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:	**2024/62/92624/E**
Site Address:	42, Old Mill View, Thornhill Lees, Dewsbury, WF12 9QJ
Description:	Erection of two storey rear extension
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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 15-Nov-2024

OFFICER REPORT

Site Description

42 Old Mill View, Thornhill Lees, Dewsbury is a modern brick built detached two storey dwelling. The property has parking and open area of garden to the front and an enclosed garden to the rear.

The property is located within a modern development of similarly aged properties with some diversity in terms of design and detailing.

Description of Proposal

The application is seeking planning permission for a two storey rear extension.

The extension is proposed to project 4.6m from the original rear wall of the dwelling and would extend across the width of the property with a hipped roof form.

The walls would be constructed using brick with tiles for the roof covering.

Relevant Planning History

2019/92188 - Erection of single storey rear extension - Approved

2008/91013 - Erection of single storey front extension - Granted and implemented

2006/91049 - Conversion of garage to living accommodation - Granted and implemented

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 proposals do not comply with Policy LP24 of the Kirklees Local Plan or the House Extensions & Alterations SPD as they would result in an unacceptable overbearing and oppressive impact together with overshadowing in the morning on the rear windows and amenity space of the adjacent 44 Old Mill View. Amended plans have not been sought.

Representations

The application was advertised by neighbour letters, which expired on 22/06/2024

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

Consultation Responses

None

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 53** - Contaminated land

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 2023, 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 and beautiful 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.

Paragraphs 5.1 and 5.2 of the House Extensions & Alterations SPD go into further specific detail regarding rear extensions requiring development to maintain the quality of the residential environment, respect the original house and use appropriate materials.

The host property and its associated curtilage are of a sufficient size to support the rear extension whilst maintaining an acceptable amenity space. The scale of the extension is therefore considered to be acceptable in regards to garden space. The extension is proposed to be constructed using materials to match the main house with brick for the walling and tiles for the roof covering. The detailing including fenestration and roof form would form an

appropriate relationship with the host property. The extension is therefore considered to be acceptable in terms of visual amenity.

Having taken the above into account, the proposals would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, 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.

Impact on 40 Old Mill View

The extension would be built approx. 1m from the shared boundary with the adjacent property and would project 4.6m with the potential to result in an overbearing impact and overshadowing in the late afternoon. However, the impacts would be mitigated by the 2m separation between the properties together with the position of the adjacent property which is positioned further back within the plot than the host property. The windows proposed would face into the applicants own amenity space with no significant opportunity for overlooking.

With regards to the impact on the adjacent 40 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.

Impact on 44 Old Mill View

The extension would be built approx. 1m from the shared boundary with the adjacent property and would project 4.6m with the potential to result in an overbearing impact and overshadowing in the morning. There are no mitigating factors on the site which would minimise the harm. As such, whilst it is noted that the windows proposed would face into the applicant's own amenity space with no significant opportunity for overlooking, the overbearing and oppressive impacts together with the overshadowing would result in a level of unacceptable harm to this neighbour.

With regards to the impact on the adjacent 44 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.

Impact on 38 Old Mill View

Although the extension will reduce the space between the host property and the neighbour to the rear, the rear of the host property faces towards the blank side elevation of the neighbouring 38 Old Mill View. With only a narrow access path to the side of the neighbouring property, there would be no overlooking, overshadowing or overbearing.

With regards to the impact on the neighbouring 38 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.

<u>Impact on highway safety</u>:

The proposals will result in some intensification of the domestic use. However, the parking area to the front of the property would not be affected by the proposed extension and 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.

<u>Other matters:</u>

Biodiversity

After a visual assessment of the building by the officer, it appears that the building is in good order, well-sealed and unlikely to have any significant bat roost potential. Even so, a cautionary note should be added that if bats are found during the development, then work must cease immediately, and the advice of a licensed bat worker sought.

Contaminated Land

The property is close to a potential source of contaminated land. However, given the limited scale of the domestic development, it is considered to be sufficient to include a condition regarding the reporting of unexpected contamination to comply with LP53 of the KLP.

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.

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.

<u>Representations</u>:

None

<u>Proposed conditions</u>

None as the recommendation is for refusal.

<u>Conclusion</u>:

This application to erect a two storey extension to the rear of 42 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 proposed rear extension, given the projection proposed would result in an overbearing impact and overshadowing in the morning of the amenity space and windows in the rear elevation of the adjacent 44 Old Mill View. To permit the proposals would be contrary to Policy LP24 of the Kirklees Local Plan,

KDP5 & KDP6 of the House Extensions & Alterations SPD and the aims of Chapter 12 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: 2024/92624
Officer Recommendation: Refuse
Reasons for refusal

1. The proposed rear extension, given the projection proposed, would result in an overbearing impact and overshadowing in the morning of the amenity space and windows in the rear elevation of the adjacent 44 Old Mill View. To permit the proposals would be contrary to Policy LP24 of the Kirklees Local Plan, KDP5 & KDP6 of the House Extensions & Alterations SPD and the aims of Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan	-	640764	00/00/2019
Existing plans	-	640772	00/00/2019
Proposed plans	-	640771	00/00/2019

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 proposals do not comply with Policy LP24 of the Kirklees Local Plan or the House Extensions & Alterations SPD as they would result in an unacceptable overbearing and oppressive impact together with overshadowing in the morning on the rear windows and amenity space of the adjacent 44 Old Mill View. Amended plans have not been sought.

Report Dated 13/11/2024