
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Aug-2022

Subject: Planning Application 2022/90793 Erection of single storey detached garden room to create dwelling forming annex accommodation associated with 24 Wilson Avenue, Mirfield, WF14 9AU 24, Wilson Avenue, Mirfield, WF14 9AU

APPLICANT

K Wynne-Hague

DATE VALID

06-Apr-2022

TARGET DATE

01-Jun-2022

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Mirfield

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 This application has been brought to Heavy Woollen Sub-Committee due to the applicant being employed by Kirklees Council as the Head of Culture and Tourism. This is in accordance with the Scheme of Delegation within the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 24 Wilson Avenue is a south facing, two storey mid terrace dwelling which currently benefits from a private rear garden and a driveway in Mirfield. The terrace features a peddle dash frontage which is in keeping with other dwellings in the terrace row.

2.2 The site is located between Nettleton Road and Wilson Avenue (this extends north beyond the rear of the site) and is situated approximately 20m from the junction with Wilson Road.

2.3 There is no boundary treatment between the pavement and the area of hard surfacing to the principal elevation of the dwelling.

2.4 The rear private amenity space of no.24 resides to the north of the application site and due to change in ground levels between Wilson Avenue and Wilson Road, is marginally visible from Wilson Road. The outdoor amenity space has a sloping gradient descending towards no.24 (facing south) The rear private amenity space of no.24 is enclosed by a 1.8m fence.

2.5 Wilson Avenue is characterised by a mixture of terraced and semi-detached properties which follow a reasonably clear and well preserved building line along Wilson Avenue.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of a single storey garden room to be used as an annexe in the rear amenity space of no.24.

3.2 The proposal would have a width 7m along the northern elevation of the site (this would form the rear elevation of the annexe), 3.4m along the eastern elevation of the site, 5.3m along the western elevation of the site and 7m along its southern elevation. The proposal would have an irregular shape due to it following the boundaries at the rear of the site. The proposal would feature a flat roof with a maximum height of 3m.

3.3 The proposed construction materials are horizontal cedar cladding with grey UPVC windows.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 No previous planning decisions

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 Kirklees Development Management Chartered, together with the National Planning Policy Framework and the DMPO 2015, encourages negotiation/engagement between Local Planning Authorities and agents/applicants. In this instance, no negotiations were deemed necessary

6.0 PLANNING POLICY:

6.1 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).

6.2 The site is unallocated in the Kirklees Local Plan.

Kirklees Local Plan (2019):

LP1- Achieving sustainable development

LP2- Place Shaping

LP21- Highway Safety and access

LP24- Design

LP53- Contaminated and unstable land

Supplementary Planning Guidance / Documents:

6.3 Kirklees House and Alterations Guide

National Planning Guidance:

6.4 **Chapter 12** – Achieving well-designed place

Chapter 15- Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by neighbour notification letters. The period of publicity expired on 13th May 2022. One representation was received. The following is a summary of concerns raised:

- Impact to outlook of a bedroom window
- The height of the proposal in relation to neighbouring properties
- Lack of retaining wall as part of the application
- Subsidence issues
- Damage to property

8.0 CONSULTATION RESPONSES:

8.1 Statutory Consultees:

KC Highways Development Management: No objections however suggested an ancillary use condition.

8.2 Non-Statutory Consultees:

KC Environmental Health: A reporting of unexpected contamination condition required.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 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."

10.2 In this case, it can be stated the principle of development for an outbuilding may be acceptable. The impact of the proposed development on visual amenity, residential amenity, highway safety, other all material planning considerations and taking into account representations received is considered below.

Visual Amenity issues

- 10.3 In terms of visual amenity, general design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity.
- 10.4 The proposed siting of the outbuilding would be located at the rear of the application property and would therefore not be visible along Wilson Avenue. However, due to the shape of Wilson Road and the topography of the land the properties along Wilson Road being set back from their street scene, the proposal would be visible when travelling south along Wilson Road.
- 10.5 Section 5.6 of the Kirklees Home Extensions and Alterations Guide refers to outbuildings and states that: 'outbuildings should be subservient to the original building and its garden, set behind the build line so they do not impact the street scene and preserve a reasonable amount of amenity space.'
- 10.6 No.24 currently benefits from 170sqm of private amenity space to the rear and the proposed annexe would occupy approximately 30sqm. Therefore, 82.4% of private amenity space belonging to no.24 would be retained. This is considered sufficient for the annexe to be read as subservient to the host dwelling, its garden and limit an overdevelopment of the site.
- 10.7 The final point to address for the annexe would be the location of the proposal in the street scene with regard to the surrounding building line. The proposal would be situated in the rear of the garden for no.24 Wilson Avenue and therefore would not impact that street scene. However, the garden of no.24 Wilson Avenue and those of the properties to the west, follow the bend of Wilson Road. The result of this is that the properties along Wilson Avenue cross cut the street scene along Wilson Road when travelling in a southern direction. The proposal would be visible adjacent to the front garden of no.5 Wilson Road.
- 10.8 However, it is considered that due to no.5 Wilson Road being the first property to the north of the application site, this site represents the start of the build line for Wilson Road. This build line is interrupted by the properties along Wilson Avenue and due to the annexe being situated within the private amenity space of the application property, being single storey and the south leaning topography of the site, the proposal would not interrupt the build line along Wilson Road to a detrimental degree.
- 10.9 The proposal would be constructed with horizontal cedar cladding which is considered to be similar to those used in a domestic shed and would not be out of keeping in a residential area. This can be secured through recommended condition.
- 10.10 Due to the location, relationship within the street scene, subservience to the host property and sympathetic materials, the proposal would accord with policy LP24(a) of the Kirklees Local Plan or Chapter 12 of the NPPF

Residential Amenity

10.11 In relation to the neighbouring properties, the following are relevant:

22 Wilson Avenue: adjoins the application site to the east as part of a terrace row. The proposal would be situated approximately 20m away from the rear of no.22 and feature windows which face the rear elevation of no.22 Wilson Avenue. Due to the offset angle between the annexe and no.22, it is considered that no significant issues would arise regarding overlooking. Due to the scale of the proposal and the separation distance from the rear elevation of no.22, no significant issues would arise regarding overshadowing/loss of light or overbearing.

10.12 26 Wilson Avenue: adjoins the application site to the west. The proposal would be situated approximately 20m away from the rear of no.26 and feature windows which face the rear elevation of no.26 Wilson Avenue. Due to the offset angle between the annexe and no.26, it is considered that no significant issues would arise regarding overlooking. Due to the scale of the proposal and the separation distance from the rear elevation of no.26, no significant issues would arise regarding overshadowing/loss of light or overbearing.

10.13 5 Wilson Road: adjoins the application site to the north. At its closest point, the corner of the application site is approximately 7.6m away from the dwelling at no.5. The proposal would not have any rear or side facing windows and therefore no issues regarding overlooking would arise. The proposal would have a maximum height of 3m, be situated to the south-east of no.5, not reside within the vertical 45 degree visibility splay of any habitable rooms at no.5 and be set lower due to the topography of the site. Therefore, no significant issues would arise regarding overshadowing/loss of light or overbearing, in the opinion of officers.

10.14 Due to the scale and location of the proposal, there would be no other impacts to the residential amenity of neighbouring residents. The proposal would accord with policy LP24 (b)(c) of the Kirklees Local Plan.

Highway issues

10.15 The proposal would result in some intensification of the domestic use of the property. Highways Development Management have been consulted on the application and have raised no concerns to the annexe as it would be ancillary to the host dwelling. However, an ancillary use condition has been deemed necessary if the proposal received permission to prevent significant intensification at the site in relation to additional vehicular movements.

10.16 Subject to the inclusion of the suggested condition, the proposal 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 Extension SPD.

Drainage

10.17 Policy LP28 of the Kirklees Local Plan establishes a hierarchy of drainage solutions with Sustainable Urban Drainage Systems being the most preferable solution and Main Sewer the least preferable option. The agent has indicated, on the submitted application form, that both foul and surface water from the

development are to be discharged into the mains sewer; however, no supporting justification has been provided for this. Due to the scale and nature of the development, the Lead Local Flood Authority and Yorkshire Water have not been consulted on this application. The applicant would require the consent of Yorkshire Water to undertake the development, and this would be addressed under a separate remit. Therefore, It is considered that there are no reasonable drainage grounds for opposing this development and is considered that the proposal will be acceptable in drainage terms reasonably satisfying the requirements of Policy LP28 of the Local Plan.

Representations

10.18 One letter of representation was received objecting to the proposal. Officer comments are provided below:

The proposals Impact to outlook of a bedroom window.

Officer Response: The proposals potential impact to residential amenity is assessed in section 10:11-10:14 of the report. The protection of 'view' is not a material planning consideration.

The height of the proposal in relation to neighbouring properties.

Officer Response: The proposals impact to the visual amenity of the host dwelling and street scene has been assessed in section 10.3-10.10 of the above report.

Lack of retaining wall as part of the application.

Officer Response: it is currently unknown whether a retaining wall would be required on site. However, due to the marginal change in site levels between 5 Wilson Road and 24 Wilson Avenue, it is considered that the introduction of a condition would fail to meet the 6 tests for a planning condition in the fact that there are no retaining walls proposed on the plans. As such, it would not meet the test of reasonable or necessary. Notwithstanding this, it is considered appropriate to add a footnote should the application be approved to advise that should retaining walls be required, they may require planning permission and further consent from the Council. Paragraph 184 of the NPPF places the onus on the developer/land owner to ensure the land is safe and stable to accommodate the proposed development.

Subsidence issues.

Officer Response: This is not a material consideration that can be taken into account as part of this planning application. Notwithstanding this, Paragraph 184 of the NPPF places the onus on the developer/land owner to ensure the land is safe and stable to accommodate the proposed development.

Damage to property as a result of works

Officer Response: This is not a material planning consideration that can be taken into account as part of this planning application. The requirements of the Party Wall Act lies with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act 1996. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DCLG publication Preventing and resolving disputes in relation to party walls – explanatory booklet.

Mirfield Town Council were also consulted on the application and did not raise any objections.

Other Matters

10.18 Contaminated Land

The site has been identified as being located in close proximity to a former quarry (Site 172/4). As such, Environmental Health have deemed the reporting of unexpected contamination to be required as a condition to the application. This is in accordance with policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

10.19 Climate Change

On the 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. 10.18 Due to the size, scale and limited nature of development, it was not considered necessary to request specific measures to address the developments' resilience to climate change.

11.0 CONCLUSION

11.1 In conclusion the proposed annexe, would respect the character and appearance of the host dwelling and the local area.

The application has been assessed against relevant policies in the development plan and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed annex is considered to be acceptable.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development).

1. Standard 3 year timeframe for commencement of development
2. Accordance with approved plans
3. Ancillary use
4. Reporting unexpected land contamination

Background Papers

Application files

Current Application

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90793+>

Certificate of Ownership –Certificate A signed and dated.