its host constructed with similar materials to host. There is a large garden area to the rear.

Of particular relevance to the site, to its northeast flank elevation, it borders a tract of woodland with significant mature trees separated by ~2.3m and which is adjacent to some protected under TPOs (ref: 50/95/w2, 50/95/T50) and designed as a Kirklees Wildlife Habitat Network (KWHN). Surrounding the site are other TPOs.

The local character of the streetscene is of detached dwellings with significant tree growth providing a very attractive and verdant streetscene.

## Description of Proposal

Erection of two storey side extension

It is proposed to have a two-storey side extension off its northeast flank elevation which would be flush with the primary elevation and have matching ridge and eaves to the host's own.

It would have the dimensions of:

2.1m projection from the side x 6.17m depth

At front elevation, it would have a uPVC brown door to ground and an uPVC window to first, no side elevation openings and at rear a double door with small window. It would be faced in natural stone and tile to match the host. It would serve as storage to ground and to extend a bedroom with a newly added ensuite at first floor.

## History of negotiations/amendments received

The agent was notified of the initial assessment and the likely recommendation for refusal based on visual amenity/non-compliance with the SPD and the harmful impact on trees of significant amenity. A Justification Statement was submitted with no subsequent changes in the proposal.

**Relevant Planning History**

2017/93848 – Erection of fence to front. Conditional Full Permission.

2019/93047 – Non material amendment to previous permission 2017/93848 for erection of fence to front. Approved.

2019/94032 – Non material amendment on previous application 2017/93848 for erection of fence to front. Approved.

**Representations**

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on: 20/03/2023

No representations have been received. The additional information was not readvertised due to plans being unchanged.

**Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Trees – Objection sustained on basis of additional information supplied

**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.

**Kirklees Local Plan (LP):**

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design

- LP 30 – Biodiversity & Geodiversity
- LP 33 – Trees

**Supplementary Planning Guidance**

- Highways Design Guide SPD
- House Extensions and Alterations SPD
- Waste Management Design Guide for New Developments (Oct 2020, v.5)

**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 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- 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
2) Impact on visual amenity
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters
6) Representations
7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 confirms that the Council will take a positive and proactive approach when considering development proposals to reflect the presumption in favour of sustainable development embedded in the National Planning Policy Framework. This has been demonstrated through the provision of a pre application service and detailed design guidance in the House Extensions and Alterations SPD setting out expectations.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

In addition, Policies within LP24 of the Local Plan and Chapter 12 of the NPPF will guide the proposal's impact on achieving good design. In this case, it could potentially be acceptable, subject to the assessment of impacts on visual and residential amenity and highway safety.

2 –Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states:

*"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."*

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring: *"a. the form, scale, layout and details of all development respects and enhances the character of the townscape…"* and *"c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details..."*

Key Design Principle 1 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. In addition, Key Design Principle 2 of this SPD states that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and detail.

Section 5 of the House Extension and Alterations SPD provides guidance on specific extensions and alterations, with Section 5.3 relating to side extensions. This sets out the following:

*"Side extensions should be located and designed to minimise the impact on the local character of the area. The design should reflect the design of the original building in terms of roof style, pitch materials and detailing.*

*Two-storey side extensions can have a significant effect on the character of the original house and the street. Adequate space between buildings should be retained to provide a sense of space which is important to the character of an area.*

*Two-storey side extensions should:*

- *not take up all or most of the space to the side of a house;*
- *maintain a 1 metre gap to the side boundary to ensure the building is not too close to a neighbouring property; and*
- *be set back at least 500mm from the front wall of the house."*

The proposed side extension would take up all of the space to the side of the property, fail to achieve a 1m gap to the side boundary and is not set back 0.5m from the front wall of the host. This would have an extension that would

not be subservient to the host by appearing visually smaller which is contrary to KDP 2 of the SPD. Whilst the proposed extension would be small in footprint, non-subservient with flush elevation and roof ridge and not larger than the original host, this is mitigated by avoiding the risk of terracing being adjacent to trees of significant amenity of which those trees would aid in partially screening the proposed extension's impact on the streetscene. Officers raised concerns following non-compliance with the SPD and invited the Justification Statement to be submitted. The proposed extension aims to supply an expansion of an existing bedroom from 6.55 square metres to one of 13.5 square metres with an ensuite to be more compliant with Nationally Described Space Standards (NDSS). It is proposed that a setback design of 0.5m would materially harm the configuration of the room inasmuch as to provide an irregular configuration with an awkward circulation space. Officers would still consider this likely revised configuration to be meeting NDSS and of limited weight. NDSS does not apply to extensions, instead being limited to new housing units; this would be inconsistent with the NDSS stating that it has "no other statutory meaning or use" for development other than new dwellings. It would be inconsistent with Local policy relating to the House Extensions and Alterations SPD and the KLP both of which remain silent on this matter. It would therefore not be a material consideration in this instance being related to an extension.

It is proposed that the salvaged materials and mortar would be carefully colour matched and toothed to the existing façade so that the extension would blend seamlessly to the host; this would aid in the design to be harmonised with the host.

The proportions of the extension added to the host is proposed to be in keeping with the streetscene and had been considered in the supplied Statement to avoid being overly dominant in the streetscene and does not unbalance the proportions of the host. In addition it would be considered a self contained corner plot with no neighbouring properties in close proximity or relating closely to it. Nonetheless, this would appear as a cramped design being built closely to the flank property boundaries for the host property with significant harm to trees of significant amenity visible through unsympathetic pruning. Considering the footprints of the nearby estate properties, it remains that the proposed increased footprint, bulk and massing of the property would be larger than the neighbouring residential properties; this incongruous additional bulk would be mitigated by the estate design as residential properties are irregularly set at angles away from each other with a broken building line, varied set backs to the highway and inconsistent property gaps to flank boundaries. assisting the design's integration within the streetscene.

To conclude, in this isolated instance, while the proposal would result in a non-subservient two-storey side extension, it would appear that the proposal's limited increase in footprint, matching materials and the estate design may aid in the proposal to integrate within the streetscene and be in accordance with KDP 1 of the SPD and Government guidance contained within Chapters 12 of the NPPF.

<u>3 – Impact on residential amenity</u>:

Section B and C of Policy LP24 of the Kirklees Local Plan states that alterations to existing buildings should:

*"…maintain appropriate distances between buildings'* and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 130 of the National Planning Policy Framework 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Key Design Principle 3 of the Kirklees Householder Extensions and Alterations SPD sets out that extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours. In addition, Key Design Principle 4 notes that extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook. Furthermore, Key Design Principle 5 states that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property, and recommends that a horizontal 45 degree line from a neighbouring habitable room window is not breached. Key Design Principle 6 states extensions and alterations should not unduly reduce the outlook from a neighbouring property.

*Other Residential Properties*

It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties and screened by mature tree growth so as to prevent undue harm to the neighbouring properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

*Future Occupiers*

With reference to Key Design Principle 7 of the House Extensions and Alterations SPD, the proposal would still retain a substantial, outdoor private amenity space available to future and present occupiers for excellent standards of privacy.

The proposal would therefore be in general conformance with LP24b and the Key Design Principles relating to residential amenity of the House Extensions and Alterations SPD.

<u>4 – Impact on highway safety</u>:

The Highways Design Guide advises that proposals should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited. Bin arrangements have not been disclosed but likely to remain as existing with a significant front amenity space unaffected and supported by additional storage space to the extension at ground floor. The proposal would not intensify use, nor affect existing parking spaces within the site and therefore would not cause additional harm to highway safety under Policies LP21 and 22 of the Local Plan and Key Design Principles 15 –16 of the

House Extensions and Alterations SPD, the KC Highway Design Guide SPD and Chapter 9 of the NPPF.

5 – Other matters:

*Climate Change*
On 12th November 2019, the Council adopted a target for, with an accompanying carbon budget set by the Tyndall When determining planning applications the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPD to embed the climate change agenda to achieve 'net zero' carbon emissions by 2038.
Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.
A Climate Change Statement was supplied stating that it would have LED lighting, reuse of the original stone materials with local contractors/tradespeople carrying out the works, use of electric power tools in its construction and water saving toilet/shower to the ensuite.
Given the improved Building Regulations setting out high requirements for insulation and energy efficiency, the proposal would be of limited benefit to the original building's energy efficiency and would contribute positively towards carbon reduction.
*Drainage*
The site is within a low probability Flood Risk Zone and does not seek to extend its off street parking area with development limited to the rear within a substantial soft surfaced garden therefore this would have no conflict with Policy LP27 and LP28 of the Kirklees Local Plan and Key Design Principle 14 of the House Extensions and Alterations SPD.
*Biodiversity and Trees*
Whilst considering Biodiversity and Trees, Key Design Principles 12 – 13 of the House Extensions and Alterations SPD in conjunction with LP24(i), LP 30 and LP 33 of the Kirklees Local Plan is relevant.
LP33 of the Kirklees Local Plan states that: *"The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.*
*Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks."*
KC Trees Officer was formally consulted and raised an objection as the proposal directly conflicts with LP24(i) and LP33. There had been no trees information provided and the site plan did not accurately represent the correct tree locations. There is evidence of pruning already undertaken to maintain clearance from the existing dwelling with the proposed extension would bring the building closer to the existing trees detrimentally affecting their roots and canopy during construction creating additional pruning pressure. While the protected trees within order 50/95 are perhaps set back from the proposal, the adjacent trees are significant and form part or the same valuable corridor of trees.
The proposal would have a nominal 0.4m separation distance to the flank site boundary adjacent to significant amenity trees of double the height of the

property, in part included in the KWHN and benefiting from TPOs. As such, the proposal would be within the canopy growth and root spread of those trees directly threatening those trees and detrimentally affecting the important biodiversity value of the KWHN. It is noted that it is proposed to hand dig the foundations however given the proximity to tree roots and canopy, it is unlikely that the proximity and scale of the proposed development could avoid detrimental harm.

The supplied Justification Statement includes a greater assessment of the adjacent trees including the closest tree identified as T3 which has had its growth stunted and requiring heavy pruning. Negotiations with the landowner are in place to remove this tree due to its poor condition and to prevent further damage to the host. It is put forward that the tree does not benefit from protection within a CA or a TPO and the removal of this would have low to no detrimental impact on the visual amenity value of the main group of significant amenity trees.

KC Trees was contacted regarding this additional information supporting a greater understanding of the impact on significant trees. It is considered that the proposal would still bring the existing structure closer to significant trees which are already causing conflict with the existing building. As such, the other trees near the boundary would suffer further pressure for trees pruning and removal in future. The significance of this pressure has already been indicated with the potential loss of T3 which had suffered inappropriate pruning affecting its amenity and expected lifespan. The proposal to have double doors below the encroaching canopies would further give rise to additional pressure to other trees. As such, this proposal could not be supported by KC Trees and the development would be contrary to adopted local planning policies and national policies in the NPPF.

No enhancement of biodiversity or vegetation have been supplied and the adverse potential impacts to those significant trees would erode the distinctiveness and contribution of those amenity trees within its locality and Kirklees District.

Whilst it is acknowledged that the site is located within an identified bat alert area, the proposal is considered unacceptable in relation to trees and indirect impact to biodiversity. Given the close proximity of the KWHN and the mature tree growth, the site has greater likelihood for roosting bats to be disturbed within the trees and the host property.

Should Officers have been minded to support the proposal, a Preliminary Roost Assessment being would have been sought to support the proposal. As it is recommended to be refused, this was not sought and as the application was only submitted on the day the revised validation checklist came into force, it was not sought before validation of the application.

As such, the proposed development would be located within close proximity to significant trees of substantial amenity value and those which are protected by a Tree Preservation Order. The development would have a direct conflict with the root protection and canopy area of these significant trees leading to a harmful impact of the development to the viability and longevity of the significant amenity and protected trees. To permit the development would be contrary to Policies LP24(i) and LP33 of the Kirklees Local Plan, policy within Chapter 12 and 15 of the National Planning Policy Framework and Key Design Principles 12 and 13 of the House Extensions and Alterations SPD.

6 – Representations:

No representations had been received.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF taken as a whole.

**Recommendation** **Refuse**

**Decision Authorisation - Delegated Powers**

**Application Number**: 2023/90378

**Officer Recommendation**: Refuse

**Conditions and Reasons**

The proposed development would be located within close proximity to significant trees of substantial amenity value and those which are protected by a Tree Preservation Order. The development would lead to significant pressure to those trees for pruning and would have a direct conflict with the root protection and canopy area of these significant trees leading to a harmful impact of the development to the viability and longevity of the significant amenity and protected trees. To permit the development would be contrary to Policies LP24(i) and LP33 of the Kirklees Local Plan, policy within Chapter 12 and 15 of the National Planning Policy Framework and Key Design Principles 12 and 13 of the House Extensions and Alterations SPD.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location Plan. | No. (00) 001. | Unamended | 06/02/2023 |
| Proposed Site Plan. | No. (00) 002. | Unamended | 06/02/2023 |
| Existing Elevation Plans (front and side). | No. (00) 004. | Unamended | 06/02/2023 |
| Existing Elevation Plans (side and rear). | No. (00) 005. | Unamended | 06/02/2023 |
| Existing Floor Plans. | No. (00) 003. | Unamended | 06/02/2023 |
| Proposed Elevation Plan (front and side). | No. (00) 008. | Unamended | 06/02/2023 |
| Proposed Elevation Plans (side and rear). | No. (00) 009. | Unamended. | 06/02/2023 |
| Proposed Floor Plan (Ground). | No. (00) 006. | Unamended | 06/02/2023 |
| Proposed Floor Plan (First). | No. (00) 007. | Unamended | 06/02/2023 |
| Climate Change Statement | - | Unamended | 06/02/2023 |
| Justification Statement | Justification Statement by Urban Box Architects. | Original | 19/04/2023 |

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. For the reasons set out, the development

would not improve the visual amenity of the area and would undermine the continued viability of the significant trees adjacent to the site.

**Report Dated:** 02/05/2023