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:	**2024/62/90662/E**
Site Address:	41, Old Mill View, Thornhill Lees, Dewsbury, WF12 9QJ
Description:	Erection of garden room
Recommending Officer:	Jennifer Booth

DECISION - REFUSED

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

Emma Thompson

AUTHORISED OFFICER

Date: 17-Dec-2024

OFFICER REPORT

Site Description

41 Old Mill View is a modern, detached dwelling of brick construction with open gardens and a drive to the front and an enclosed garden to the rear.

The property backs onto a densely wooded area. There are similar dwellings to sides.

Description of Proposal

The applicant is seeking permission for the erection of an outbuilding to the side,

The outbuilding would have a width of 5m and a depth of 5m, the roof form would be a mono pitch with a 3m height towards the front and 2.8m to the rear. The outbuilding would be timber clad.

Relevant Planning History

2023/91937 - erection of single storey front, garage conversion and single storey side and rear extension - approved

96/91657 – Erection of 90 dwellings – approved (PD rights removed)

History of negotiations

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. The outbuilding would be very close to protected trees. The agent was asked to provide an Arboricultural Report and Tree survey to show the works could be carried our whilst protecting the trees. However, this has not been forthcoming. The agent was made aware the decision would be issued without the information.

Representations

The application was advertised by neighbour letters, which expired on 24/05/2024

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

Consultation Responses

K.C Trees – informal discussion, there is significant potential for harm to the protected tree. No supporting information has been provided to show that the works can be carried out without harm to the tree.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design
- **LP 27** - Flood risk
- **LP 30** – Biodiversity
- **LP 33** – Trees

Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF)

published December 2024, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 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

Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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 NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extensions & Alterations SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Impact on visual amenity:

Key Design Principle 1 of the House Extensions & Alterations SPD does state 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. Furthermore, Key Design Principle 2 of the House Extensions & Alterations SPD goes onto state 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 details.

Paragraph 5.29 and 5.30 of the House Extensions & Alterations SPD considers an outbuilding can have as much of an impact on the appearance of a building as any extension. These should be designed to reflect the style, shape and features of the host property and be subservient in terms of the scale of the original dwelling.

The outbuilding is located to the side of the property with a modest footprint relative to the host property and its associated curtilage. The scale is therefore acceptable. As the property is at the end of the cul de sac, the relationship with the neighbouring property is angled and therefore there is not a linear building line in this location. As such, the position of the outbuilding could be considered to be acceptable. The design and detailing with the timber cladding, flat roof form and elongated windows would be acceptable in

terms of appearance. However, the works would be very close to protected trees and would potentially result in the loss of a protected tree which would have a harmful impact on the leafy character of the area. The outbuilding is therefore considered to be unacceptable in terms of visual amenity.

Having taken the above into account, the proposals would broadly be acceptable in terms of scale and appearance. However, the siting, close to protected trees could result in their loss which would be harmful to the leafy and green character of the area. Therefore the proposals fail to comply with Policy LP24 of the Kirklees Local Plan, KDP 1 & 2 of the House Extensions & Alterations SPD and the aims of chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Extensions & Alterations SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light and Key Design Principle 6 on preventing overbearing impact.

There are no properties to the rear which could be affected by the works proposed.

Impact on 39 Old Mill View

The outbuilding would be close to the shared boundary parallel with the end of the neighbour's garden. The neighbouring property has their own outbuilding closer to the house which would screen much of the proposed outbuilding. As such, there would be no overlooking, overshadowing or overbearing.

With regards to the impact on the adjacent 39 Old Mill View, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact of the House Extensions & Alterations SPD, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 135 of the NPPF and the proposals are considered to be acceptable.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extensions & Alterations SPD and Paragraph 135 (f) of the National Planning Policy Framework.

Impact on highway safety:

The proposals will not result in any intensification of the domestic use and the property does have parking to the front which is considered to represent a sufficient provision. Bin storage for the dwelling would not be moved as part of the proposals. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extensions & Alterations SPD.

Other matters:

Biodiversity

The development is for a single storey outbuilding in the grounds of the dwelling. Whilst the property is sited in area, which is known to include bat habitats, in this instance, given the nature of the works proposed, then it is considered unlikely to have an impact on the bat population.

Flood Risk

The application site is identified within Flood Zone 2 on the Environment Agency's flooding data. As part of the information accompanying the application, the applicant has completed the Environment Agency's pro-forma entitled 'Householder and other minor extensions in Flood Zones 2 and 3' as well as submitting a document setting out the applicant's proposed design solutions to address flood issues ('Effective Flood Performance Design'). The information submitted with the application is considered satisfactory for this nature of development and would address the aims of chapter 14 of the NPPF.

Trees

The property is part of a modern, high density development, which is interspersed with wooded areas, all of which benefit from a general tree preservation order, including the tree within the rear garden of this property. The trees, close to the host property, all have a high degree of prominence and are in good health, offering a valuable feature with regards to the character of the area.

Consequently, the mature trees of the area, inclusive of the trees to the rear of 41 Old Mill View, play a major role in softening the appearance of the building in the estate and make a very significant contribution to the character of the area. The proposed outbuilding would be close to Trees near the boundary and likely to be within the root protection area. Harm to the protected tree, which would impact on its vitality and viability, would not be acceptable in terms of LP24 and LP33 of the Kirklees Local Plan.

It should also be noted that the original planning permission granted for residential development removed permitted development rights for extensions and outbuildings in order to protect the future longevity of the trees. In the

absence of information to demonstrate that the trees would be maintained and protected the erection of the outbuilding can not be supported.

Carbon Budget

The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

Representations:

None

Proposed conditions

None as the recommendation is for refusal.

Conclusion:

This application to erect an outbuilding to the side of 41 Old Mill View has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extensions & Alterations SPD, the National Planning Policy Framework and other material considerations.

The applicant has failed to demonstrate that the proposed outbuilding could be constructed without harming the root protection areas of the adjacent protected trees. Given the proximity of the site for the outbuilding to protected trees, within and adjacent to the grounds of 41 Old Mill View, the proposed outbuilding would likely to be built over the root protection area. The proposals would, therefore, be highly likely to lead to damage to the protected trees which would negatively impact the green and leafy character of Old Mill View. Their potential loss, therefore, would not be considered to be acceptable in terms of policies LP24 & LP33 Kirklees Local Plan and Chapters 12 & 15 of the National Planning Policy Framework.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. For the reasons set out above it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation **Refuse**

Decision Authorisation - Delegated Powers
Application Number: 2024/90662
Officer Recommendation: Refuse
Reasons for refusal

1. The applicant has failed to demonstrate that the proposed outbuilding could be constructed without harming the root protection areas of the adjacent protected trees. Given the proximity of the site of the outbuilding to protected trees, within and adjacent to the grounds of 41 Old Mill View, the proposed outbuilding would likely to be built over the root protection area. The development proposed is likely to result in damage and loss to the protected trees which would negatively impact the green and leafy character of Old Mill View. Their damage and loss would not be acceptable contrary to policies LP24 & LP33 Kirklees Local Plan and Chapters 12 & 15 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan	-	1032376	12/04/2024
Proposed plans	-	1036685	12/04/2024
Proposed plans	-	1032372	12/04/2024
Climate change statement	-	1032369	12/04/2024
Flood risk form	-	1036686	12/04/2024
Flood risk map	-	1036683	12/04/2024

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The outbuilding would be very close to protected trees. The agent was asked to provide an Arboricultural Report and Tree survey to show the works could be carried our whilst protecting the trees. However, this has not been forthcoming. The agent was made aware the decision would be issued without the information.

Report Dated 12/12/2024