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:	**2023/62/90835/W**
Site Address:	Ambalea House, 2a, Le Marchant Avenue, Lindley, Huddersfield, HD3 3DF
Description:	Erection of single storey side and alterations to garage to extend living accommodation
Recommending Officer:	Laura Yeadon

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.

John Holmes

AUTHORISED OFFICER

Date: 04-Sep-2023

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f90835

Site Description

Ambalea, 2 Le Marchant Avenue is a relatively modern property located within an area without notation within the Kirklees Local Plan. The property is detached and constructed from stone with a concrete tiled roof and uPVC openings. The property is 'L' shaped in its design and located on the corner of Le Marchant venue and Thornhill Avenue with access via electric gates. The access leads to a forecourt area to the front of the property and also an attached double garage. The main amenity area for the property is to the south of the site.

A tree with a Tree Preservation Order is located within the site boundary located within the southern area of the garden, adjacent to the boundary of the site.

Surrounding properties are predominantly residential and vary in terms of size and design.

Description of Proposal

The application is for the erection of a single storey side extension and alterations to the garage to extend living accommodation.

The proposed single storey side extension would be located on the southern elevation of the property. The extension would lie flush with the eastern (rear) elevation of the property and would project to 3 metres from the southern elevation of the property. The extension would be a total width of 8.9 metres, set in from the western elevation by 4 metres. The extension would have a flat roof at total height of 3 metres with a light lantern located centrally within the roof form. The proposed construction materials would be stone for the walls with grey aluminium/uPVC openings.

The proposed alterations to the garage would involve the removal of the double garage doors and the walling up of the opening to form 2 no. banks of windows to create a gymnasium. The adjacent single garage/storage area would be retained.

History of negotiations/amendments received

No negotiations have taken place as it was considered that the issues relating to the Tree Preservation Order could not be overcome.

Relevant Planning History

2002/91110 Outline application for erection of one dwelling
Conditional Outline Permission

2003/94564 Erection of detached dwelling with integral garage
Conditional Full Permission

2015/92364 Erection of single storey side extension
Conditional Full Permission

2019/91651 Work to tree TPO 63/92
Part granted/part refused

2020/93440 Work to tree TPO 63/92
Part granted/part refused

Representations

We are currently undertaking the legal 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.

Final publicity date expired 27th April 2023 – no representations received

Parish/ Town Council – not applicable

Consultation Responses

K.C. Arboricultural officer – object due to the impact of the extension being located closer to a protected tree which will increase future pressure for tree pruning or removal.

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 without notation on the Kirklees Local Plan.

The site falls within an area identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

<u>Kirklees Local Plan:</u>

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- Highways Design Guide SPD
- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 21st 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 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding & 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) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development

contained in the National Planning Policy Framework. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

In terms of extending and making alterations to a property Policy LP24 of the Kirklees Local Plan will be used to assess, in conjunction with Chapter 12 of the National Planning Policy Framework regarding design, including the adopted Kirklees Supplementary Planning Document on House Extensions (SPD).

Within the adopted SPD, Key Design Principles 1 and 2 are relevant to the consideration of the principle of the development & visual amenity and are considered within the following report. These policies state the following:

- Principle 1 – 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.”

- Principle 2 – 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.”

With specific regard to the House Extensions and Alterations SPD the key designs principles for consideration are:

- Key design principle 1: Local character and street scene
- Key design principle 2: Impact on the original house
- Key design principle 3: Privacy
- Key design principle 4: Habitable rooms and side windows
- Key design principle 5: Overshadowing/loss of light
- Key design principle 6: Preventing overbearing impact
- Key design principle 7: Outdoor space
- Key design principle 8: Energy efficiency
- Key design principle 9: Construction materials
- Key design principle 12: Natural environment
- Key design principle 13: Vegetation and tree planting
- Key design principle 15: Provision for parking
- Key design principle 16: Provision for waste storage

With specific regard to the proposed development the SPD states that in terms of side extensions, the SPD states:

Single storey side extensions

In Section 5.17 of the SPD refers to the general rules, where single storey side extensions should:

- not extend more than two thirds of the width of the original house;
- not exceed a height of 4 metres;
- and be set back at least 500mm from the original building line to allow for a visual break.

As the site is upon a corner plot, paragraph 5.23 of the House Extensions and Alterations SPD is relevant in this case and sets out the following:

> *'On corner plots, side extensions should be considered as being both side and front extensions and as such will relate to both street frontages. Therefore, both elevations should be designed as street frontages. On corner plots, side extensions should contribute to the local character by:*
>
> - *Facing in both directions to create two frontages, each with windows overlooking the street;*
> - *Being set back from the existing building line on both streets;*
> - *and Following the boundary treatment along both streets, in relation to its position, height and materials'*

Given paragraph 5.23, paragraph 5.13 of the SPD is considered relevant. This relates to front extensions and details that as front extensions are highly prominent in the street scene and can erode the character of the area if they are not carefully designed, large extensions (single and two-storey) and conservatories on the front of an existing house will not normally be acceptable and are considered likely to appear particularly intrusive.

Paragraph 5.14 of the SPD provides further criteria, setting out the following:

> *'Single storey extensions on the front of a house and two-storey or first floor front extensions are usually unacceptable due to the impact on the character of the area and visual amenity and will not normally be permitted unless:*

- *The house is set well back from the pavement or is well screened; and*
- *The extension is small, subservient to the original building, well-designed and would not harm the character of the original house or the area; and*
- *The materials and design match the existing features of the original house; and*
- *The extension would not unreasonably affect the neighbouring properties.'*

The property has had its Permitted Development Rights removed. This was under application number 2003/94564 for the erection of a detached dwelling with integral garage. Permitted Development Rights were removed for the construction of buildings or extension within the site area. The reason for imposing this condition (Condition 10 on the decision notice) was ……*'To retain effective control in the interest of visual amenity and protected trees and to accord with Policies D2 and NE9 of the Unitary Development Plan.'*

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations

2 – Impact on visual amenity:

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council's adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Paragraph 130 of the NPPF is of relevance, in particular the following parts:-

- *'b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping*
- *c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'*

The proposal seeks permission to extend the property by way of the erection of a single storey side extension and alterations to the garage to extend living accommodation. The application form also states that internal works and the replacement of the windows area also proposed however these elements do not require planning permission.

In terms of the visual impact of the proposed development, the works to form the extension to the property on the southern elevation would face the roadside of Thornhill Avenue. Due to the existing hedging, fencing and protected tree and that the property is set lower than road level, the extension would be of limited visibility from from public vantage points on Le Marchant Avenue and Thornhill Avenue.

In terms of the works and the compliance of the scheme in terms of Section 5.17 of the SPD, the extension would not extend more than two thirds of the

width of the original house, would not exceed 4 metres in overall height although would not be set back from the front elevation

Key Design Principle 7 requires that extensions should ensure that appropriately sized and usable areas of outdoor space is retained and, in this instance, and as demonstrated on the proposed site plan (drawing number 411-06) the garden areas would be retained as existing.

Turning to paragraphs 5.13 and 5.23 of the House Extensions and Alterations SPD, the proposal would see a large flat roof extension upon a prominent elevation of the dwelling. The proposal would be forward of the established building line along that part of the street.

The design of the dwelling is such that two gable features front this part of the street, giving a vertical emphasis to the property. The proposal would alter this appearance and is considered to disrupt the design of the host property, in addition to adding massing and bulk forward of the established building line in a prominent part of the site. It is therefore considered that the proposal would appear out of character and incongruous within the street.

The proposal would be of a large scale and whilst there is green screening around the boundary, with a high hedge in place, it is considered the proposal would still affect the character of the building and would not constitute subservient design due to the prominent part of the building it would be sited upon, and the fact it would alter the established character of the building and this part of the street.

In terms of the proposed construction materials, the details demonstrate that the walling material would be stone with the quoin detailing replicated within the proposed extension. The openings are proposed to be grey however the openings within the entire property are proposed to be replaced with grey and therefore, these would also match the host property.

It is not considered that the alteration to replace the existing double garage door with 2 no. openings to extend the living accommodation into this space would be detrimental to visual amenity providing that the walling up of the opening is from matching stone.

As the proposed materials for the extension and conversion would match the host property, this element of the works would comply with Key Design Principles 2 and 9 of the SPD.

For the reasons set out in this section of the report, the proposed works are therefore considered to have a harmful impact upon visual amenity, in this case, contrary to policies LP1, LP2 & LP24 of the Kirklees Local Plan, principles 1 & 2 of the Council's adopted Supplementary Planning Document on House Extensions (SPD) and policies within Chapter 12 of the National Planning Policy Framework.

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

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

In terms of overlooking, the replacement opening to the garage door would not decrease any established separation distances and would face into the forecourt of the building and therefore would cause minimal harm.

In terms of the openings within the side extension, these are proposed within the side elevation facing the garden area of the property and within the west elevation facing Le Marchant Avenue. Due to the separation distance between the main large openings within the south elevation of the extension and the facing properties on Thornhill Avenue being in excess of 30 metres, the works would comply with Key Design Principles 3 and 4 of the SPD.

Key Design Principle 7 requires that extensions should ensure that appropriately sized and useable areas of outdoor space is retained and, in this instance, due to the extent of curtilage and as demonstrated on the submitted block plan, the works are not considered to result in an overdevelopment of the site as a usable garden space would remain.

Key Design Principle 5 of the SPD recommends that a 45 degree rule should be treated as a starting point in assessing the impact of extensions i.e. a line drawn from the midpoint in the nearest adjacent habitable room window at an angle of 45 degrees should preferably not intersect the extension. In this instance, the extension would be located on an elevation close the boundary with 67 Northfield Avenue whereby the front elevation of this property is on a similar building line to the side elevation of the application site. There is a bay window to the front elevation of the neighbouring property however, as measured from the submitted plans, the 45 degree line would not by cut. As the extension is single storey in height and does not cut the 45 degree line, it is not considered that the proposal would have an undue impact on overshadowing or being overbearing to neighbouring properties.

Therefore, it is considered that the proposed extensions are acceptable in terms of residential amenity. It is considered there will be no significant impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking, and the proposal would accord with the aims of policies LP1, LP2 & LP24 of the Kirklees Local Plan, Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations Supplementary Planning Document as well as policies within chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

In this case the works would result in the loss of the double garage to the property. However, the dimensions of this space does not meet current standards and therefore there would be no loss of parking as a result of the conversion. There is ample space to the front of the property within the driveway and forecourt to park 3-4 cars off-street and therefore there are minimal concerns regarding parking provision. This would accord with the Highways Design Guide SPD and also Key Design Principle 15 of the House Extensions and Alterations SPD in addition to Kirklees Local Plan Policies LP21 and LP22.

It is also noted that there is sufficient space within the site boundary to accommodate bin storage and therefore would comply with Key Design Principle 16 of the SPD.

5 – Other matters:

Climate Change - Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

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.

A Climate Change Statement has been submitted as part of the submission of the application which details proposed mitigation measures. These are considered to be acceptable.

Biodiversity – Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions

should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Further to this, Principle 12 of the House Extensions and Alterations SPD states that: *"Extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity"*

The proposal would not result in any alterations to the roof of the existing dwelling, and would incorporate a single storey extension and a garage conversion. However, the site is not within a bat alert zone on the Councils GIS system and the garage building is a relatively low height therefore the potential for bats is considered unlikely. Thus, it is considered that harm to protected species from the development is unlikely. In terms of net gains, it is considered that it would not be proportionate to request these for a householder development of this scale.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

Trees – Policy 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.

Policy LP24 (i) of the Kirklees Local Plan states that proposals should promote good design by ensuring that the retention of viable or important trees and where appropriate the planting of new trees and other landscaping to maximise visual amenity and environmental benefits. This is mirrored within the NPPF where at paragraph 130 it is set out that existing trees should be retained wherever possible.

This is further supported within the SPD which, under Key Design Principle 13 states that proposals for extensions should normally retain valuable and important trees in accordance with Local Plan Policy LP33. It goes on to state that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity value.

To the south of the site is a mature tree which is protected by a Tree Preservation Order under number 63/92/t55. Due to the siting of the extension in relation to this tree, the Council's Arboricultural Officer was formally consulted as part of the application process. Comments have been received which state that the application cannot be supported as it involves extending the property closer to a protected tree which will undoubtedly increase future pressure for tree pruning or removal.

The Council's Arboricultural Officer goes on to cite that the tree is located on a higher level raised flower bed so any damage to the rooting area would be minimal. However, the proposal would increase the footprint of the property underneath the canopy of the tree which would cast shade and drop tree related debris onto the roof of the extension and light lantern. Previous records show that applications have been submitted to reduce this tree back from the fabric of the existing property and so to further encroach into the canopy spread will only exacerbate the conflict between the dwelling and the protected tree and would add significant pressure for further pruning / felling of the tree.

It is therefore considered that the proposed works do not meet the requirements of policy LP33 of the Kirklees Local Plan which seeks to protect development which directly or indirectly threaten trees or woodlands or significant amenity and Policy LP24 (i) of the Kirklees Local Plan, policies within Chapter 12 of the NPPF and Key Design Principle 13 of the House Extensions and Alterations SPD.

6 – Representations:

None

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/or 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.

The proposal is therefore considered to be contrary to policy LP2 which seeks to ensure all development proposals 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.

For the reasons set out in this report, refusal is recommended.

Recommendation **REFUSE**

Decision Authorisation - Delegated Powers

Application Number: 2023/90835

Officer Recommendation: Refuse

1. The proposed development would be located within close proximity to a tree that is protected by a Tree Preservation Order. The development would have a direct conflict with the tree due to the increase of the footprint of the property under the canopy of the tree which would cast shade and drop debris. The encroachment of development into the canopy spread would lead to a harmful impact to the viability and longevity of the protected tree. To permit the development would be contrary to Policies LP2, LP24 (i) and LP33 of the Kirklees Local Plan, policies within Chapter 12 of the National Planning Policy Framework and Key Design Principle 13 of the Council's adopted House Extensions and Alterations SPD

2. By virtue of its siting, size, and design, the proposed development would lead to development within a prominent part of the site which would have a harmful impact upon the character of the host property and wider locality which would significantly encroach beyond the established building line. The proposed development is not considered to harmonise with the visual amenity of the host property and street scene contrary to policies LP2 & LP24 of the Kirklees Local Plan, Principles 1 and 2 and paragraphs 5.13 and 5.23 of the Council's adopted House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing floor plans	411-01		15th March 2023
Existing elevations	411-02		15th March 2023
Proposed floor plans	411-03.1		15th March 2023
Proposed elevations	411-04.2		15th March 2023
Existing site layout	411-05		15th March 2023
Proposed site layout	411-06		15th March 2023
Location plan	411-07		15th March 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. No negotiations have taken place as it was considered that the issues relating to the Tree Preservation Order could not be overcome.

Report Dated: 23rd August 2023

Coal – low