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Planning Development

Planning and Heritage Statement: 8 Heaton Road, Upper Batley, Batley

Introduction

In December 2023, an application for the demolition of existing dwelling and erection of one detached dwelling (within a conservation area) was approved at 8 Heaton Road, Upper Batley (LPA ref: 2023/92859). The applicant would, however, like to amend the plans to include the addition of an orangery at the rear of the dwelling, hence the submission of this S73 application to vary Condition 1 (plans) on application 2023/92859).

Section 73 in The Planning Encyclopaedia states:

‘(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted ...’

Section 73.05 in The Planning Encyclopaedia goes on to state:

‘This section provides a different procedure for such applications from that applying to applications for planning permission and requires the local planning authority to consider only the question of the conditions subject to which planning permission should be granted. However, this does not permit them to ignore the wider considerations affecting the grant of permission since a successful s.73 application results in a new permission and it must therefore be determined accordingly to the current development plan and other material conditions ...

This point is further illustrated by Stefanou v Westminster City Council [2017] EWHC 908. In Stefanou, planning permission had previously been granted for the restoration of a listed building in Mayfair, including a three-level basement. On a s.73 application to modify relatively minor details of the scheme, the Council paid no regard to the advent of new development plan policy with which the basement development conflicted ...

As such, only if new policies have been introduced / adopted, should the LPA take a different approach to the elements of the development granted previously (i.e. in this case, everything other than the newly proposed orangery).

Matters that were considered acceptable by the LPA in relation to the previous application in accordance with relevant national and local planning policy were:

Principle of Development – Local Plan Policies LP1 and LP2 and Chapter 5 in the NPPF.

Visual Amenity & the Historic Environment – Local Plan Policies LP24 and LP35; Chapters 12 and 16 in the NPPF; and Principles 2, 5, 12, 13, 14 and 15 in the Housebuilders Design Guide SPD.

Residential Amenity – Local Plan Policy LP24; paragraph 135 in the NPPF; and Principles 6 and 16 in the Housebuilders Design Guide SPD.

Highway Safety – Local Plan Policies LP21 and LP22; Chapter 9 in the NPPF; and Principles 12 and 19 in the Housebuilders Design Guide SPD.

Climate Change – Local Plan Policies LP24 and LP51; and Chapters 9 and 14 in the NPPF.

Trees – Local Plan Policy LP33

Ecology – Local Plan Policy LP30

Public Right of Way – Local Plan Policy LP23

Drainage – Local Plan Policy LP28

Contaminated Land – Local Plan Policy LP53

Plans List to be Amended

In order to implement the changes applied for (detailed below) the following plans from the previous approval are proposed to be substituted as per the table below. All other plans listed on the original decision notice remain relevant.

Plans to be superseded from original permission	Reference	New Plans	Reference
Existing and Proposed Site Plan	2037-D-20-032	Existing and Proposed Site Plan	2037-D-20-032 Rev A
Proposed Ground Floor Plan	2037-D-20-035	Proposed Ground Floor Plan	2037-D-20-035 Rev A
Proposed First Floor Plan	2037-D-20-036	Proposed First Floor Plan	2037-D-20-036 Rev A
Proposed Elevations	2037-D-20-038	Proposed Elevations	2037-D-20-038 Rev A
Proposed Site Plan and Street Elevation	2037-D-20-039	Proposed Site Plan and Street Elevation	2037-D-20-039 Rev A

The Proposals

The amendments to the proposed plans comprise of the addition of an orangery at the rear of the dwelling. The orangery would be located to the rear of the cinema room and to the south-west side of the family room. The orangery would measure 5.6m x 5.6m. The orangery would be constructed using Chatsworth Antique brickwork to match the existing dwelling and it would have a fibreglass roof with

a raised lantern. Two windows are proposed on the north-west elevation and two windows, and a set of patio style doors are proposed on the south-west elevation. These are proposed to match the windows / door styles on the existing dwelling.

Given the nature of the amendments proposed, it is considered that the relevant matters for consideration by the LPA in relation to the addition of the orangery are: design and visual amenity, heritage impact, and residential amenity. These matters will be addressed in the following sections of this report.

S73 Assessment of the Proposals

Design and Visual Amenity

Local Plan Policy 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.'*

Paragraph 135 in the NPPF also sets out various design objectives, including the need to ensure that developments are visually attractive, sympathetic to local character, and establish or maintain a strong sense of place.

The Kirklees Housebuilders Design Guide SPD also sets out what the Council considers to be good, high-quality residential design through a number of principles. The relevant principles in relation to this scheme in terms of design and visual amenity are as follows:

Principle 2 – Context

Principle 13 – Materials and detailing

Principle 14 – Windows and doors

The proposed orangery would be constructed using Chatsworth Antique brickwork to match the existing dwelling. The fibreglass roof with lantern would also be in keeping with the adjacent family room, which is also located at the rear of the dwelling. The proposed orangery would include large amounts of glazing on the south-west and north-west elevations. The size and style of windows are considered to be suitable, given the development is for an orangery. The amount of glazing would also reduce the scale of the orangery from a visual perspective.

The orangery would measure 5.6m by 5.6m and would be located at the rear of the dwelling. The development would not project out any further to the north-west than the existing dwelling and it would be set back from the existing rear (south-west) elevation. The overall scale of the orangery would be in keeping with the size of the existing dwelling. The development would result in a positive and coherent addition that complements the existing dwelling.

The proposed orangery is therefore considered to be acceptable as it would respect the design of the existing dwelling in terms of scale, fenestration, materials and roof style. The proposals are considered to comply with Local Plan Policy LP24, paragraph 135 in the NPPF and Principles 2, 13 and 14 in the SPD.

Heritage Impact

Local Plan Policy LP35 states:

'Proposals should retain those elements of the historic environment which contribute to the district identity of the Kirklees area and ensure they are appropriately conserved. Consideration should be given to the need to: b. ensure that proposals within Conservation Areas conserve those elements which contribute to their significance.'

The application site is located within the Upper Batley Conservation Area. Section 4.0 in the Kirklees Upper Batley Conservation Area Appraisal characterises the area as follows:

'Upper Batley is a relatively unspoilt example of mid and late Victorian suburban ideals superimposed on a much earlier rural community and is rare in this part of Kirklees. Equally important, the enlarged conservation area also includes the former hospital, Victorian schools and St Thomas Church, all of which historically reiterate the late Victorian ideals of the time of civic pride and betterment and architecturally are of merit.'

Paragraph 205 in the NPPF states:

'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

The proposed orangery would be sited at the rear of the dwelling between the cinema room to the north-west and the family room to the south-east. As a result, the proposed development would not be visible from the front of the dwelling and Heaton Road. It may be possible to view the orangery from the public footpath which runs along the rear of the property (ref BAT/21/10), however, any views would be limited due to the distance between the main house and footpath (50 metres plus), and the existing boundary treatments and vegetation.

The orangery would be constructed using Chatsworth Antique brickwork to match the existing dwelling. The size of the proposed orangery would also be in keeping with the scale of the main house and would not result in an incongruous or prominent feature.

It is therefore considered that given the siting and location of the proposed orangery and its scale and design, the impact on the Conservation Area would be neutral. The elements within the Conservation Area that contribute to its significance would be unaffected by the proposals. The development therefore complies with Local Plan Policy LP35 and the aims of Chapter 16 in the NPPF.

Residential Amenity

Local Plan Policy LP24 states that,

'Proposals should promote good design by ensuring: b. they provide a high standard of amenity for future and neighbouring occupiers.'

This is echoed in paragraph 135 f) in the NPPF.

Principle 6 in the Housebuilders Design Guide SPD states that,

'Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.'

The closest dwelling to the proposed orangery is No. 10 Heaton Road. The gable end of No. 10 contains two non-habitable room windows. There would be a separation distance of approximately 13.8 metres between the north-west elevation of the proposed orangery and the gable end of No. 10. This separation distance exceeds the guidance in paragraph 7.19 of the SPD which states:

‘For two storey houses typical minimum separation distances are advised:

- *12 metres between windows of habitable rooms that face onto windows of a non-habitable room.’*

The proposed development is also only single storey in height, and as a result the proposed windows on the north-west elevation of the orangery would be screened by the proposed hedging along the shared boundary.

Given the separation distance between the side elevation of No. 8 and the gable end of No. 10, and the scale and height of the development proposed, it is considered that there would be no undue harm caused to the residential amenity of the occupants of No. 10 by way of outlook, daylight and privacy. No other residential dwellings would be affected by the proposals.

The proposals are therefore considered to be acceptable with regard to residential amenity and complies with Local Plan Policy LP24, paragraph 135 in the NPPF and Principle 6 in the SPD.

Conclusion

Planning permission is sought for the variation of condition 1 (plans) on previous application 2023/92859. The amended plans relate to the addition of an orangery on the rear elevation.

As discussed in the preceding paragraphs of this report, the amended plans are considered to be acceptable in respect of design and visual amenity, heritage impact and residential amenity. All other aspects of the development were considered acceptable and in accordance with national and local policy in the previous application.

The current plans are also considered to comply with all relevant policy, and it is therefore respectfully requested that planning permission for this S73 application is approved accordingly.

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