

**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: 2017/62/92354/W

Site Address: 3, Albany Drive, Dalton, Huddersfield, HD5 9UR

Description: Erection of fence

Recommending Officer: William Simcock

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 18-Apr-2018

Officer Report

Site Description

3 Albany Drive is a large detached dwelling which has two road frontages – one to Albany Drive, a narrow cul-de-sac, and the other to Albany Road, from which vehicular access is taken.

On the Albany Drive frontage, where the land is higher, there is a low stone wall at the boundary and an evergreen hedge over 2m high. There is also a high hedge on the Albany Road frontage. The side boundaries are formed partly by high hedges, partly (on the east side) by a low stone wall separating it from the neighbour's driveway.

The area is mainly residential but with Kirkwood Hospice across Albany Road.

Description of Proposal

The proposal is for the erection of new fencing consisting of:

1. A timber fence 2.13m high on both road frontages and half the NE side boundary extending from Albany Road to the middle of the site, with a matching vehicular gate on the Albany Road frontage. The fence on the Albany Road frontage and driveway is to be built on top of the low stone boundary wall; to the Albany Drive frontage it is to be built behind the wall. But in each case the overall height above ground would be 2.13m.
2. A 1.8m mesh fence along the whole of the western side boundary and half of the eastern boundary, stopping where the existing fence ends.

History of negotiations/amendments received

The applicant was asked to provide an alternative design of fence made of timber only. The applicant proposed (02-Oct-2017) that the fence could be built without the metal top rail and metal parts could be given a permanent colour finish.

31-Dec-2017: Applicant submitted an amended elevation.

10-Jan-2018: Applicant confirmed that fence was to be all timber instead of composite.

07-Feb-2018: Applicant submitted revised site plan.

Relevant Planning History

None.

Representations

Final publicity date Expires: 05-Sep-2017

One letter of representation received, from occupant of 22 Albany Drive.
Concerns raised:

1. Not in keeping with the other properties on Albany Drive which all have hedges;
2. It will affect our light;
3. We do not object to the proposals for the front of the property.

The amended plans were not publicised as it was considered that they did not alter the principle of development.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

Police Architectural Liaison Officer – No response.

Highways Development Management (informal response) – No objections.

Policy

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The examination began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and without designation on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **T10** – Highway safety

Kirklees Publication Draft Local Plan (PDLP):

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 21** – Highway safety
- **PLP 24** – Design

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 7 – Requiring good design
- Chapter 8 – Building healthy communities

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 UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.

There are no UDP or PDLP policies specific to boundary fences but the proposal will be considered also having regard to Policies BE1-2 (development should be visually attractive and respect the character of its surroundings), and T10 (development should not create or materially add to

highway safety problems), as well as PLP24 and PLP21 in the PDLP which cover the same concerns.

Chapter 7 and Chapter 8 of the NPPF (in so far as it relates to protection from crime and fear of crime) are also relevant.

2 – Impact on visual amenity: The immediate neighbouring properties on Albany Drive, nos. 1 and 5, both have high deciduous hedges (approximately 2m) on the Albany Drive frontage. The other properties on Albany Drive mostly have very low stone walls and driveways open to the street. There are however examples of high timber fences being used to mark side boundaries. Nearby on Albany Road, no. 72 also has a high deciduous hedge on the highway boundary. There is a high stone wall opposite.

It is considered in principle that in this context the erection of a 2.1m solid fence to either or both street elevations would not be unduly harmful to the street scene or visual amenity.

Early on in the application process officers expressed concerns about the design of the fence, especially in its prominent use of metal. The design has been amended and the applicant has confirmed that it would be timber only.

To conclude, the fence and gates would therefore accord with the aims of Policies BE1 and BE2 and those of PLP24.

3 – Impact on residential amenity: The solid timber fences are only to be used on road boundaries or at the boundary to the driveway where they would not affect light to, or outlook from, neighbouring dwellings or gardens. It is therefore considered that the fences would not adversely affect residential amenity and would accord with the aims of Policy D2 and PLP24.

4 – Impact on highway safety: The footway is approximately 2.1m wide north-east of the vehicular access and 2.4m wide to the south-west. The access is splayed to the left (south-west) and the fence would stop about 3m short of the carriageway boundary on the north-east side. On the frontage it would be replacing an existing hedge of about 2m in height.

On the Albany Drive frontage there is no vehicular access and in any case a 2.1m fence would not obstruct visibility any more than the existing hedge.

Existing parking arrangements would not be affected.

It is therefore considered that the fence would not adversely affect highway safety and would accord with the aims of Policy T10, subject to a condition that the gates only open inwards so that they do not obstruct the highway when open.

5 – Other matters:

Crime and disorder:

The Police Architectural Liaison Officer has expressed objections to at least one similar proposal on the grounds that a solid fence 2m high or more prevents intervisibility between the house and the highway and therefore means a reduction in natural surveillance, which means that in theory it could have the effect of putting residents and the wider community at greater risk of crime and in greater fear of it.

In this case the proposed design would leave, at most, only very minimal gaps between the uprights which would probably not allow any effective surveillance. However, it is noted that the property is bounded on both street elevations by an evergreen hedge (Albany Drive) and an mixed evergreen and deciduous hedge (Albany Drive) of approximately 2m high or more. A fence, although more permanent, would not have any greater obstructive effect than the hedge. Furthermore, the property is not overlooked by dwellings on its Albany Road frontage and footfall is likely to be low, so an arrangement that allowed increased surveillance on this frontage would be of limited use.

It is considered that whilst a more permeable design might ideally be preferable, it would be difficult in the circumstances to substantiate a refusal on crime and disorder concerns, and that the proposal would not conflict with the aims of NPPF Chapter 8.

6 – Representations: Concerns relating to visual amenity have been examined in the main part of the assessment but are highlighted here together with other issues raised.

Not in keeping with the other properties on Albany Drive which all have hedges;

Response: This concern has been examined in part (3) of the Assessment above.

It will affect our light;

Response: This concern has been examined in part (3) of the Assessment above. It is noted that no. 22 is situated at a higher level than no. 3, and that since the fence is to the north of no. 3 it would not be in a position to affect direct sunlight.

We do not object to the proposals for the front of the property.

Response: Noted.

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 CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2017/92354

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan and PLP24 of the Publication Draft Local Plan.

3. Notwithstanding the details on part (11) of the application form, the fencing and gates shall be timber only.

Reason: In the interests of visual amenity and to accord with the aims of Policy BE1 and BE2 of the Kirklees Unitary Development Plan and PLP24 of the Publication Draft Local Plan.

4. New gates to the Albany Road frontage shall be hung so as to open inwards. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), any replacement gates shall be hung so as to open inwards.

Reason: So as to ensure that the gates do not obstruct intervisibility for emerging drivers and other highway users when open, or obstruct the public use of the footway, and to accord with the aims of Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the Publication Draft Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			08-Aug-2017
Location plan	01		08-Aug-2017
Typical elevation	03		08-Aug-2017
Front and rear elevations	03		03-Jan-2018
Proposed site plan	Fence outline (revised)		07-Feb-2018
Photographs showing	1-4		08-Aug-2017

Plan Type	Reference	Version	Date Received
computer-generated images of fence superimposed			

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 case officer requested that the applicant submit an alternative design for the fence in timber only. The applicant was able to confirm that only timber would be used and the application was determined on this basis.

DATE OF RECOMMENDATION:

18-Apr-2018