

**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: 2020/62/90375/E

Site Address: 39, Lansdowne Close, Batley, WF17 0EZ

Description: Erection of summer house

Recommending Officer: Katie Wilson

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: 23-Jul-2020

Officer Report – 2020/90375

Site Description

The application site is 39, Lansdowne Close, Batley. It is a relatively recently built 2-storey semi-detached house with 2-storey extension to the side and single storey extensions at the back. The walls are artificial stone to the front and brickwork elsewhere and the roof is tiles.

It has a narrow elongated garden at the back that slopes down and away from the rear elevation and enclosed to all sides by gardens to neighbouring houses.

Description of Proposal

Planning permission is sought for erection of a summer house.

The application form states that the work has already started and completed on 01.12.2019.

The drawings show that it is located at the bottom of the garden and has a roughly rectangular footprint, width 7.3m and depth between 3.8m and 4.7m. It has a dual pitched roof with eaves between approximately 1.9m and 2.4m high, and ridge level a further 1.0m high. There are a set of bi-folding doors to the front together with a window, and a further window with some level of obscurity in the west facing side elevation. The walls are clad in timber to the front and sides and green pvc metal sheets to the rear, whilst the roof is surfaced in a rubber material.

History of negotiations/amendments received

This application was received shortly before the Covid 19 situation and the agent was asked to provide photographs of the summerhouse. Amended drawings to show more detail of the structure, and further details of the surface treatment to the rear elevation of the building were requested and received.

Relevant Planning History

2017/93499 - Erection of two storey side and single storey rear extensions and alterations to dwelling. Approved.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F93499>

2017/3490 – Prior notification for single storey rear extension. 4.0m single storey extension. Planning permission not required.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F93490>

Representations

Final publicity date expired: 31st March 2020. No representations received during the course of this application.

Parish/Town Council comments: not applicable.

Consultation Responses

No consultations took place during the course of this application

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 without notation on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** – Biodiversity and geodiversity

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 pre-dates 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.

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-designed places

- Chapter 15 – Conservation and enhancement of the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

1 – 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. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

In this case, the principle of the outbuilding is considered acceptable and shall be assessed against other material planning considerations below.

2 –Impact on visual amenity:

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district and under part a, that proposals should promote good design by ensuring ‘*the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape*’ and under part b, that ‘*they provide a high standard of amenity for future and neighbouring occupiers*’.

In this instance, in terms of scale the proposed summerhouse outbuilding has already been built at the bottom of the garden and fills practically the full width. However, it is a single storey structure with shallow pitched ridged roof, and compared to the elongated shape and size of the back garden, it is relatively small.

With regards to materials and detailing, the walls to the front and sides are externally surfaced in a dark brown coloured horizontal timber cladding, and the rear elevation is clad in dark green pvc sheets. The roof is a grey / green coloured rubber material, with exaggerated overhang to the front. As such it has the appearance of a log cabin and it is considered that it would not be unusual to see this type of building in a garden setting.

Although close to the boundary with neighbouring gardens it is largely unseen from public vantage points, has no significant impact upon the streetscene and very limited impact upon the character of the surrounding area.

As such it is considered that the building is compliant with policy LP24 of the KLP and the aims of the NPPF.

3 – Impact on residential amenity:

Policy LP24, part c, goes on to stipulates that extensions should *minimise the impact on residential amenity of future and neighbouring occupiers*.

In this instance, there would be four households potentially affected by the proposals; these are addressed below:

31, Lansdowne Close – it is a relatively recently build 2-storey semi-detached house with conservatory to the rear. It is also within the same street and positioned such that its rear elevation faces onto the back garden of the application site, with quite extensive garden sloping down and away in a southerly direction.

In terms of overshadowing and overbearing impact, the proposed structure is likely to have some such impact over the bottom of the neighbouring garden, but is a significant distance from the house. In these circumstances it is felt that this impact would be limited.

In respect of an invasion of privacy, given the sloping nature of the landform in this area and that the summer house is on lower ground, with a separation distance of around 17.0m between the nearest parts of each building, and no openings in the facing side elevation, it is thought there would be no significant invasion of privacy.

41, Lansdowne Close –

This is the adjoining semi-detached house attached to the western side of the house at the application site. It has a conservatory to the rear and elongated back garden that slopes down and away from its rear elevation.

Although the summerhouse is close to the mutual boundary, it is located at the bottom of the garden, at least 25m from the back of this neighbouring house. In this location and given that it is a single storey structure, it has quite limited overshadowing or overbearing impact.

The summerhouse has a window in the side elevation that directly overlooks the bottom of the garden of 41, Lansdowne Close, but it is at ground floor level and largely obscurely glazed which restricts an invasion of privacy. Overall it is felt that the impact on the occupiers of this property is relatively minimal, and provided the obscure glazing is retained by condition and new openings also restrained in a similar way, the proposal would be acceptable in terms of residential amenity.

146, Chinewood Avenue – This is a 2-storey semi-detached house located to the south of the application site. Its back garden contains numerous single storey outbuildings and the rear boundary partially overlaps the mutual boundary.

In this instance, whilst part of the summer house abuts the back boundary at this neighbouring property, given the summer house is single storey and orientated to the north, it would not have a significant overshadowing or overbearing impact. Furthermore it is some distance from the rear elevation of this neighbouring house with other structures in the intervening space and no openings in the facing rear or side elevations (new openings could also be controlled by condition), so in these circumstances there would be no invasion of privacy issues.

148, Chinewood Avenue – This property is also a 2-storey semi-detached house located to the south of the application site and its back garden abuts the rear of the summer house. It is positioned at a slightly lower level than the application site.

In officer's opinion, although it has some visual impact, it is a single storey structure with a shallow pitched roof and the overall height is not significantly taller than vegetation along the mutual boundary. The facing gable end has also been clad in dark green pvc sheets which will blend in with garden vegetation. Furthermore it is orientated to the north so it will not block much, if any, direct sun light, and it is around 19 metres away from the rear elevation of this neighbouring property with no openings in the facing elevation (new openings could also be controlled by condition). As such, it is not considered that the proposal results in any significant harm to this neighbour in terms of overbearing, overshadowing or overlooking.

All other neighbouring properties are further away from the summer house and would be unaffected.

The application has been submitted on a householder application form and as such is effectively declaring that the use of the summer house is for ancillary uses to 39, Lansdowne Close. It is recommended that a note is attached to any decision for approval, that the structure should be for uses ancillary to the dwellinghouse at 39, Lansdowne Close, and would require further planning permission should it be used as a grannie annex or separate dwelling.

Overall, it is considered that the summer house minimises harmful impacts upon the residential amenities of future and neighbouring occupiers and is compliant with policy LP24 of the KLP and the aims of the NPPF.

4 – Impact on highway safety:

The house is accessed from Lansdowne Close a residential estate road and cul-de-sac serving numerous other houses. It has a detached single garage and parking for one other vehicle at the front of the house.

As the summer house would not be an intensification of the existing use, no further off street parking spaces are required. As such the development would not be harmful to highway safety and is compliant with policies LP21 and LP22 of the KLP.

5 – Other matters:

Carbon Budget

The proposal is a small scale domestic development to an existing residential premises. 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

Protected species (bats):

The site is in an area recorded as a bat alert area.

Bats are protected species and the NPPF requires planning authorities to take account of priority species within planning policies.

An assessment in relation to the bat alert layer guidance - flow diagram has been carried out and as a result no survey is required, however a precautionary footnote shall be added to the decision notice in order to comply with the aims of chapter 15 of the NPPF.

There are no other matters considered relevant to the determination of this application.

Conditions:

Given that the structure has already been completed, there is no requirement for a condition stating when development should commence.

6 – Representations:

No representations were received during the course of this application.

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 material considerations. It is considered that the

development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2020/90375

Officer Recommendation: Approve

Conditions and Reasons

1. 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 LP24 of the Kirklees Local Plan.

2. The external wall and roofing materials used in the construction of the summer house (as built) hereby approved shall be retained and, where necessary, replaced on a like-for-like basis.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The obscurely glazed window in the west facing side elevation of the summer house hereby approved shall be retained hereafter and where necessary, replaced on a like-for-like basis (or equivalent).

Reason: In the interests of residential amenity and to prevent overlooking to the neighbouring property at 41, Lansdowne Close, Batley. In accordance with policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the side and rear elevations of the summer house hereby approved.

Reason: So as not to detract from the amenities of neighbouring property by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

NOTE: The summer house that is the subject of this planning approval is for uses ancillary to the domestic dwelling at 29, Lansdowne Close, Batley only. Use as a granny annex or separate residential accommodation would require further planning approval.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays
In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|---------------------|------------------|----------------|-------------------------------|
| Location plan | | | 5 th February 2020 |
| Block plan | | | 5th February 2020 |
| Plan and elevations | | | 21 st July 2020 |

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 agent was asked to provide photographs of the summerhouse and amended drawings to show more detail of the structure, together with further details of the surface treatment to the rear elevation of the building.

Report Dated: 21.7.2020

