

**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: 2018/62/91911/E
Site Address: 16, Fern Close, Soothill, Batley, WF17 6HD
Description: Erection of extensions
Recommending Officer: Jennifer Booth

DECISION - REFUSE

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 06-Aug-2018

OFFICER REPORT

Site Description

16 Fern Close is a detached brick built dwelling with an existing single storey side extension, conservatory to the rear and a part width two storey rear extension. The property has a drive, garden and detached garage to the front and an enclosed garden to the rear.

The property is located at the end of a cul de sac with similarly aged dwellings although there is some diversity in terms of style.

Description of Proposal

The applicant is seeking permission for a single storey front extension, a canopy to the front and a first floor extension to the side.

The proposed single storey front extension is proposed to be located to the front of the existing single storey side extension. The projection is proposed to be 3.6m from the existing front wall of the dwelling and would have a width of 3.3m with a hipped roof form.

The canopy to the front is proposed to project 2m from the front elevation of the original dwelling and is proposed to extend across the width of the original house with a lean to roof form for the most part and a small pitch to the front of the door.

The first floor side extension is proposed to extend over the existing side extension with a projection of 3m flush with the front elevation, stepping back 4.5m before stepping in 0.55m and extending the remaining depth of the dwelling with a pitched roof form.

The walls of the extensions are proposed to be constructed using brick with tiles for the roof covering.

History of negotiations

There are significant issues with the proposal, in particular the front extension and the first floor side extension. Given the significant issues with the proposals, amended plans have not been sought as the modifications required to overcome the concerns would be significant and would require a new application.

Relevant Planning History

1988/05122 – erection of first floor extension – granted

2012/90858 – erection of orangery – refused

2014/92302 – certificated of lawful development for front extension – refused

2014/93394 – erection of front extension – granted

2016/90761 – erection of rear extension – granted

Representations

The application was advertised by site notices and neighbour letters, which expired on 19/07/2018

As a result of the above publicity, two representations have been received which expressed the following concerns:-

- Overbearing impact on neighbouring 26 Douglas Avenue,
- Loss of privacy for the occupants of 26 Douglas Avenue,
- Overshadowing of the garden of 26 Douglas Avenue,
- Damage to the neighbour's fence at 26 Douglas Avenue,
- Behaviour of the builders during the previous extension was unsettling for the neighbours and they are concerned this would lead to the same issues,
- Devaluation of the neighbour's property,
- Overshadowing of the neighbouring 24 Douglas Avenue,
- Loss of privacy for the occupants of 24 Douglas Avenue.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry

significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is UNALLOCATED on the UDP Proposals Map and within the PDLP

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway Safety
- **T19** – Parking

Kirklees Publication Draft Local Plan Policies

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 22** – Parking
- **PLP 24** - Design

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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

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) Conditions
- 7) Conclusion

1 – Principle of development:

The site is unallocated on the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual

amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).

These issues along with other policy considerations will be addressed below.

2 –Impact on visual amenity:

The property is sited within a residential area with a mix of similarly aged residential properties in terms of style, size and materials. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.

The proposal under consideration consists of three distinct elements which shall be addressed below.

Single storey front extension

Policy BE14 does support front extension providing it is modest and indeed planning permission has been granted previously for a front extension to the dwelling. However, the proposed extension for this submission is situated in a different position and is larger than the previously approved front extension. With its projection of 3.6m and its width of 3.3m, the front extension would not be considered to be small in scale. The position on the front of the property does have a degree of prominence despite the position of the dwelling at the end of a cul de sac. As such, although the materials would be appropriate, the scale of the front extension would result in the formation of an incongruous feature within the street scene which would be harmful in terms of visual amenity.

Front canopy

The proposed canopy with its projection of 1.5m from the original front wall of the dwelling would be considered to be small in scale. The materials proposed would be appropriate for a development of this type and as such, this element of the scheme can be considered to be acceptable in terms of visual amenity.

First floor side extension

The property has a curtilage of a sufficient size to host the proposed first floor side extension without amounting to overdevelopment. The materials proposed would be to match the main house and the detailing would form an appropriate relationship with the host property. Therefore the proposed first floor side extension can be considered to be acceptable in terms of visual amenity.

Having taken the above into account, the proposed extension would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policies D2, BE1, BE13 and BE14 of the UDP, Policy PLP24 of the PDLP and the aims of chapter 12 of the NPPF.

3 – Impact on residential amenity:

Impact on 24 Douglas Avenue

The adjacent neighbour at 24 Douglas Avenue aligns with the front garden of the host property. As such, the front extension would have the potential to affect the amenities of the neighbouring property. However, given the single storey nature of the front extension, the impact on the neighbour would be limited.

The first floor side extension would have some limited impact on the rear most extent of the neighbour's property. However, the harm is not substantial and would not justify refusal of the scheme on these grounds.

Impact on 26 Douglas Avenue

The front extension and canopy are proposed in positions which would have no impact upon the amenities of the occupiers of the neighbouring 26 Douglas Avenue.

The first floor side extension would directly align with the rear garden and part of the rear elevation of the neighbouring 26 Douglas Avenue. The host property already overshadows part of the neighbouring property and whilst the extension would increase this impact, it would not increase significantly. However, given the close proximity of the proposed extension at first floor level, there would be a substantially harmful overbearing and oppressive impact. It is considered therefore that the first floor extension would be overbearing and materially detrimental to the outlook of the occupiers of 26 Douglas Avenue.

Impact on 14 Fern Close

The front extension would be set back from the common boundary with the adjacent 14 Fern Close and as such would have no significant impact upon the amenities of the occupiers of the adjacent 14 Fern Close.

Although the canopy would be a little closer to the neighbour, it is of a size and style of construction so as to have no significant impact upon the amenities of the occupiers of the adjacent property.

The first floor extension to the side of the dwelling is located on the opposite side of the property to the adjacent property and as such would cause no harm to the amenities of the occupiers of the neighbouring 14 Fern Close.

Impact on 13 Fern Close

Although the front extension is of a substantial size, it is separated from the neighbour opposite by a very large drive, the existing garages to the front of each property and the neighbour's front garden.

The canopy is of a scale which would have no impact upon the amenities of the occupiers of the property opposite.

The first floor side extension would introduce a new habitable room window facing towards the neighbour opposite. However, there is a substantial separation of 25m between the properties which is considered to minimise the potential for any additional harm to be caused to the amenities of the occupiers of the neighbouring 13 Fern Close.

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 policies D2, BE1 and BE14 of the UDP as well as PLP24 of the PDLP.

4 – Impact on highway safety:

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. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with policies D2, T10 and T19 of the UDP and Policy PLP22 of the PDLP.

5– Other matters:

There are no other matters for consideration.

6 – Representations:

Two representations have been received which expressed the following concerns:-

- Overbearing impact on neighbouring 26 Douglas Avenue
Response: - *This is a material consideration relating to residential amenity. The neighbouring property to the rear occupies a position some 10m from the proposed extension although it is appreciated that the ground level of the neighbouring property is a little higher than that of the host property. However, even with the slight difference in levels, the neighbouring property is a bungalow and the extension would be in such close proximity to the rear elevation and the garden area that the occupants of the property would suffer some a significant overbearing impact from the proposed extension.*
- Loss of privacy for the occupants of 26 Douglas Avenue
Response: - *This is a material consideration relating to residential amenity. The proposals would result in new windows in the front and rear elevations of the proposed side extension at first floor level. The window in the rear would be positioned at an oblique angle to the neighbouring 26 Douglas Avenue and as such would not result in a significant loss of privacy.*
- Overshadowing of the garden of 26 Douglas Avenue

Response: - *This is a material consideration relating to residential amenity. The neighbouring property occupies a position to the north of the proposed extension. The existing dwelling already overshadows the rear most extent of the neighbour's garden. As such, whilst the proposals would result in an increase in the massing of the dwelling, it would not result in significantly more overshadowing.*

- Damage to the neighbour's fence at 26 Douglas Avenue
Response: - *This is not a material consideration. However paragraph 179 of the NPPF does confirm that the responsibility for securing a safe development rests with the developer and/or landowner.*
- Behaviour of the builders during the previous extension was unsettling for the neighbours and they are concerned this would lead to the same issues – **Response:** - *This is a material consideration in terms of the impact upon the amenities of the neighbouring properties and it is appreciated that previous building projects may have had some impact on the neighbours in terms of noise and disturbance during the works. However, works of this nature would be transitory and expected to cease upon completion. A note can be added to any subsequent permission to raise the applicant's awareness in terms of noise during construction.*
- Devaluation of the neighbour's property
Response: - *This is not a material consideration.*
- Overshadowing of the neighbouring 24 Douglas Avenue
Response: - *This is a material consideration relating to residential amenity. Although the proposed side extension would have some impact on the rear most extent of the neighbour's garden, the side elevation of the applicant's property does not align with the rear elevation of the neighbouring property. The harm caused to this property would not be so substantial so as to justify refusal.*
- Loss of privacy for the occupants of 24 Douglas Avenue
Response: - *This is a material consideration relating to residential amenity. The proposals would result in new windows in the front and rear elevations of the proposed side extension at first floor level. The window in the front would be positioned at an oblique angle to the neighbouring 24 Douglas Avenue and as such would not result in a significant loss of privacy.*

7 – Proposed conditions

None as the recommendation is for refusal.

8 – Conclusion:

This application to erect a single storey front extension, front canopy and first floor side extension to 16 Fern Close has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

The single storey front extension would harm the character of the host property given the scale proposed as it would result in the formation of an incongruous feature in a prominent position within Fern Close. The proposal therefore fails to comply with policies D2, BE1 and BE13 of the Kirklees Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.

The proposed first floor side extension, by reason of its close proximity to the boundary with the neighbouring 26 Douglas Avenue would have an overbearing impact which would be unacceptable in terms of residential amenity. The proposal therefore fails to comply with policies D2, BE1 and BE14 of the Kirklees Unitary Development Plan and PLP 24 of the Kirklees Publication Draft Local Plan.

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 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

Recommendation

Refusal

Decision Authorisation - Delegated Powers

Application Number: 2018/91911

Officer Recommendation: Refuse

Reasons for refusal

1. The proposed single storey front extension, by reason of its scale, would form an incongruous feature within Fern Close which would result in substantial harm to the character of the host property and the wider street scene. To permit the proposed extension would be harmful to visual amenity and contrary to Policies D2, BE1, BE13 and BE14 of the Kirklees Unitary Development Plan and the aims of Chapter 12 of the National Planning Policy Framework.

2. The proposed first floor side extension, by reason of its close proximity to the boundary with 26 Douglas Avenue, would have a harmful overbearing and oppressive impact on the rear amenity space and the rooms to the rear of the neighbouring property which would be prejudicial to the residential amenity of the occupiers of that property. To permit the proposed first floor side extension would be contrary to Policies D2, BE1 and BE14 of the Kirklees Unitary Development Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Proposed plans	-	694871	12/06/2018

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.

Given the significant issues with the proposals, amended plans have not been sought as the modifications required to overcome the concerns would be significant and would require a new application.

Report Dated 06/08/2018

