

**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:** 2021/62/90911/E

**Site Address:** 76, Station Lane, Birkenshaw, BD11 2JE

**Description:** Erection of detached garden room

**Recommending Officer:** Olivia Roberts

**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.**

Paul Dowd

***AUTHORISED OFFICER***

**Date: 07-May-2021**

## **Officer Report**

### **Site Description**

76 Station Lane is a two-storey detached dwelling in Birkenshaw. It is constructed from brick for the external walls and concrete tiles for the roof. The dwelling appears to have been extended previously and benefits from a two-storey extension to the side and a single storey extension to the rear. The dwelling is set back from the access road with a driveway to the front and a larger garden area to the rear.

The location of the site is within a residential area which comprises properties which vary in terms of their style and design. Materials in the vicinity include brick and stone. The Green Belt extends to the rear of the site.

### **Description of Proposal**

The application seeks planning permission for the erection of a detached garden room. The garden room would be roughly 'L' shaped in nature with a width of 7m and a maximum depth of 5.7m. It would be designed with a pitched roof form which would have a maximum height of 3.7m. The garden room would be constructed from brick, timber cladding and render for the external walls with tiles for the roof.

### **History of negotiations/amendments received**

No amendments were sought or received during consideration of the application.

### **Relevant Planning History**

2016/90037 – Erection of single storey rear extension and two storey side extension. Granted.

### **Representations**

The application was advertised by neighbour letters which expired on 26<sup>th</sup> April 2021.

No representations were received following this publicity.

Parish/Town Council comments: not applicable.

## **Consultation Responses**

No consultation responses were considered necessary.

## **Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees Local Plan.

### **Kirklees Local Plan (KLP):**

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highway and access
- LP 22 – Parking
- LP 24 – Design
- LP 30 – Biodiversity and geodiversity
- LP 33 – Trees
- LP 51 – Protection and improvement of local air quality

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate, flooding and costal change
- Chapter 15 – Conserving and enhancing the natural 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 highway safety
- 5) Other matters
- 6) Representations
- 7) 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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

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

### **2 –Impact on visual amenity:**

The garden room would represent a relatively large addition to the property. However, given the size of the existing dwelling and its curtilage, it is considered that the property would be able to accommodate an outbuilding of this scale without it appearing disproportionate in relation to the host property or amounting to an overdevelopment of the site. The outbuilding would be contemporary in terms of its design and appearance, including areas of timber cladding and render. Whilst these materials do not feature on the main dwelling, it is noted that the render elevations would be located along the boundaries of the site and the outbuilding would include areas of brick as well as roof tiles which would relate back to the host dwelling. The overall relationship with the host property is considered acceptable. The outbuilding would be located to the rear of the site and would therefore not be visible from the street scene.

For the reasons set out above, it is considered that the outbuilding would not be detrimental to the visual amenity of either the host dwelling or wider street scene, complying with Policy LP24 of the KLP and the aims of chapter 12 of the NPPF.

### 3 – Impact on residential amenity:

#### *Impact on 74 Station Lane*

The outbuilding would be located to the rear of the adjacent property and it is considered that sufficient distance would be retained to prevent there from being a harmful overbearing or overshadowing impact to the habitable openings on its rear elevation. The outbuilding would be single storey in scale, and it is noted that the existing boundary treatment comprises high level hedging which would reduce the potential for overbearing to the rear most element of the property's amenity space. It is considered that the existing boundary treatment, distance retained, and design of the openings close to the boundary, would be sufficient to prevent there from being any harmful overlooking. Notwithstanding this, given the closeness of the building to the shared boundary, it is considered appropriate to condition that no openings shall be installed in the south western side elevation in the future.

#### *Impact on 76A Station Lane*

The outbuilding would be located towards the south west of the site and it is considered that sufficient distance would be retained to prevent there from being a harmful overbearing or overshadowing impact to the property. Whilst openings would be included which would face diagonally towards the property, given the distance retained, as well as the design of the openings, it is considered there would be no harmful overlooking. The privacy of the adjacent neighbours would be further protected by the existing boundary hedging. It is considered that the existing boundary hedging, along with the distance retained between the boundary and the outbuilding, would be sufficient to prevent harmful overlooking should any opening be installed in the north eastern side elevation of the garden room in the future.

There are no properties to the rear of the site, which would be impacted by the proposed outbuilding. It is noted that this land is located within the Green Belt and therefore unlikely to be developed in the future.

Having considered the above factors, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the KLP and Paragraph 127 (f) of the NPPF.

#### 4 – Impact on highway safety:

The proposed outbuilding would be located within the rear garden of the property and would serve a garden room. It would therefore not affect the existing parking and access arrangements at the site, nor would it require additional parking to be provided. As such, the scheme would not represent additional harm in terms of highway safety complying with Policies LP21 and LP22 of the KLP.

#### 5 – Other matters:

##### *Biodiversity*

The site is identified as being located within the bat alert layer and, therefore, consideration must be given to the impact of the proposed development on bats and bat roosts. Whilst the proposed garden itself would be located outside the bat alert layer, given that the proposal is for the erection of a detached outbuilding, the impact on bats and bat roosts is considered acceptable. As a precautionary measure, a footnote has been added to the decision notice to provide the applicant with advice should bats, or evidence of bats, be found during construction. This would accord with the aims of chapter 15 of the NPPF and policy LP30 of the KLP.

##### *Trees*

There are several trees which are located on the land to the rear of the site and it is noted that these are not protected. Nevertheless, it is considered that sufficient distance would be retained between the outbuilding, which would be set in from the rear boundary of the site, and the trees to prevent the proposal from having a harmful impact on their amenity.

##### *Carbon Budget*

On 12<sup>th</sup> 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.

The proposal comprises domestic development to an existing dwelling. 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. For this reason, the proposed development is considered to comply with Policy LP51 of the KLP and Chapter 14 of the NPPF.

#### 6 – Representations:

No representations have been received.

#### 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:** 2021/90911

**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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP22 and LP24, of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the detached garden room hereby approved shall be finished in brick, timber cladding, render and roof tiles are indicated on the submitted plans. The render shall be off-white or cream and colour and shall be applied before the garden room is first brought into use.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 south western side elevation of the detached garden room hereby approved.

**Reason:** To not detract from the amenities of adjacent 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:** 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.

**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 13.00 hours, 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 may control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:

| <b>Plan Type</b>     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------|------------------|----------------|----------------------|
| Location Plan        | -                | -              | 04/03/2021           |
| Proposed Floor Plans | -                | -              | 04/03/2021           |
| Proposed Elevations  | -                | -              | 04/03/2021           |
| Proposed Site Plan   | -                | -              | 04/03/2021           |

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 has, 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.

As the submitted plans were considered acceptable, no amendments were sought.

**Report Dated:**

06/05/2021