

**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:	<b>2023/62/90738/E</b>
Site Address:	33, Owl Lane, Shaw Cross, Dewsbury, WF12 7RG
Description:	Demolition of existing dwelling and erection of detached dwelling with integral garage
Recommending Officer:	Edward Cheseldine

**DECISION - REFUSE**

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

Sarah Longbottom

***AUTHORISED OFFICER***

**Date:** 15 August 2023

## **Officer Report**

2023/90738 - 33, Owl Lane, Shaw Cross, Dewsbury, WF12 7RG

### **Site Description**

33 Owl Lane is a prominent corner plot which is enclosed by a high stone wall. There is currently a two-storey stone dwelling within the curtilage of the land. Historically this building served as an end terrace dwelling. Access to the site is located off Owl Lane, with a hardstanding driveway to the front of the property.

The application site is situated where Owl Lane meets Smallwood Road. To the east and south of the application street there are semi-detached houses which are set within similar plots. To the north is recreational green space, beyond which there are stone terraces houses. There are small commercial units to the west of the site as well as a network of roads. Properties that would be classed as neighbouring properties would be found to the south and east of the application site.

The site is not in a conservation area and there are no listed buildings within close proximity to the site.

### **Description of Proposal**

Planning permission is sought for the demolition of the existing dwelling and the erection of one dwelling with an adjoining garage.

The proposed dwelling would be a two-storey dwelling, formed with a gable end roof. The structure would be an 'L' shape with the dwelling situated where the current stone structure rests. A garage would adjoin to the northeast elevation of the property. The principal elevation of the property would face south towards Smallwood Road. The dwelling would have a ridge height of ~7.70m, eaves height of ~5.30m, width of ~19.90m, depth of ~7.50m. The dwelling is proposed to be constructed of natural stone under a slate roof.

The garage has a ridge height of ~6.1m, eaves height of ~2.5m, width of ~10.60m, depth of ~6.60m. It would be constructed with the same materials as the dwellinghouse and would feature, three single garage doors. There would also be living accommodation above in the roof of the garage, which would be lit by skylights.

### **History of negotiations/amendments received**

The Officer raised design concerns with the initial plans relating to the size, scale and architectural features of the dwellinghouse. Design amendments were submitted to the Planning Officer via email however, they failed to fully address Officer concerns, relating to:

- Impact on the streetscene of Owl Lane and Smallwood Road
- Size and scale of the development
- Impact to the property line of Owl Lane and Smallwood Road
- Impact to the green space to the north of the property
- Kirklees Local Plan LP7 - Efficient and effective use of land and buildings

For clarity, it is the originally submitted plans which are the subject of this assessment.

### **Relevant Planning History**

No relevant planning history at the site.

### **Representations**

Final publicity date Expires:

Neighbour letters initially expired on 22 May 2023.

No representations were received.

### **Consultation Responses**

KC Highways DM - Highways deemed the plans to be acceptable subject to the driveway be widened to allow for a bin collection.

KC Environmental Health – No comment, 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 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees Local Plan Proposals Map.

### **Kirklees Local Plan (LP):**

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 20** – Sustainable Travel
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 5** – Delivering a Sufficient Supply of Homes
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

### **Other Material Considerations:**

- Kirklees Highways Design Guide Supplementary Planning Document (SPD) (2019).

- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide Supplementary Planning Document (SPD)

## **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) Conclusion

### **Principle of development:**

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The site is not displayed as allocated on the KLP Policies Map. Policy LP2 states that:

*“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”*

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is

5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.

The Housing Delivery Test results are directly linked to part of the five year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate 2 to 3 dwellings. One dwelling is proposed in this instance, which is considered as being a low density given the size of the plot and density of the surrounding area. Whilst it is acknowledged that there is only one dwelling on the site at present which is to be demolished, Officers consider that there are no specific constraints which would prevent a more efficient use of the land in this case, and as such, the proposal as submitted would not represent an efficient use of the land and would be contrary to Policy LP7 of the KLP.

On the basis of the above, it is although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

#### **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.”*

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 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, heritage assets and landscape...”*

Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

The siting of the dwelling would be towards the front of the north boundary of the site, running from the entranceway off Owl Lane towards the rear of the plot. There is a strong existing building line running from Owl Lane and Smallwood Road that the dwelling would detract from due to its position. The dwelling would run along the north-west wall at a height of ~5.60m and width of ~19.90m, which would dominate the views when travelling south on Owl

Lane. There would also be a dominating effect as public green space lies beyond this section of the site. The adjoined garage similarly does not follow these building lines. The proposal would result in a good size garden to the south of the plot, as well as incorporating parking. Because of the positioning of the dwelling, coupled with the high boundary wall, the development would result in appearing 'closed off' harming the residential character of the area, which is contributed by the size and orientation of the dwelling.

A two-storey dwelling is proposed which is considered to be acceptable given the nature of the surrounding dwellings in the locality. The ridge height of the dwelling is ~7.70m which will have a similar appearance to neighbouring dwellings, this is deemed acceptable because of the distance of separation between them. However, whilst the house is a similar height, the footprint and scale of the proposed dwelling is considerably larger than other residential dwellings in the immediate vicinity. The 'L' shape appearance of the joint dwellinghouse and garage would appear as dominant within the streetscape due to its bulk and mass. This will be amplified due to the prominence of the corner plot. The plot size is generous, and the dwelling would not appear cramped, however the north elevation of the property is set close to the boundary wall which is cramped within its locality.

Moving on to appearance, dwellings on Owl Lane and Smallwood Road are modest, rectangular builds featuring stone and brick materials. The application proposes stone walls under a slate roof, and such materials are considered acceptable in this location in principle. There is a high concentration of glazing on the south and north elevations, including the use of floor to ceiling windows. Such high amounts of glazed openings are not presently found on the surrounding buildings or within the neighbouring dwellings. The appearance of these opening does not form a coherent pattern, especially on the north elevation. Due to the positioning of the garage, the front elevation would appear from the public domain as the principal elevation. Such a large garage would negatively detract from the character of Owl Lane due to the appearance of the triple garage.

Details of the hard landscaping are scarce however the size and positioning of the driveway is acceptable. Further details of the material used could be conditioned, along with the widening of the entranceway.

Further to the design details of the dwellinghouse, there are Officer concerns with the appropriateness of the use of land on the site. Policy LP7 of the Kirklees Local Plan states housing density should ensure efficient use of land, in keeping with the character of the area. The site is situated within a high-density residential area with several types of small dwellings surrounding it, thus pertaining the character of the area as small residential plots. A

justification to demonstrate the need for a large-scale multi-bedroom dwelling was requested via email on 31 May 2023. To which the planning agent pointed to larger developments in the area including the commercial buildings to the west and dwellings on Windsor Farm. These examples were given limited weight within the planning balance. Buildings to the west are commercial and therefore pertain a different use and relate differently to domestic dwelling. Similarly, the dwelling at Windsor Farm relates to an agricultural plot which is a historic building serving the farm. Windsor Farm would also not be considered as being in the 'immediate vicinity'.

Officers consider that the proposal would not represent an efficient use of land and would cause detrimental harm to visual amenities of the locality, being contrary to Policy LP7 & LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

### **Impact on Residential Amenity**

Section B and C of LP24 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 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *"Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking."* The Housebuilders Design Guide SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

The properties mostly likely to be affected by the proposed development are considered to be 43 Owl Lane & 324 Smallwood Road. The impact upon these properties will be discussed below. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect.

#### Impact to 43 Owl Lane

No. 43 is situated to the north of the application site and is a two-storey, semi detached property. The proposed dwelling would project beyond both the front and rear walls of the neighbouring property, however Smallwood Road lies between the properties, giving a distance of ~14.7m between the dwellings. Windows facing No. 43 are present on the south facing elevation of the dwelling to which there is a separation distance of ~29.00m. There will be floor to ceiling windows installed on the first-floor with open vistas to the south. Even so, the distance between the dwellings would mitigate any impact to privacy to the occupants of the proposed dwelling and the occupants of No. 33. It is considered that the proposal would not cause undue harm to No. 43 in terms of loss of light, loss of outlook or the creation of an overbearing effect.

#### Impact to 324 Smallwood Road

No. 324 is situated to the east of the application site and is a two-storey dwelling. The proposed dwelling would protrude the rear of No. 324 significantly. Between the properties there would be a ~9.38m gap. The property sites are separated by a ~3.00m access greenway. There are no first-floor windows proposed on the east elevation. The ground floor windows will have an obstructed view of No. 324 due to the stone wall boundary treatment. Openings will face the side of No. 324, which has a window to light a non-habitable room approximately ~9.00m distance, the impact of which will be limited due to the change in elevation and angle of outlook. It is considered that the proposal would not cause undue harm to No. 324 in terms of loss of light, loss of outlook or the creation of an overbearing effect.

#### Amenity of the Proposed Occupiers

Principle 16 of the Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this,

Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The proposed dwelling exceeds the minimum recommendations as set out within the National Described Spacing Standards for such a dwelling, and the proposed garden space is considered to be an adequate size.

Subject to a condition, the proposed development is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b) and Chapter 12 of the National Planning Policy Framework.

#### **Impact on Highway Safety:**

Paragraph 111 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

A 4 bedroom house is proposed on the site, and the Kirklees Highways Design Guide SPD states that at least 3 off-street spaces should be provided.

An integral triple garage is proposed along with space for three more vehicles to park at the front of the garage, therefore Officers and KC Highways Development Management are satisfied sufficient on-site parking has been proposed for such a development. KC Highways Development Management are also satisfied that there is acceptable space for turning on the site so as to leave in a forward gear.

There is considered to be sufficient space for bin storage on the site, and waste collection is to remain unaltered. Although it would be imposed there would be a safe place for bin storage if the proposal was taken forward.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

## **Other Matters**

### Trees

There are no trees situated within the application site or within a proximity where tree roots would be affected by the development.

### Ecology

The site consists of a two storey dwelling with an area of hardstanding and non-hardstanding material surrounding it. Whilst it is proposed to demolish the existing building, it is considered that this building is likely to have low potential for protected species given the property will be built within the footprint of an existing outbuilding, and the garden space is already maintained.

However, Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design Guide SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of bat and bird boxes on the proposed dwelling would be recommended as a condition should permission be granted.

### Climate Change

On 12<sup>th</sup> 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 predates 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.

Due to the nature of the scheme, this being a proposal providing one new residential unit within the site, it is considered that one electric vehicle charging point for this dwelling should be provided to aid in the contribution to climate change. This matter could be conditioned should planning permission be granted.

## **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 proposed development would have a negative impact on visual amenity, which would not constitute sustainable development and is therefore recommended for refusal.

**Recommendation**

**Refusal**

## **Decision Authorisation - Delegated Powers**

**Application Number - 2023/90738**

**Officer Recommendation: Refusal**

### **Reasons for Refusal:**

1. The application site comprises previously developed land within a sustainable location. The proposal would not represent an efficient use of land and by virtue of its low density and large scale, would not be compatible with its surroundings, contrary to Policy LP7 of the Kirklees Local Plan as well as Principle 4 of the Housebuilders Design Guide SPD and the advice within Chapters 11 and 12 of the National Planning Policy Framework.
2. The dwelling, by reason of its scale, layout and design, would appear dominant and incongruous within the street scene, resulting in an unsympathetic form of development which would harm the character and appearance of the area. This would be contrary to the aims of Policy LP24 (a), as well as Principles 1, 2, 13, 14 & 15 of the Housebuilders Design Guide SPD and the advice within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	001	A	07/03/2023
Proposed Site / Block Layout	004	A	07/03/2023
Proposed Floor Plans	005	A	07/03/2023
Proposed Floor Plans	006	A	07/03/2023
Proposed Elevations	007	A	07/03/2023
Proposed Elevations	008	A	07/03/2023

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. In this case, there was communication between the Planning Officer and Planning Agent which led to the assessment of draft secondary plans. These plans were not found to be sufficient to overcome planning concerns. The application was assessed on the basis of the original plans.

