

**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: 2019/62/90715/E

Site Address: Rose Cottage, Church Lane, Thornhill, Dewsbury,
WF12 0JZ

Description: Erection of conservatory and replacement chimney
pot to roof (within a Conservation Area)

Recommending Officer: Ellie Worth

DECISION – CONDITIONAL FULL PERMISSION

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

Rebecca Drake

AUTHORISED OFFICER

Date: 14-May-2019

Officer report

Site description

Rose Cottage, Thornhill is an end terrace property constructed from stone with a tiled roof. The property benefits from a wrap-around garden and existing single storey extension to the north facing elevation at the application site. Vehicular and pedestrian access can be taken from the western facing boundary onto Church Lane. Boundary treatment consists of railing and medium sized fencing.

The site and the wider area is predominantly dominated by residential buildings, most of which vary in design and form. To the rear of the host property is Thornhill Rectory Park, located within the Green Belt. The application site is also located within Thornhill Conservation Area.

Description of development

The applicant is seeking permission for the erection of conservatory and replacement of chimney pot to roof. The measurements of the proposal are as follows:

Single storey extension:

- 3m projection from the eastern facing elevation at the host property
- 3.5m in width
- 2.6m in height to the eaves; 3.5m in maximum height

Replacement Chimney Pot:

- 12 inch in height
- 275mm – 300mm in external diameter
- 9.2kg in weight

The proposed extension will be constructed from stone with a glass roof. The proposed fenestration will be constructed UPVC to keep in with the existing. Internally the extension will provide an extension to the existing kitchen.

It has also been noted that the replacement chimney pot can be constructed under permitted development.

History of negotiations/amendments received

The officer entered discussions with the agent regarding the measurements of the proposed chimney pot. These were provided by the applicant on the 5th April. The officer also entered into further discussions with the agent regarding a change to the description and the proposed construction materials for the extension. An amended plan was received on the 03.05.19 showing the proposed materials to match the host property.

Relevant Planning History

2018/93376 HHPD Extension – Refused (Rose Cottage)

2014/90664 Works to Tree(s) within a Conservation Area – Granted (Roseville)

Various application for the erection of a double garage and conservatory at Rosemont

Representations

The applicant was advertised by site notice and neighbour notification letters.

Final publicity expires: 04.05.19

As a result of the above publicity, two representations were received by one neighbouring resident raising the following concerns

- Legal right of way
- Links to the GDPO, referring to page 10, 21, 22.
- Duty of care to neighbouring residents and health and safety issues with the washing line and sleepers removed
- The application site has an existing conservatory to the front and living space on all four levels
- Plans show larger area than what there is
- Rendered side wall isn't in keeping with the host property
- The previous application was refused due to it being in a conservation area.

Consultation responses

KC Conservation and Design: No objections, however have concerns regarding the proposed materials of the extension, given its sensitive location.

Policy

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 located within Thornhill Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan (as modified):

PLP 1 – Achieving sustainable development

PLP 2 – Place shaping

PLP21 – Highway safety

PLP22 - Parking

PLP 24 – Design

PLP30 - Biodiversity

PLP35 – Historic environment

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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 design place

Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below:

1. Principle of development
2. Impact on visual amenity
3. Impact on residential amenity
4. Impact on highways
5. Other matters
6. Representations
7. Conclusions

1. Principle of development

The site is without notation on the Kirklees Local Plan (KLP). Policy PLP1 (as modified) 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. Policy PLP24 (as modified) of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Alongside this, the site is situated within Thornhill Conservation Area. Therefore, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of buildings or land within a Conservation Area. This relates to Policy PLP 35 (as modified) of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

Policy PLP 35 (as modified) states “development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm”. This harm will be assessed and discussed later in the report.

2. Impact on visual amenity and heritage

It has been considered that the proposed extension and replacement chimney pot would appear subservient to the host property. Nonetheless, there would be additional amenity space developed under this proposal. However, due to the size of the plot this would not result in the overdevelopment of the site.

Single storey extension

The design of the extension has been considered acceptable in terms of visual amenity. The amended plans show the proposed materials to match the host property. It has been acknowledged that the proposed fenestration would appear as a prominent feature within the extension, however, on balance given the nature of the proposal this can be supported within this domestic setting.

The proposed roof will predominantly be constructed from glass. Whilst this is not ideal from a visual perspective, negotiations to amend the roof to a tiled structure were undertaken. However, the applicant stated that they wanted to keep the glazing and therefore a balance decision was made to support this element.

The maximum projection of the rear extension will be 3m from the eastern facing elevation at the host property. The overall projection of the extension has been considered acceptable from a visual perspective.

The proposed materials of the extension would be of a satisfactory design quality for the reasons set out above and therefore will be conditioned to ensure visual amenity is protected.

Replacement of chimney pot

The replacement chimney pot has been considered acceptable from a visual perspective. It has also been noted this element could be constructed under permitted development.

In summary, the proposal has been considered acceptable and therefore would accord with the aims of PLP24 (as modified) and PLP35 (as modified) of the Kirklees Local Plan and Chapter 12 and 16 of the NPPF.

3. Impact on residential amenity

Roseville is the adjoining neighbour to the south of the application site. It has been considered that the proposed extension would have some impact on these neighbours' amenity. More specifically, in regards to overbearing, the submitted plans show the extension to be slightly inset from these neighbours and to have a maximum projection of 3m. For these reasons, it has been considered that any impacts on overbearing can be supported.

Alongside this, the application site is located to the north of these neighbours and therefore any impacts on overshadowing would be minimal.

The submitted plans also show a high-level window to be inserted into the south facing elevation of the extension. Given this, it has been considered that

there would be no undue harm on overlooking. Nonetheless, there is also existing boundary treatment in the formation of fencing which will mitigate against some of the harm to these neighbours.

There would also be minimal harm to these neighbours in regards to the replacement chimney pot.

Overall it has been assessed that the impact on these neighbours can be supported.

7 Church Lane is the neighbouring property to the north of the application site. It has been considered that there would be minimal harm to these neighbours amenity, given the fact that the existing separation distance of approx. 10m, which will be retained. For these reasons there would be no undue harm on overbearing and overshadowing.

In regards to overlooking, the submitted plans show bi-fold doors to be inserted into the north facing elevation of the extension. At the time in which the site visit was undertaken it was evident that these neighbours did not have any existing openings directly opposite this elevation of the extension and therefore any harm on overlooking can be supported.

There would also be minimal harm to these neighbours in regards to the replacement chimney pot. As a result the harm to these neighbours amenity can be supported.

Given the position of the proposed extension, it is considered that no other properties would be adversely impacted.

In summary the application is considered to have an acceptable impact on residential amenity. The application therefore complies with the aims of PLP24 (as modified) of the Kirklees Local Plan.

4. Impact on highway safety

The proposal has been considered acceptable in regards to highway safety, as the extension would not intensify the residential use at the application site, nor would it alter the existing highway arrangements. For these reasons the application complies with PLP21 (as modified) and PLP22 (as modified) of the Kirklees Local Plan.

5. Other matters

Bats

The application site lies within the bat alert layer on the Council's GIS system. As such, careful attention was paid when undertaking the site visit to look to evidence of bat roost potential. In this instance, the property appeared well sealed around the eaves and roof area and it was judged unlikely to contain roosting bats. Even so, as a cautionary measure, a note will be added to the decision notice stating that if bats are found development shall cease and the advice of a licenced bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF.

KC Conservation and Design: No objections submitted to matching materials.

6. Representations

As a result of the above publicity, one representation was received. The following issues were raised in the representation:

- Legal right of way

Response: This is not a material consideration and therefore cannot be assessed as part of this application. Nonetheless, a note will be attached to the decision notice which states that by granting permission this does not override any private right of ways.

- Links to the GDPO, referring to page 10, 21, 22

Response: This application has been assessed as a planning application and not permitted development. Therefore, the legislation identified in the comment above cannot be considered as part of this proposal.

- Duty of care to neighbouring residents and health and safety issues with the washing line and sleepers removed

Response: This concerns is not a material planning consideration and therefore cannot be assessed as part of this application. Nonetheless, KC Enforcement have been notified.

- The application site has an existing conservatory to the front and living space on all four levels

Response: This has been acknowledged in the report above.

- Plans show larger area than what there is

Response: The onus is on the applicant and agent to submitted correctly scaled plans therefore the application has been assessed in its submitted form.

- Rendered side wall isn't in keeping with the host property

Response: The amended plans show the application to be constructed from stone on all elevations, to match the host property.

- The previous application was refused due to it being in a conservation area.

Response: The previous application was for a larger homes extension to be constructed through permitted development.

7. 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 materials considerations. It is considered that the development would constitute to sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/90715

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord Policy PLP24 of the Kirklees Local Plan (as modified) and the aims of the National Planning Policy Framework.

3. The external walls of the extension hereby approved shall in all respects match those used in the construction of the existing building, in accordance with the details shown on the approved plan.

Reason: In the interests of visual amenity and to accord with Policy PLP24 of the Kirklees Local Plan (as modified) and the aims of the National Planning Policy Framework.

4. The replacement chimney pot hereby approved shall not exceed 12 inches in height and 300mm in external diameter.

Reason: In the interests of visual amenity and to accord with Policy PLP24 of the Kirklees Local Plan (as modified) and the aims of the National Planning Policy Framework.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: Please note that the granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan	-	-	06.03.19
Existing site plan	-	-	06.03.19
Existing R/H elevation	-	-	06.03.19
Existing rear elevation	-	-	06.03.19
Existing L/H elevation	-	-	06.03.19
Proposed site plan	-	-	06.03.19
Proposed R/H elevation	-	-	03.05.19
Proposed rear elevation	-	-	03.05.19
Proposed L/H elevation	-	-	03.05.19

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. The officer entered discussions with the agent regarding the chimney pot, a change to the description and the proposed construction materials. An amended plan was received on the 03.05.19.

Report Dated: 14.05.19