

**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: 2020/62/91107/W

Site Address: 4, St Annes Square, Holmfirth, HD9 1HB

Description: Erection of wooden gazebo in garden (within a Conservation Area)

Recommending Officer: Stuart Howden

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 28-Sep-2020

Officer Report

Site Description

4 St Annes Square, Holmfirth, HD1 1HB

The site comprises a two storey end of terrace dwelling centrally located within Holmfirth and just located outside the 'Town Centre'. The dwelling is constructed from stone, like the rest of the terrace it forms part of. A garden is located to the front of the dwelling, and this is enclosed. The front garden is relatively flat despite the fact that the site is located at the end of a network of relatively steep winding lanes which rise from the town centre to the east.

There is an arbitrary development pattern directly to the west of the town centre and stone is the predominant construction material in the locality. The uses surrounding the site are a mix of commercial (mainly buildings to the west of the site in the Town Centre) and residential. The front garden of the site sits on higher land to No.1 St Annes Square adjacent to west boundary of the site and on lower land to the No.10 Bunkers Hill adjacent the east boundary of the site.

The site is within the Holmfirth Conservation Area, and is adjacent to the Grade II listed building of 8-10 Bunkers Hill to the east of the site. The Grade II listed 12,14,16,18 Rattle Row is also located to the east of the site.

Description of Proposal

Retrospective planning permission is sought for a timber framed gazebo, under a slate and glazed roof at the very end of the front garden. This is sited between the side wall of No.1 St Annes Square to the west and the rear boundary of No.10 Bunkers Hill. The gazebo measures approximately 3.85 metres x 2.65 metres and is approximately 2.85 metres in height.

The gazebo appears to act as an area of shelter to a hot tub which was positioned underneath the gazebo at the time of my site visit on 21st September 2020 and is also displayed underneath the gazebo in images provided to the Local Planning Authority. This application solely relates to the gazebo, and it has been deemed that the hot tub on the site does not require planning permission as it is not considered to constitute development under Section 55 of the Town and Country Planning Act 1990.

History of negotiations/amendments received

No amendments have been sought during the processing of this application.

Relevant Planning History

The application follows an investigation from Planning Enforcement and the applicant was informed that planning permission was required for the structure given that it is an outbuilding is located to the front of the dwelling (and so does not constituted permitted development under Class E, Part 1, Schedule 2 of the General Permitted Development Order 2015 (as amended)). Planning Enforcement invited the applicant to submit a retrospective planning application, hence this retrospective application was submitted and is now being assessed.

Apart from this, there is no other relevant planning history in relation to this site.

Representations

Final publicity date Expires:

Neighbour letters expired on 4th June 2020; site notice expired on 29th May 2020; press notice expired on 6th June 2020.

Two letters of objection have been received as a result of the above publicity. The points raised will be summarised below, but full comments can be viewed online on the Council's planning website:

- Harm to the significance of the Listed Buildings.
- Harmful to the character of the Conservation Area.
- Noise and vapour nuisance.
- Proximity to other properties will cause maintenance issues.
- The applicant should have obtained planning permission first before erecting the structure.

These matters will be addressed in the assessment section of the report below.

Consultation Responses

Home Valley Parish Council – Support subject to conservation officer approval.

K.C. Conservation and Design – Verbal comments received noting no objections given that the gazebo is surrounded by a retaining wall and other development and it is screened from most angles.

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. The site is located within the Holmfirth Conservation Area.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 35** – 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 2** – Achieving Sustainable Development
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 12** – Achieving Well-Designed places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **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 (including heritage considerations)
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology (e.g. bats)
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is within the Holmfirth Conservation Area and within close proximity to the Grade II listed buildings of No's. 8-10 Bunkers Hill and No's. 12, 14, 16, 18 Rattle Row.

Section 66 of the Planning (Listed Buildings & Conservation Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, LP35 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 will be assessed and discussed later in the report.

Alongside this, 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 this instance, retrospective planning permission is sought for a gazebo in the front garden. As such the principle of the development has been considered acceptable and therefore other material planning considerations will be assessed in turn below.

2 –Impact on visual amenity (including heritage considerations):

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 124 provides a principal consideration concerning design which states:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

‘c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...’

The gazebo is a fairly lightweight structure given it has no walls and is just supported by timber frames. In addition to this it is relatively modest in scale. The gazebo is also well screened from the public domain due to the topography of the area, retaining walls and surrounding existing buildings. Of note, the Council's Conservation Officer has raised no objections to the gazebo.

The gazebo is adjacent to the rear wall of the Grade II listed building of No.8-10 Bunkers Hill to the east of the site. However, as noted, the gazebo is a lightweight structure and it is also set down from this heritage asset due to the lower ground level of the site. Further to this, walling and fencing on the east boundary somewhat screen the gazebo from these listed buildings. As a result, the gazebo is not an imposing structure upon these listed building and it is considered that the gazebo does not harm the significance of No.8-10 Bunkers Hill or its setting.

In terms of the Grade II listed building of 12,14,16,18 Rattle Lane to the north east of the gazebo, these are set on much higher land and the retaining wall along the east boundary of the site acts as separation between the gazebo and these heritage assets. It is considered that the gazebo does not harm the significance of No.12, 14, 16, 18 or its setting.

Given the above, it is considered that the gazebo does not cause harm to the significance of the Holmfirth Conservation Area or the significance of the nearby Grade II listed buildings or their setting, nor does it cause detrimental harm to the visual amenities of the area. Given the above, the gazebo is considered to comply with Local Plan Policies LP24 and LP35 and Chapters 12 and 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings” and “...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, Paragraph 127 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

In relation to matters of loss of light and the creation of an overbearing effect, the development is most likely to impact upon No.1 St Annes Square and No's.8-10 Bunkers Hill given their proximity to the gazebo.

In terms of No.1 St Annes Square, this is situated to the west of the gazebo and the gazebo lies adjacent to the side wall of this building. However, the gazebo does not protrude beyond the rear and front wall of this neighbouring building and there are no side windows facing towards the gazebo therefore it is considered that this structure does not cause undue harm to No.1 in terms of loss of light or the creation of an overbearing impact.

No.8-10 Bunkers Hill are located to the east of the site and the rear elevation of No.10 directly faces the site. However, No.8 and 10 are both on higher land than the site and intervening walling and fencing helps screen views of the gazebo from the rear elevations of these dwellings to a certain extent. It should also be noted that the structure is also light weight given that it does not have wall, but oak frames to support it. Given this, the structure does not cause undue harm to No.8-10 in terms of loss of light or the creation of an overbearing impact.

Further to this, the gazebo does not cause undue harm in terms of loss of light or over-domination to any other neighbouring properties given its siting and scale.

Concerns have been raised in letters received as a result of the consultation period in relation to potential from noise nuisance and vapour nuisance. These concerns are mainly as a result of a hot tub being used under the gazebo and noise emanating from people using the hot tub. However, the hot tub is not subject of this planning application and it has been deemed that this does not require planning permission as it does not constitute development. Further to this, the site is in a residential use and prior to the gazebo and hot tub at that end of the garden there has nothing to prevent the occupiers of No.4 enjoying this end of the garden, therefore it would not be reasonable to refuse the application on grounds that the gazebo would result in a noise nuisance to neighbouring properties. Should, there be excessive noise from the occupiers of this property, this is a matter for the Police or the Council's Anti-Social Behaviour Team.

The proposed development is therefore considered to comply with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

The gazebo is not located in an area that is currently used for parking therefore the impact upon highway safety is considered to be acceptable. The gazebo is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Climate Change

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.

Considering the small-scale of the development, it is considered that it does not have an impact on climate change that needs mitigation to address the climate change emergency. The development therefore complies with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

6 – Representations:

Two letters of objection have been received during the consultation process. These letters have been summarised above. The assessment section of this report addresses the majority of the comments raised within the letters. I will now address the remaining comments:

One concern was that given the close proximity of the gazebo to other properties it could cause maintenance issues. However, this is not a material planning consideration.

It was also noted in a letter that the applicant should have obtained planning permission before erecting the structure. Whilst it is unfortunate that the structure was erected before planning permission was applied for, planning permission is now being sought retrospectively to try and remedy the breach of planning control.

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 constitutes sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers**Application Number:** 2020/91107**Officer Recommendation:** Approve**Conditions and Reasons**

1. The development hereby permitted shall remain in 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 Policies LP21, LP22, LP24 and LP35 of the Kirklees Local Plan and Chapters 9, 12, 14 and 16 of the National Planning Policy Framework.

Plan Type	Reference	Version	Date Received
Application Form			29 th April
Location Plan at 1:1250 scale on A4 Paper			29 th April
Picture of Gazebo with Measurements			29 th April

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. No amendments or further information was required and the application was determined based on the submitted plans.

Report Dated: 24.09.2020