

**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: 2020/62/91989/W

Site Address: 98A, Halifax Old Road, Birkby, Huddersfield, HD2
2RP

Description: Erection of single storey extension with canopy and
security roller shutters (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.**

Emma Thompson

AUTHORISED OFFICER

Date: 15-Oct-2020

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Officer report

Site description

The application relates to 98A Halifax Old Road, Birkby, a two storey building, in which occupies the corner plot of a terrace row. The site is located within a mixed residential and commercial use, however, it is believed that the residential land use is the more dominant. The hardstanding to the front of the site appears to be used for on site parking. The common construction material is also stone.

The site is located within Birkby Conservation Area on the Kirklees Local Plan.

Description of development

The applicant is seeking permission for the erection of a single storey extension/canopy and roller shutters to the front of 98A and 98B Old Halifax Road. The built form would occupy the majority of the hardstanding to the front of the site and would have a maximum projection of 5.3m from the existing entrance at no.98A.

As detailed on the submitted plans, new steel posts and roller shutters would be installed to enhance security. These would be constructed from metal with a powder coated paint finish.

History of negotiations

Officers have raised concerns with the agent regarding the unsightly finish in which the proposed built form would have upon visual amenity and heritage. However, no amended plans have been sought during the course of this application and therefore the scheme has been determined on its original merits.

Relevant Planning History

None at the application site.

Neighbouring sites

2015/92335 Alterations to shop front to form a new entrance and installation of security shutter (within a Conservation Area) – Granted (98B Halifax Old Road)

Representations

The application has been advertised by site notice, neighbour notification letters and the press.

Final publicity expired: 21st August 2020.

As a result of the above, 3 representations have been received, 2 in objection and 1 general comment. A summary of the points raised are as follows:

Objections

Visual amenity

- The property appears to be in good condition, albeit the shop units are nondescript and vehicles park on the hardstanding to the front
- There are no awnings currently on any of the nearby premises and this would obviously set a precedent
- Concern is raised regarding the roller shutters as they would appear prominent and an unwelcoming feature within a residential area
- The design will have an intrusive impact upon the conservation area
- If the canopy has a Victorian design and glass roof and no roller shutters, then this would make a difference

Parking

- There are already parking issues within the area.
- The council needs a parking strategy for the local centres such as Birkby to tackle increasing congestion and safety issues
- The existing double yellow lines already cause parking concerns and therefore where will customers, workers and the occupants of the two flats above park?
- The enclosure of a large corner plot has the potential to cause danger to pedestrians and road users

In support

- The scheme is of a higher quality than the other shop fronts within the vicinity
- The willingness to invest in improvements may encourage new life and different improvements to the area
- The better use of outdoor space could help encourage social distancing
- It is considered an improvement when compared to the existing site frontage

Consultation responses

KC Highway DM (formal): The proposal would be acceptable on balance, from a highways perspective.

KC Environmental Health (formal): No objections subject to a note being attached to the decision notice regarding the recommended hours of construction.

The Coal Authority (formal): Given the level of development proposed, no objections have been raised. However, if planning permission was to be granted a note should be attached to the decision notice.

KC Conservation and Design (informal): The proposal would have a detrimental impact upon the Conservation Area, as it would dominate the front elevation of a corner plot.

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 Birkby Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP21 – Highway safety
- LP22 – Parking
- LP24 – Design
- LP25 – Advertisements and shop fronts
- LP35 – Historic Environment
- LP53 – Unstable and contaminated land

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 places
- Chapter 15 – Protecting and enhancing the natural environment
- Chapter 16 - Protecting and enhancing the historic environment

National Design Guide.

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 within the Birkby Conservation Area. Section 72 of the 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.

Policy LP35 (as amended) requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

2. Impact on visual amenity and heritage

The application seeks the formation of a canopy which would offer an extension to the existing permissions. As such, policy LP24 of the KLP states that all proposals should promote good design by ensuring the following:

‘the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape’ and that ‘extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers’.

In this case, the proposed canopy would protrude beyond the front elevation, and would occupy the vast majority of the hardstanding to the North and West, forming a wrap around addition. This in turn would represent an overly prominent feature within the street scene given its overall scale. More specifically, heritage officers have also raised objections to the scheme, as the proposal is considered to dominate an existing open corner plot and would obscure the design features on the principle elevation. The views down the terrace row will also be lost as part of this application.

The introduction of steel posts, new fascia panels and large roller shutters would also appear unsympathetic to the surrounding development and therefore, the proposal would appear incongruous with the main building.

Policy LP25 of the KLP, also advises that development of a new shop front will only be permitted if:

- a. the design is consistent with the character of the existing building in terms of scale, quality and use of materials;
- b. proposals respect the character of the locality and any features of historic, architectural, cultural or other special interest;
- c. the shop fascia is designed to be in scale, in its depth and width, with the façade and street scene of which it forms part

Part 2 of LP25 also states that alterations to existing shop fronts within conservation areas should *“preserve and enhance the character and appearance of the building, the area in which it is located and any features of architectural or historical interest”*.

In this instance, officers consider the proposal by virtue of its size, scale, location and design to have an unacceptable impact upon visual amenity and heritage, by creating a prominent feature within the landscape. This would be

contrary to Policies LP24, LP25 and LP35 of the KLP and Chapters 12 and 16 of the NPPF. Nonetheless, a further assessment upon the impact on the conservation area can be found below.

Impact on significance

Paragraph 190 of the NPPF requires that the Local Planning Authority identify and assess the particular significance of any heritage assets affected and take this into account when considering the impact of an application for planning permission on the setting of a heritage asset. Section 72 goes on to state that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Policy LP35 of the Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness. In this case, the proposal has been considered against the impact in which it would have on the significance of Birkby Conservation Area.

As outlined above, officers consider the development to dominate the principle elevations at no.s 98a and 98b Halifax Old Road. Whilst the extension/canopy would be retained at single storey, its overall presence would ensure the loss of some of the design features on the principle elevation of the building. This would unduly impact upon the character and setting of the conservation area and therefore has the potential to set a precedent for future development.

It has also been noted that, presently the open space provides views down the existing terrace row, which would be lost as part of this application.

As such, the size and scale of the development would harm the significance of Birkby Conservation Area, by dominating an existing corner plot.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

In this case, heritage officers consider the proposal to cause a moderately high level of harm to the significance of the conservation area, for the reasons outlined above.

Weighing of harm against public benefits

Paragraph 196 of the NPPF requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

In this case, the heritage statement states that the proposal will provide historic, visual and communal value to the application site, that would also allow social distancing to be adhered to. However, officers do not consider the harm caused to the historic environment to be outweighed by the benefits of providing additional commercial space which will not result in any economic benefit to justify the harm.

For these reasons, the proposal is considered to fail to comply with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the NPPF. Furthermore, it would not accord with the National Design Guide, in particular context. The NDG states that well-designed places are:

- based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
- integrated into their surroundings so they relate well to them;
- influenced by and influence their context positively; and
- responsive to local history, culture and heritage. Unfortunately, this scheme does not.

3. Impact on residential amenity

The proposed development, given its lightweight design and structure, is unlikely to have any material impact upon residential amenity. More specifically, a separation distance of approx. 5m will be retained between the canopy and the nearest elevations at no. 2 Cobcroft Road and 98 Halifax Old Road. This will allow the full outlook from these neighbour's principle elevations to be retained.

Any overshadowing would only be evident within an evening on the front garden of no. 2 Cobcroft Road, and therefore would not be undue. There would also be no additional overshadowing on no. 98 Halifax Old Road, as this property is situated to the South of the application site.

With regards to overlooking, it has been considered that any harm would not be significant, given the fact that the proposal would form a canopy for the existing business and would provide roller shutters for enhanced security/privacy.

There would also be substantial separation distance retained between the properties to the North and West of the application site, including a highway and therefore any overbearing, overshadowing and overlooking would be minimal.

In summary the application is considered to have an acceptable impact on residential amenity and therefore complies with LP24 of the KLP from this perspective.

4. Impact on highway safety

KC Highways DM have been formally consulted as part of this application, as the scheme has the potential to reduce the number of off-street parking spaces for the businesses.

Halifax Old Road is a 30mph two-way single carriageway local link road of approximately 6.4m width with footways on both sides and street lighting present. There are No Waiting at Any Time TRO markings around the junction with Cobcroft Road and on the same side as the application site to the north and opposite the application site to the south. There are no “No Loading” restrictions and so deliveries will still be allowed on the TRO restrictions. However, these are residential roads, whereby there is also evidence of on street parking.

At the application site there is currently some off-street parking at the back of the narrow adopted footway served by a dropped kerb crossing on to Cobcroft Road. This space would be suitable for approximately 3 cars and this parking will be lost with the proposal. The application does not indicate where this parking will be displaced to and so it has to be assumed that it will take up some of the on-street spaces on both Halifax Old Road and Cobcroft Road.

Whilst the development results in the removal of some parking and there are existing parking issues in the area it is considered that there would be minimal impact on highway safety or other road users and as such on balance KC Highways DM consider that the application is acceptable on highways grounds, in accordance with Policies LP21 and LP22 of the KLP.

5. Other matters

High Coal Area

The site falls within a High Coal Risk Area and therefore The Coal Authority have been formally consulted. In most cases where development is proposed within a High Risk Area, the applicant should obtain coal mining information for the application site, which should be submitted alongside the planning application.

However, when considering the nature of this development, the open sided canopy would appear to be of a relatively light weight construction and the canopy and associated works would not appear to require substantial foundations or earthworks. On this basis, a coal mining risk assessment is not considered necessary for the scale and nature of development, with no objections being raised on this matter.

Nonetheless, the Coal Authority does recommend that, should planning permission be granted for this proposal, that an informative note should be attached to the decision notice. This is to accord with Policy LP53 of the KLP.

Bats

Although the application site is located within a bat alert area, it is not identified on the maps as having a bat roost. The building is also well sealed and unlikely to have any significant bat roost potential. Notwithstanding this, a note recommending that the advice of a licensed bat work should be sought if any bats are found during the development.

If this application was to be approved, this note would be relayed to the applicant via the decision notice, for the proposal to comply with the guidance contained within the LP30 of the KLP.

Economic Development

The NPPF states that the planning system should do everything it can to support sustainable economic growth. This would include supporting extensions to business premises.

However, in this case, the proposed extension is not considered sustainable as it would not achieve an environmental role; it would have a harmful impact upon heritage and the visual amenity of both the host building and wider street scene. There were no alterations to the proposed scheme deemed suitable to put forward to the applicant that would overcome the harm caused.

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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures. However, it has been noted that the works proposed, would appear light weight and easily reversible should the additional accommodation be no longer required.

6. Representations

As a result of the above publicity, three representations have been received. A summary of the comments made alongside officer correspondence can be seen below:

Objections

Visual amenity

- The property appears to be in good condition, albeit the shop units are nondescript and vehicles park on the hardstanding to the front
- There are no awnings currently on any of the nearby premises and this would obviously set a precedent
- Concern is raised regarding the roller shutters as they would appear prominent and an unwelcoming feature within a residential area
- The design will have an intrusive impact upon the conservation area

- If the canopy has a Victorian design and glass roof and no roller shutters, then this would make a difference
Comment: The above comments have been noted and have been assessed thoroughly within section 2 of the report above.

Parking

- There are already parking issues within the area.
Comment: This has been noted and assessed by KC Highway DM.
- The council needs a parking strategy for the local centres such as Birkby to tackle increasing congestion and safety issues
Comment: This has been noted, however is outside the remit of this application.
- The existing double yellow lines already cause parking concerns and therefore where will customers, workers and the occupants of the two flats above park?
Comment: This has been assessed by KC Highway DM, with comments being provided within section 4 of the report.
- The enclosure of a large corner plot has the potential to cause danger to pedestrians and road users
Comment: This has been assessed by KC Highways DM, however, no concerns have been raised.

In support

- The scheme is of a higher quality than the other shop fronts within the vicinity
- The willingness to invest in improvements may encourage new life and different improvements to the area
- The better use of outdoor space could help encourage social distancing
- It is considered an improvement when compared to the existing site frontage
Comment: The above comments have been noted.

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 proposals do not accord with the development plan and/or 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 REFUSE

Decision Authorisation - Delegated Powers

Application Number: 2020/91989

Officer Recommendation: REFUSE

1.The proposed canopy, by reason of its design, materials of construction, scale and location on the principal elevation of the host property would be detrimental to the character and appearance of the application site and would introduce an unsympathetic and incongruous form of development which would detract unduly from the character of the host building, the wider street scene and Birkby Conservation Area. The development would therefore cause harm to the significance of designated heritage assets and to the wider visual amenity of the area. The harm is considered to be moderately high. As required by paragraph 193 of the NPPF, great weight has been given to that harm in assessing the impact of the proposed development. Public benefit has not been demonstrated that would outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, policies LP24a, LP25 and LP35 of the Kirklees Local Plan and Policies within Chapters 12 and 16 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan and existing site plan	2003/100	-	8 th July 2020
Proposed site plan	2003/101	-	8 th July 2020
Existing ground floor plan	2003/102	A	8 th July 2020
Existing roof plan	2003/103	A	8 th July 2020
Proposed ground floor plan	2003/104	A	8 th July 2020
Proposed roof plan	2003/105	A	8 th July 2020
Existing and proposed elevations	2003/106	A	8 th July 2020
Existing and proposed elevations	2003/107	A	8 th July 2020
Heritage statement	-	-	8 th 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 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. In this instance no amendments have been sought given that there are significant concerns regarding the principle of having such a large canopy within this location. For these reasons, the development would not improve the environmental conditions of the area.

Dated 14th October 2020

