

**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:	2021/62/91678/E
Site Address:	Robertos, The Old Post Office, 15, Market Square, Batley, WF17 5DA
Description:	Erection of canopy (within a Conservation Area)
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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 26 January 2022

Officer Report – 2021/91678

Site Description

The application site is Robertos restaurant, The Old Post Office, 15, Market Square, Batley. It occupies the ground floor of a large stone built former head post office and sorting office. It fronts onto Market Square with listed buildings attached to the northern side and an access road to art gallery (also listed) on the opposite side.

The current proposal would be located at the rear of the building which backs onto a yard providing access and parking. Beyond are mature trees and amenity green open space.

The area is relatively flat and within Batley Market Place conservation area.

Description of Proposal

Planning permission is sought for erection of a canopy (within a conservation area).

- Over rectangular footprint 4.9m projection x 6.45m wide
- Mono-pitched roof surfaced in corrugated cladding in merlin grey
- Natural timber balustrade with upright posts at approximately 2m intervals
- It would be in the southern corner adjacent to access road to art gallery on higher ground.
- It would provide area for outside dining to meet the needs of covid 19.

History of negotiations/amendments received

Application acceptable as submitted

Relevant Planning History

Numerous at the site.

Representations

Final publicity date Expires: 2nd December 2021. No representations received

Consultation Responses

K C Conservation & Design: offer no comments on the proposal.

K C Highways DM: No objections

K C Environmental health: recommend conditions.

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 and within a conservation area on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 13** – Town Centre uses
- **LP 21** – Highway Safety and Access
- **LP 22** - Parking
- **LP 24** – Design
- **LP 35** – Historic environment

Kirklees Council has adopted supplementary planning guidance on house extensions which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 7 – Ensuring the vitality of town centres
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 – Conservation and enhancement of the natural environment
- Chapter 16 – Conservation and enhancement of the historic environment

Assessment

1 – Principle of development:

The proposal is for a small canopy extension attached to the back of a much larger building and extending into its car park. The whole site is in a conservation area and would replace a smaller existing canopy.

Its purpose is to provide an area for outside dining suitable to meet the needs of covid 19.

The site is located within the Batley Market Place Conservation Area on the Kirklees Local Plan. Therefore, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities pay special attention to preserving or enhancing the character and appearance/setting of buildings or land within a Conservation Area. Any impact on heritage assets (including the setting of the nearby listed structures to the north and south) will be considered having regard to Policy LP35 of the Kirklees Local Plan, and Chapter 16 of the National Policy Planning Framework.

Given that the site is unallocated Policy LP1 of the KLP is relevant. It 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.

Chapter 6 of the NPPF (paragraph 81) states that Local Planning Authorities should have regard for:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

The site is also located in Batley Town Centre and so Chapter 7 (ensuring the vitality of town centres) of the NPPF and policy LP13 (town centre uses) of the KLP are also relevant. In this instance, as the proposal would support an existing restaurant (listed as a main town centre use in Annex 2 of the NPPF), the proposal is considered to be compliant with these policies.

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 and historic environment:

In terms of visual amenity, policy LP24 of the KLP states that proposals should promote good design by ensuring extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

In terms of scale, whilst the proposed canopy would be significantly larger than the existing canopy, in relation to the host building (which is three storeys high and has cellars), it is considered to be relatively small.

Regarding materials and details, although the proposed materials do not reflect the those used on the host building, the proposed canopy extension would be at the back of the building where there are large galvanised metal ducting pipes and air conditioning units which give this elevation a much more utilitarian character. The proposed extension would also be on lower ground (relative to neighbouring art gallery), and in the corner of a controlled car parking, where it would take up approximately 8% of the service / parking yard. The proposed materials are also relatively light weight and the design has open sides, allowing views through it. The structure also appears to be one that could be removed quite easily without permanent harm to the host building or character of the surrounding area.

In summary, given its scale and position it is thought that the use of these materials would not be significantly harmful to visual amenity.

In terms of impact upon the historic environment, policy LP24 (a) of the KLP states that proposals should promote good design by ensuring the form, scale, layout and details of all development respect and enhance the character of the heritage asset. Policy LP35 of the same document says that consideration should be given to the need to ensure that proposals within conservation area conserve those elements which contribute to their significance, and that regard should also be given to the wider benefits of development.

In this instance the heritage asset is primarily Batley Market Place conservation area. The site is also adjacent to two Listed buildings – Batley art gallery to the south and the end building of a row of Victorian shops to the north.

A heritage statement was submitted as part of the application. It mentions that Robertos restaurant occupies the ground floor of a former Head Post Office and Sorting Office at the back. They form part of an important group of buildings enclosing the market square, public park and war memorial at in the centre of Batley. The front façade of the former Head Post Office is its most important asset and it overlooks Market Square. To the rear lies the former Sorting Office and a tarmacked yard used for parking and deliveries, with concrete retaining wall and a steel palisade fence around the perimeter.

It goes on to say that the existing yard lies at the rear of the building facing onto a 'non-descript' area of unused open space overlooked by the backs of other properties. It would not be regarded as permanent but is necessary to

provide outside dining to help support the restaurant through ongoing Covid 19 measures and assist it to trade and remain competitive as the business rebuilds after the pandemic.

The canopy would be discretely located at the rear surrounded by a fence and screened in part by trees from wider views. The canopy is not visible from within the Market Square and as such would not have an adverse effect upon primary views, nor would it have a detrimental impact upon the character and appearance of the conservation area. The structure could easily be removed without damaging the building, at some time in the future when it is no longer required.

The proposal has been assessed by the Council's conservation and design team who comment that the rear of the building is situated adjacent to a car park and makes no contribution to the character and significance of the conservation area or setting adjacent listed buildings. Therefore, they have no comments on this proposal.

Given these comments and the wider benefits of the scheme in supporting the business, on balance, it is considered to comply with Policy LP35 in the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers. Policy LP52 is also relevant, seeking to ensure that there is no adverse noise pollution caused by new developments.

The proposed extension is assessed upon whether it would have a detrimental effect on residential amenity, adjoining dwellings or any occupier of adjacent land by way of overshadowing, overbearing or overlooking impact and any potential noise disturbance caused.

In this instance the closest properties are within the converted old post office and sorting office where there are up to 11 flats, all within the application site boundary. Beyond the site boundary are flats to the north in mixed use buildings that face onto Upper Commercial Street, these are at least approximately 35m from the proposed extension. There are also semi-detached houses at 9 and 11, Peel Street which would be around 38m from the proposed development.

The application has been assessed by the Council's environmental health officers. They recommend conditions relating to the position of loud speakers, hours of use, and footnotes regarding construction noise. If these are applied, the proposal would comply with policy LP24 c) and LP52 of the KLP.

4 – Impact on highway safety:

The proposed canopy would extend into the existing car park at the back of the building. It is over one of the marked spaces within the car park and may make another space unusable as although there would be a 6.0m gap between the proposed canopy and the car parking space in the south westernmost parking space, it is suspected that manoeuvring from this space will be limited by the proposal if there are cars parked adjacent.

The Council's Highway Development Management engineers have been consulted and highlighted the above, but also pointed out that the site is located in a town centre with access to public car parks and the public transport network.

They also comment that no details are provided relating to waste storage and collection at the associated premises, however they expect this to be done at present and that there should be no additional impacts on the highway network caused by waste collection because of the proposals. As such they consider the application to be acceptable on highway grounds.

Given this it is considered to comply with policies LP21 and LP22 of the KLP.

5 – Other matters:

Carbon Budget

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.

The proposal is a small scale development. 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

6 – Representations:

No representations received during the assessment of this application.

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 - approval

Decision Authorisation - Delegated Powers

Application Number: 2021/91678

Officer Recommendation: Approval

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 Policies LP24 and LP35 of the Kirklees Local Plan.

3. The use of the outdoor seating area hereby permitted shall not be open to customers outside the hours of 09.00 to 22.00 Monday to Saturday and 10.00 to 20.00 Sundays.

Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.

4. No loudspeakers used to relay singing, speech and amplified music shall be positioned outside the premises of the building. Internal loudspeakers shall not be positioned so that the sound they produce is directed through external doors, windows or any other openings in the structure.

Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.

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 noisy activities on Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	Dwg no. P02	Rev A	29.04.2021
Block plan	Dwg no. P01	Rev A	29.04.2021
Plan and detailed elevations as existing and as proposed	Dwg no. P01	Rev A	29.04.2021
Elevations as existing and as proposed	Dwg no. P02	Rev A	29.04.2021
Supplementary information: Heritage Statement dated 16 th April 2021			29.04.2021

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 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 application was acceptable as submitted.

Report Dated: 24.1.2022

