

Planning Committee

19 March 2015

Reference:
APP/14/01323

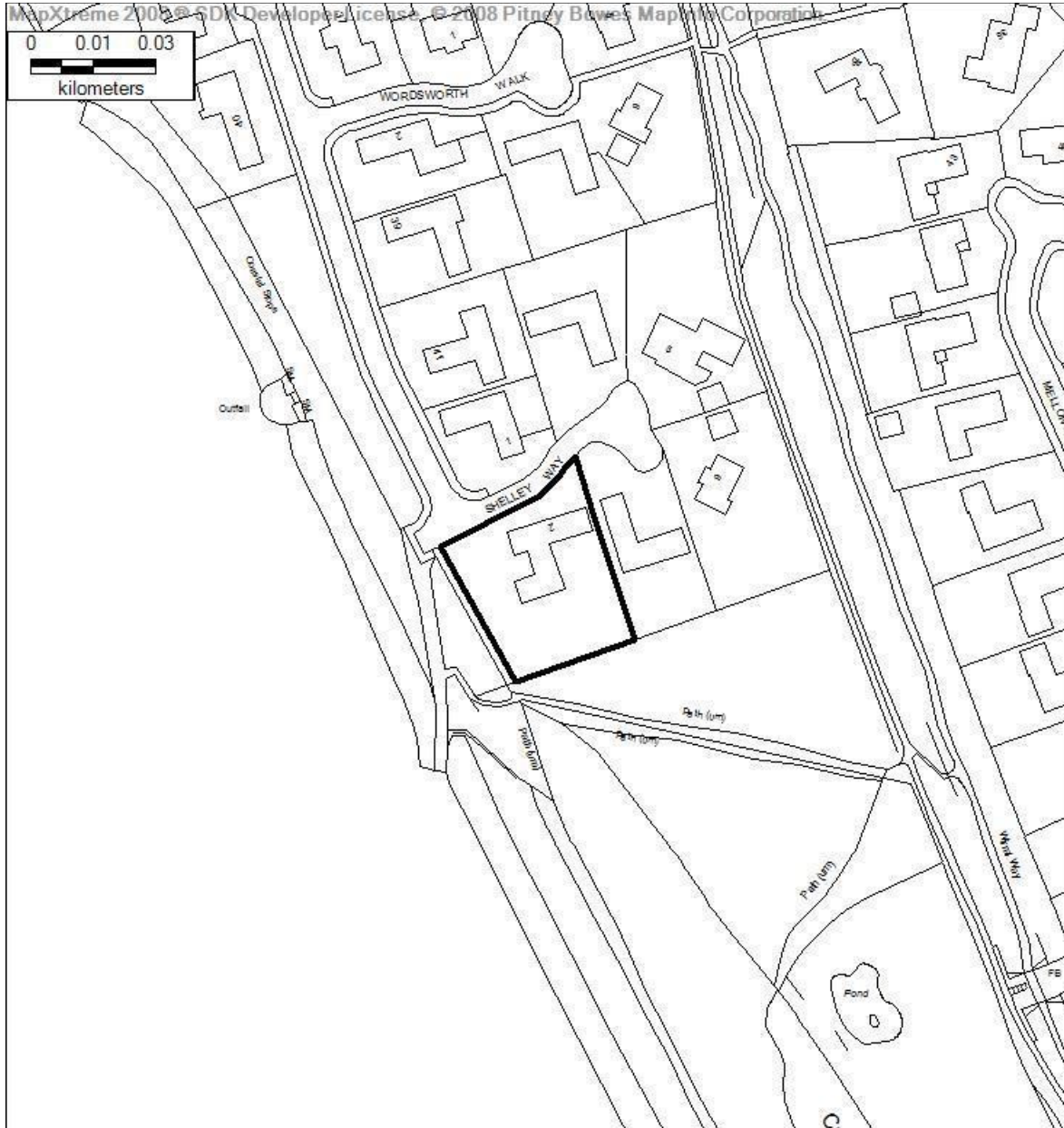
Area Team:
North Team

Case Officer:
Mrs MA Jackson

Ward:
**West Kirby and
Thurstaston**

Location: 2 SHELLEY WAY, WEST KIRBY, CH48 3LQ
Proposal: Erection of garden pavilion
Applicant: Mrs P David

Site Plan:



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Development Plan allocation and policies:

Green Belt
Area of Special Landscape Value
Primarily Residential Area

Planning History:

Location: 2 Shelley Way, West Kirby, Wirral, CH48 3LQ
Application Type: Full Planning Permission
Proposal: Erection of an extension.
Application No: APP/08/06020
Decision Date: 06/08/2008
Decision Type: Approve

Location: 2, Shelley Way, West Kirby. L48 3LQ
Application Type: Full Planning Permission
Proposal: Retention of a conservatory at rear.
Application No: APP/93/05989
Decision Date: 19/07/1993
Decision Type: Approve

Location: 2 Shelley Way, West Kirby, Wirral, CH48 3LQ
Application Type: Full Planning Permission
Proposal: Erection of single storey rear extension.
Application No: APP/05/06222
Decision Date: 22/07/2005
Decision Type: Approve

Location: 2 Shelley Way, West Kirby, Wirral, CH48 3LQ
Application Type: Full Planning Permission
Proposal: Erection of single-storey rear extension
Application No: APP/03/06168
Decision Date: 22/09/2003
Decision Type: Approve

Location: 2 Shelley Way, West Kirby, Wirral, CH48 3LQ
Application Type: Full Planning Permission
Proposal: Retention of 0.84 metre high fencing around front/side garden.
Application No: APP/00/06172
Decision Date: 03/08/2000
Decision Type: Approve

Summary Of Representations and Consultations Received:**REPRESENTATIONS:**

Having regard to the Council Guidance on Publicity for Applications 2 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report one objection has been received from 4 Shelley Way, listing the following grounds:

1. Occupants have views directly into their garden and bungalow.
2. Loss of privacy
3. Overlooking
4. intrusiveness

5. Overbearing
6. Out of scale and character
7. Loss of enjoyment of their garden

CONSULTATIONS

Head of Environment and Regeneration (Traffic and Transportation Division) - No objection

Director's Comments:

REASON FOR REFERRAL TO PLANNING COMMITTEE

The application was taken out of delegation by Councillor Watt for the following reasons:

The pavilion already constructed and sited close to the common boundary is of such a scale and height as to be overbearing and, because of its raised floor level, overlooks their private garden to the severe detriment of their residential amenity, all contrary to Policy HS11 of Wirral's Unitary Development Plan.

INTRODUCTION

The proposal is for the retrospective retention of a garden pavilion.

PRINCIPLE OF DEVELOPMENT

The principle of the development is acceptable subject to Policy HS11 and LA7 of Wirral's Unitary Development Plan, SPG11 and the provisions of the National Planning Policy Framework.

SITE AND SURROUNDINGS

The site comprises a detached single storey brick property in an area of similar design. The plot includes a large generous garden. A public footpath runs along the western side of the property. The dwelling is situated within a primarily residential area but is bounded to the south by the adopted green belt and an area of Special Landscape Value. The boundary to the south is a mature conifer hedge.

POLICY CONTEXT

The application property is located within a Primarily Residential Area. The proposal is assessed against the National Planning Policy Framework, which states that proposals should reflect good design as this is important in achieving sustainable development and should contribute positively to making places better for people.

The proposal relates to the erection of a garden pavilion whilst not in the Green Belt, but has Green Belt along the boundary therefore Policy LA7 is relevant. It is noted that Policy LA7 Criteria for Development at the Urban Fringe states "When considering new development at the edge of the urban area or in other locations which would be clearly visible from the open countryside, the Local Planning Authority will pay special regard to the visual impact of the proposals".

Wirral Unitary Development Plan Policy HS11 relates to house extensions and states that proposals should be designed in such a way as to have no significant adverse effect on the appearance of the original property the character of the area in general or impact on the amenities of the occupiers of neighbouring properties in particular through overlooking, or an adverse effect on the area in general.

APPEARANCE AND AMENITY ISSUES

The structure which consent is sought for consists of a circular timber pavilion with a tiled conical roof. The structure is located adjacent to the eastern boundary of the site 1.6m from the garden of 4 Shelley Way.

The structure is 2.58m in diameter with the height to the centre of the roof at 2.95m. The structure is predominantly timber with open sides and is set 0.6m above the ground. Class E of Part 1 of the

General Permitted Development Order, permits the erection of buildings and enclosures within the curtilage of a dwellinghouse which are required for purposes incidental to the enjoyment of the dwellinghouse, subject to limits on height and area. This means that the majority of garden structures such as sheds or greenhouses are permitted development. Excluded from this class of permitted development is the erection of a veranda, balcony or raised platform or buildings, enclosures and containers which are situated within 2m of a boundary and are more than 2.5m high.

It is arguable that the open nature of the structure is more akin to a veranda than a summerhouse and as such could not be permitted development even if located further from the boundary. At present the boundary between 2 and 4 Shelley Way consists of a post and rail fence and vegetation approximately 1m high. The pavilion has clear views into the garden and building of 4 Shelley Way and is clearly visible from this garden. This results in a loss of privacy and amenity to the occupants of 4 Shelley Way.

It is not uncommon that gardens can be bounded by fences of up to 2m in height, which are permitted development. The erection of a 2m fence along the boundary between 2 and 4 Shelley Way would remove the issue of overlooking and screen the bulk of the structure. The occupants of 4 Shelley Way have indicated that they would prefer the fence to remain at the current height and whilst this is beyond the control of the Council, it is possible that some form of screen to the pavilion would provide a more acceptable solution. In addition, if the structure becomes one which is predominantly enclosed, it would fall under the category of building which would be permitted development if sited 0.4m further away from the boundary with 4 Shelley way. In assessing the acceptability of the structure and its impact on the adjacent garden, the fall-back position of what could be erected as permitted development is a material consideration. Putting aside the matter of overlooking, the visual impact of the structure if located 0.4m further away from the boundary with 4 Shelley Way, as permitted development, would be little different.

The applicant has advised that they have green canvas screens which can be fitted to the sides and rear of the structure and left in place all year round. The retention of these screens could be secured by a condition and would provide a more acceptable solution to retain the privacy of 4 Shelley Way.

Views of the pavilion from the adjacent green belt land is limited due to the existing hedge, as such the pavilion is seen as a typical garden structure against a residential backdrop. There is no harm therefore, to the Area of Special Landscape Value.

SEPARATION DISTANCES

The issue of overlooking is as set out in the main body of this report.

HIGHWAY/TRAFFIC IMPLICATIONS

There are no Highway Implications relating to this proposal.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no Environmental/Sustainability issues relating to these proposals.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

Subject to the provision of screening, the proposal is not considered to have an adverse impact on the amenities which the occupiers of the neighbouring properties can reasonably expect to enjoy in terms of loss of privacy or outlook. The proposed extension is not considered detrimental to the character of the area or the character of the host dwelling. The proposal is acceptable in terms of scale and design, complies with the provisions of Policy HS11 of the adopted Wirral Unitary Development Plan, SPG11 and the provisions of the National Planning Policy Framework.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is considered acceptable in appearance and scale and is not considered to have any detrimental impact on the amenity of properties or the character of the area. The proposal is considered acceptable under the National Planning Policy Framework. - Requiring Good Design, HS11 - House Extensions and SPG11 and is therefore considered acceptable.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 13 February 2015.

Reason: For the avoidance of doubt and to define the permission.

3. Within one month of the date of approval, details of the screen to the side and rear of the pavilion shall be submitted to and agreed in writing with the Local Planning Authority. The approved screens shall be retained in place whenever the pavilion is in use.

Reason: To protect the privacy of the occupants of 4 Shelley Way in accordance with Policy HS11 of the Wirral Unitary Development Plan.

Further Notes for Committee:

Last Comments By: 27/11/2014 10:56:15

Expiry Date: 16/12/2014