

**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: 2021/62/92480/E

Site Address: 1, Bywater Row, Birkenshaw, BD11 2JU

Description: Erection of front extension with extended balcony over

Recommending Officer: Alice Downham

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: 19-Aug-2021

Officer Report

Site Description

1 Bywater Row is a two-storey semi-detached dwelling located in Birkenshaw, which occupies a corner plot between Bywater Row and Old Lane. It is constructed of stone, with a dual-pitched roof finished in slates. The property benefits from a single-storey side extension with a balcony over. There is amenity space to the front of the dwelling and off-street parking within the curtilage.

The property is within a residential area. The neighbouring dwellings are highly varied in terms of their sizes, ages, characters, and construction materials.

Description of Proposal

The applicant is seeking permission for the erection of a front extension, with an extended balcony over. This would be constructed over existing amenity space to the front of the dwelling and would accommodate a kitchen extension and extended balcony. The approximate dimensions of the proposal are as follows:

2.4m deep x 4.9m wide x 3.1m maximum height.

The extension would be constructed of stone to match the host dwelling. It would have a door and flanking windows to the front elevation and patio/bi-fold doors to the south-western side elevation.

The balustrade would be constructed of toughened glass, with chrome support posts.

History of negotiations/amendments received

The agent provided information about the materials to be used for the balcony balustrade, which were considered acceptable.

Relevant Planning History

99/90443 – Erection of attached garage. Conditional full permission.

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, which expired on 12th August 2021.

Following the above publicity, no representations were received.

No parish/town council comments are required in this instance.

Consultation Responses

None were considered necessary in this instance.

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 27th February 2019).

The site is unallocated on the Kirklees Local Plan proposals map.

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. The National Planning Policy Framework 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 under other matters.

Kirklees Local Plan:

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety
- **LP22** – Parking
- **LP24** – Design
- **LP30** – Biodiversity & geodiversity
- **LP51** – Protection and improvement of air quality

Supplementary Planning Guidance / Documents:

Kirklees Council has recently adopted its supplementary planning guidance on house extensions. Although the period for a potential judicial review has not yet expired, it is now being considered in the assessment of householder planning applications, with some weight attached. 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 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 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal 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) Conditions
- 8) Conclusion

1 – Principle of development:

The site is without notation on the KLP, policy LP1 of which 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 LP2 sets out that, to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the KLP.

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 property is within a residential area. The neighbouring dwellings are highly varied in terms of their sizes, ages, characters, and construction materials. It is important to note that several properties in the surrounding area have been extended or altered in some way and it is, therefore, considered that dependent on design, scale, and detailing, it may be acceptable to extend the host property.

In terms of design, the proposed extension would be constructed of stone to match the host dwelling. It would have a balcony above, accessed via a new spiral staircase. The balcony balustrade would be constructed of toughened glass with chrome support posts. The design and materials are considered in-keeping with the host dwelling and are, therefore, acceptable in terms of visual amenity.

In terms of scale, the proposed front extension would be small, and it would be subservient to the host dwelling, due to its single-storey height. The proposed extension would slightly increase the footprint of the building. However, the host property and its associated curtilage is of a scale, which would support the proposed extension without amounting to overdevelopment or appearing incongruous. Although the proposed projection (2.4m) is somewhat large for a front extension, in this instance it is considered acceptable due to the site-specific circumstances. The small scale of the proposed development means it would not cause any significant harm to visual amenity.

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, thus complying with policy LP24 of the KLP and the aims of chapter 12 of the NPPF.

3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

Impact on 4 & 5 Bywater Row

These are the neighbouring dwellings to the north-east of the application site. There would be no windows inserted into the north-eastern side elevation of the single-storey extension. Although the balcony would be extended, given there is an existing balcony to the north-eastern side of the dwellinghouse, it is considered that there would be no significant impact on the privacy of these

neighbours, over and above the existing situation on site. A separation distance of approximately 8.5m would be maintained by the parking area to the front of 4 & 5 Bywater Row. Given that the proposed extension would be single storey in height, it is considered that there would be no significant overbearing or overshadowing impacts on these neighbouring houses due to the proposed development.

Impact on 1 Amblerthorne, Old Lane

This is the neighbouring dwelling to the south-west of the application site, to the opposite side of Old Lane. The side elevation of this neighbouring property faces the side elevation of the applicant property. A reasonable separation distance of approximately 23m would be maintained between this neighbour and the proposed development, by the amenity space at the dwellings and the road in between. Although there would be patio/bi-fold doors to the south-western side elevation of the proposed extension, and the balcony would extend in front of the existing dwellinghouse, given the separation distance and that there appear to be only small, secondary windows to the side elevation of this neighbouring property, it is considered that there would be no significant impact on the privacy of 1 Amblerthorne, Old Lane. Given that the applicant property is located to the north of this neighbouring house and that the proposed extension would be single storey in height, it is considered that there would be no significant overbearing or overshadowing impacts on this neighbouring house due to the proposed development.

Impact on 110 Old Lane

This is the neighbouring dwelling to the front elevation of the application site, to the opposite side of Bywater Row. The side elevation of this neighbouring property faces the front elevation of the applicant property. There would be no significant impact upon the amenities of 110 Old Lane, given the separation provided by the parking area of the applicant property (approximately 7m). Furthermore, the existing windows in the front elevation of the applicant property and the existing balcony already face this neighbouring house. Therefore, the new windows and extended balcony would have no significant additional impact over and above the existing arrangements on site.

Impact on 112 Old Lane

This is the adjoining house to the rear elevation of the application site. The proposed extensions would be located to the opposite side of the applicant property and, as such, would have no further impact on the amenities of this neighbouring property.

Having assessed the above, it is considered that this proposal would not result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants, thereby complying with policy LP24 of the KLP and paragraph 130 (f) of the NPPF.

4 – Impact on highway safety:

The proposed front extension with an extended balcony over would be constructed over existing amenity space to the front of the dwelling and would accommodate a kitchen extension and extended balcony. The proposed development is, therefore, unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at the site (two-off-street parking spaces). The current parking arrangements are considered sufficient. As such, the scheme would not represent any additional harm in terms of highway safety and, therefore, it complies with policies LP21 and LP22 of the KLP and chapter 9 of the NPPF.

5 – Other matters:

Ecology

The site is located within a bat alert layer. The development is for a single-storey extension to the dwelling. In this instance, as the works proposed are single storey and include no work to the main roof, it is considered unlikely to have an impact on the bat population. 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 policy LP30 of the KLP and NPPF chapter 15.

Carbon Budget

The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures are required in terms of the planning application, with regards to carbon emissions. However, there are controls in terms of Building Regulations, which would need to be adhered to as part of the construction process and which would 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.

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

6 – Representations:

No representations have been received.

7 – Conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions:

- Accordance with the approved plans, to ensure the development is carried out in line with the officer's assessment.
- Matching materials, to ensure that the proposed development harmonises with the host dwelling.

Notes will also be added regarding bats, the recommended hours of work and notifying the applicant that neighbours do not have to grant access to their land.

8 – Conclusion:

This application for erection of front extension with extended balcony over at 1 Bywater Row, Birkenshaw, has been assessed against relevant policies in the development plan, as listed in the policy section of the report, the NPPF and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

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.

As set out above, 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: 2021/92480

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, LP21, LP22, LP24, LP30, and LP51 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. The external walls and roofing materials of the development hereby approved shall in all respects match those used in the construction of the existing building.

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.

NOTE: The property is within the Bat Alert Zone. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2017 (as amended). It is an offence for anyone to 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: Please note that the granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

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, and 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 can 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:

Plan Type	Reference	Version	Date Received
Grouped Plans and Elevations	Dwg. No. 21/125 Proposed	-	23/06/2021
Grouped Plans and Elevations	Dwg. No. 21/125 Existing	-	23/06/2021
Proposed Site / Block Layout	Site Plan	-	23/06/2021
Location Plan	Location Plan	-	23/06/2021

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.

The agent provided information about the materials to be used for the balcony balustrade, which were considered acceptable.

Report Dated: 17/08/2021