

**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:	2024/62/90610/E
Site Address:	22, Crowlees Road, Mirfield, WF14 9PJ
Description:	Demolition of existing bungalow and erection of two storey dwelling
Recommending Officer:	Edward Cheseldine

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: 25-April-2024

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Officer Report

2024/90610 - 22, Crowlees Road, Mirfield, WF14 9PJ

Site Description

22 Crowlees Road is a detached Bungalow in Mirfield. The dwelling has brick exterior walls with a stone feature on the front elevation. The building has a hipped roof which is clad in concrete roof tiles. The property faces onto Crowlees Road which is a Primary A road. The property hosts a modest front garden space and a driveway to the side of the property. The rear garden is a generous outdoor residential space. There is one outbuilding within the curtilage of the property.

The local area is predominately residential, there are a mix of properties which vary in style, height and building materials.

Application Proposal

The applicant is seeking planning permission for the demolition of the existing bungalow and erection of a two-storey dwelling. The design of which is similar to approved application no. 2023/93151 in terms of design, which was for an additional storey to the existing dwelling, hip to gable extension, roof ridgeline extension and rear extension with external alterations. Within the planning statement it was included that this application seeks for a new dwelling due to structural issues with the proposed extensions.

Consultation Responses

None.

Relevant Planning History

Application site

2023/93151 - Erection of an additional storey to the existing dwelling, hip to gable extension, roof extension and rear extension with external alterations.- Full permission granted.

2023/92478 - Prior approval for enlargement of dwellinghouse by erection of additional storey – Details approved.

20 Crowlees Road

2010/91760 - Erection of single storey side and 2 storey rear extension – Full permission granted.

Consultation Responses

The Coal Authority – Objection. The site rests in a High Risk Coal Area which is a mapping system that shows areas where mining activities pose risk to structures. The Coal Authority are statutory consultee's that specialise in the safety of new buildings. When proposal rest in these areas, a Coal Mining Risk Assessment should be submitted to the LPA to aide The Coal Authority in their assessment. An initial objection was raised by The Coal Authority as no such documentation was provided with the initial application. Communication between the planning agent and The Coal Authority was sent to the LPA, as the agent did not see it fit to submit such a document due to the previous permission for a house extension which was within the same footprint as this application. However, the communication was not successful in coming to a positive conclusion, The Coal Authority therefore did not overturn their original objection.

Environmental Health – No objection, subject to conditions.

History of Negotiations

Following the consultation response from The Coal Authority, the Officer requested a Coal Mining Risk Assessment was undertaken. No such action was taken.

Public Representations

Neighbourhood notification letters were published to advertise the application, which expired on the 12 April 2024. As a result of the publicity, there were no representations.

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.

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 20th December 2023, 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 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 and Beautiful 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 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 SPD (2021).

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) Environmental issues
- 5) Conclusion

1- 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 assessed.

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 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

The Council’s inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.’

Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 70 of the NPPF recognises that: “Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Residential development at the site could be acceptable in principle. One dwelling is proposed in this instance, this is considered appropriate as the dwelling will replace one singular dwelling which respects the spacing of the street.

In respect of the above, the quantum of development is considered acceptable 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 application site has a previous approval for a Lawful Development Certification to erect an additional storey, in which case weight can be afforded to application 2023/92478 for a two-storey structure in the footprint of the existing dwelling. A house extension which introduced a similar design to this application was also granted under no. 2023/93151, weight can be afforded to the design of the extant permission.

The proposed dwelling will form a replacement building to the row of houses on Crowlees Road. It will be set in line with the forward projection of the adjacent building. The rear elevation will be set 2.00m behind No. 20 Crowlees Road. It will be a width of ~11.80m, depth of ~10.70m, eaves height of ~5.50m, ridgeline height of ~8.25m. In terms of side space, there is ~1.45m to the boundary to the west and ~4.70m to the boundary to the east.

House Builders Design Guide (SPD) Principle 2:

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.

Considering the space to the boundaries of dwelling in the area there is a positive contribution to the local character and street scene. The dwelling is of a considerable size, typically for new dwellings minimum spacing standards are set out in paragraph 7.19 of the Kirklees Housebuilders Design Guide SPD express a 2.0m side space. The footprint of the proposed dwelling rests within the same footprint of that approved under application 2023/93151, therefore it is unreasonable to apply the SPD given the sense of space in this particular area is extant.

Consideration to the scale of neighbouring dwellings should be given to assess the size of the proposed dwelling considers the immediate building group. There are two-storey, detached dwellings and bungalows in the immediate area. A streetscene plan has been provided which has provided a visual aide in the assessment to scale. Whilst it is noted there is an adjacent bungalow, the is a sufficient distance of separation to this property. Additionally, there is a large-scale dwelling with a similar ridgeline height at No 20. It too has a cross-pitched roof. Due to the width and additional height of the dwelling, it will appear as a large dominating structure. The appearance of which can be afforded weight due to the previous permission which proposed the same dimensions.

In terms of the positioning of the dwelling, it continues the present building line.

The proposal would result in usable outdoor space the front and rear of the dwelling which is a combined substantial space which is adequate for the number of bedrooms the dwelling holds.

Principle 13 of the Kirklees Housebuilders Design Guide SPD states that applicants should *consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.*

The exterior walls of the dwelling will be rendered. Render appears within the streetscene, and is present on the adjacent dwellings. The building group therefore has an existing appearance which the proposed alterations will complement. Concrete roof tiles are proposed, which are on the existing dwelling. The housing group uses modernist materials such as render and concrete roof tiles, therefore the materials are fitting.

Principle 14 of the Kirklees Housebuilders Design Guide SPD notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

The design of the fenestration is relatively to other openings in the area. Openings are relatively square with stone cills and lintels. There is the inclusion of larger openings on the porch which appear relatively modern, but not out of context with the street. The rear of the building has large patio doors, they are relative to the residential building in terms of size and appearance.

Principle 15 states that the design of the roofline should relate well to site context.

Pitched and hipped roof styles are present within the streetscene. A pitched roof will result in additional massing on the roof planes and external walls. Whilst it will appear large, gable-end buildings are present in the area. The orientation of the ridgeline follows the adjacent building. The height and style has been approved in extant permission 2023/93151.

In terms of surfacing, there will be the construction of a modest patio. Other hard standing material is already present on the site.

The proposed development is therefore considered acceptable in terms of visual amenity and it is considered that the proposed development complies

with Local Plan Policy LP24(a & b) 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 135 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 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 that will be affected by the development will be 20 & 24 Crowlees Road.

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. Of note, whilst there are a number of properties to the front of the site, the proposed dwellings would be ~21 metres between habitable windows.

Impact on 20 Crowlees Road

20 Crowlees Road is the adjacent dwelling to the west of the application site. There is a ~2.60m separation distance between the dwellings. 20 Crowlees has a one storey extension with a high pitched roof that runs along the boundary. There are two side windows and two skylights that serve a garage. Between the properties rest a ~1.80m fence that serves as a boundary treatment. In terms of an impact to privacy to the inhabitants in the dwelling, two side windows are proposed on the west facing elevation, serving a utility on the ground floor and an en-suite on the first-floor. The boundary treatment will prevent views from the utility room into space to the side of the property and garage. As the first-floor window serves an en-suite, it would be conditioned that this window is obscurely glazed to maintain privacy levels if the application was to be approved. In addition to the windows to the side, there will be newly formed windows to the rear of the property. Consideration has been given to previous planning permission decisions. This would enhance views into neighbouring outdoor amenity space by the increase in elevation. However, there is already an overlooking relationship between the property and neighbouring garden. The proposal would not significantly alter this relationship, furthermore the attached patio along the boundary would not be suitable for leisure activities as it is ~1.10m wide. There is a drop in ground height to the garden of 0.50m. In addition to the above, the neighbouring dwelling has views into the outdoor amenity space of No.22. In terms of an overbearing impact, there are skylights on the ground floor side elevation, the gap is sufficient to allow light to the windows and skylights. Additionally, as the rear protrusion of the building is set back from the neighbouring dwelling, and there is a hipped roof shape on the extension which draws away the massing, the rear extension will not form an overbearing impact.

Impact on 24 Crowlees Road

24 Crowlees Road is the other adjacent building to the east of the application site. There is a separation distance of ~5.00m from the dwelling to the boundary property which is ~6.55m away. In terms of privacy, there are two, floor to ceiling windows proposed on the ground floor of the east facing elevation. There is a low boundary fence that separates the two properties. On No. 20, there is a high level, slim line window. Currently, the windows will have a view of the side space, given the outlook, the relationship is acceptable. Proposed first-floor windows will have a view of private outdoor amenity space. There is sufficient space to the side of the house for the impact of this to be neutralised, furthermore No. 20 currently has views towards the garden of the application site.

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.”*

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 Kirklees Housebuilders Design Guide SPD & Nationally Described Space Standards for such a dwelling, and the proposed rear garden is considered to be a good size for a dwelling of this scale.

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.”*

The existing access onto Crowlees Road will be retained.

The proposal will result in an intensification of domestic use, increasing the number of bedrooms from three to four. The Kirklees Highway Design Guide SPD, outlines that a 4 bedroom residential development should have 3 off-street parking spaces. There are two spaces on the existing driveway with an additional space in the garage.

Environmental Matters

Historic Coal Activity

The application site is within an area of high-risk historic coal activity. As outlined in The Coal Authority’s objection, there has been no submission of a

Coal Mining Risk Assessment. New dwellings require foundations and ground works, which could undermine shallow coal mining systems that are present within the area. Policy LP 53 of the Kirklees Local Plan requires an assessment of land that poses an instability risk, to which no information has been forthcoming.

Paragraph 190 of the NPPF states '*where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*'

Paragraph 191 goes onto say planning decision should ensure that new development is appropriate for its location taking into account the likely effects of the natural environment.

Without adequate regard to previous mining of the natural landscape, the development would be vulnerable to land instability which would neither be safe for the occupiers nor be considered sustainable development, with no evidence of the contrary.

Ground contamination

The Council's mapping shows the proposed development site falls within an area of probable unrecorded shallow workings. Due to the uncertainty as to whether unrecorded mine workings/shallow coal, exist beneath the site as identified in the Coal Authority's report, it is recommended that an intrusive investigation is required to examine the geology further, which can be conditioned of planning permission was approved.

Ecology

If permission was granted, as set out in Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD, 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.

Electric vehicle charging point

In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. A condition requiring charging points is therefore necessary.

Construction mitigation

Construction practices are covered by other regulations and it is not considered necessary or reasonable to attach a condition regarding site working times, but an informative regarding construction practices can be attached instead if permission is 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 does not constitute sustainable development as it is undermined by previous coal mining activity under land the dwelling rests upon. It therefore conflicts with Policy LP53 of the Kirklees Local Plan and paragraphs 190 & 191 of the NPPF.

It is considered that the proposed development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refusal

Reason(s) for Refusal

1. The development is located within a High Risk Coal Area due to previous coal mining activity. A Coal Mining Risk Assessment has not been included within the submitted information, therefore the development would be vulnerable to land instability and contamination which would neither be safe for the occupiers nor be considered sustainable development, with no evidence of the contrary. The development would conflict with Chapter 15 of the National Planning Policy Framework including paragraphs 190 & 191, as well as the Kirklees Local Plan Policy LP53.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	(20) 001	-	29 February 2024
Existing site / block layout	(20) 002	-	29 February 2024
Existing elevations – 3D view	(20) 003	-	29 February 2024
Proposed site / block layout	(20) 004	Rev A	29 February 2024
Proposed elevations – 3D views	(20) 005	-	29 February 2024
Existing grouped plans and elevations	(30) 001	-	29 February 2024
Proposed grouped plans and elevations	(30) 002	Rev B	29 February 2024
Streetscene plan	(30) 003	-	29 February 2024
Block plan	BP	-	29 February 2024
Supporting statement	Gen-01	-	29 February 2024
Climate change statement	CCS	-	29 February 2024

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. Additional information relating to coal mining was requested, however the planning agent was not forthcoming in providing the information.

