

**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: 2017/62/93848/W
Site Address: 25, Bishops Way, Meltham, Holmfirth, HD9 4BW
Description: Erection of fence to front
Recommending Officer: Julie Greatbatch

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 30-Jan-2018

Officer Report

Application: 2017/62/93848/W

Site Address: 25, Bishops Way, Meltham, HD9 4BW.

Site Description

The application relates to a large detached dwelling in a residential area of Meltham. The property is located at the edge of the estate, adjacent to the Durker Roods Hotel.

The existing house is stone built, with a concrete tiled roof and timber detailing. To the front of the property is a tarmac driveway with planted borders.

Within the curtilage of the property, in the north-west corner, is a stone built double garage with pitched roof. The garage doors face into the front driveway, with the gable end facing onto the highway, set back approximately 3.4m from the boundary.

The existing front boundary treatment comprises a hedge with 1.2m fence behind part of it, and an open entrance to the driveway.

Description of Proposal

The applicant seeks planning permission for the erection of a timber fence and gates to the front of the property. Planning permission is required as the proposed fence and gates are over 1.0m in height.

The proposed 'hit-and-miss' fencing will start at a height of 1.7m where it adjoins the boundary with the Durker Roods Hotel. It will carry on at this height for 1.7m before dropping down to a height of 1.25m across the front of the property and stepping back up to a height of 1.7m for the 5.3m in front of the garage gable.

The proposed pedestrian and vehicular gates will be incorporated within the lower section of the fence, and will be at a matching height of 1.25m. The vehicular gate will be set back 0.8m from the public pavement.

History of negotiations/amendments received

The application originally proposed a 1.8m fence, incorporating a 1.8m timber composite gate, across the full length of the front boundary. In the interests of visual amenity and highway safety, the applicant agreed to lower the fence and gate heights and to incorporate a more 'open' design of gate. A two week extension of time to determine the planning application was agreed in order to enable the submission and consideration of revised plans.

Relevant Planning History

No relevant planning history.

Representations

Final publicity date expired 27th December 2017.

One representation was received from a member of the public, objecting on the grounds that "the estate was built as open-plan".

Meltham Town Council submitted a similar objection to the original proposal, stating that "the visual appearance of the fence is not in keeping with the area which is 'open plan' in design and that fencing is an inappropriate means of enclosure in this area". The Town Council also stated that "there may be covenants in place which would prohibit the erection of fencing".

Consultation Responses

No consultations were required.

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 in Public 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 increased weight. At this stage of the Plan making process the

Publication Draft Local Plan is considered to carry 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 unallocated in the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

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

Kirklees Publication Draft Local Plan (PDLP):

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **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

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) 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. The site is also unallocated on the Local Plan and Policies PLP1 and 2 will therefore be considered.

2 – Impact on visual amenity:

As originally proposed, the fence and gate may have created an imposing physical and visual barrier, and could have had a negative impact on the character of the estate. However, the revised design reduces the overall scale of the fence and gate, and the more 'open' design of the gate further assists in reducing the visual impact. The overall length of the fence is broken down by setting the gate back 0.8m from the front boundary.

The fence is initially set at a height of 1.7m, aligned with that of the neighbouring property to the north. It then drops down to a height of 1.25m across the front of the application property, allowing clear views of the front of the house. The fence steps back up to 1.7m at a point aligned with the corner of the existing garage, thus not blocking any views in this area. The variation in height, as well as enabling more open views into and out of the property, also has the benefit of breaking down the overall scale of the proposed fence.

The proposed fence is not disproportionate in scale to the existing dwelling and front driveway, nor to surrounding properties. Other properties on the estate have fences of a similar height, as does the neighbouring Durker Roods Hotel.

The proposal would not compromise the visual appearance of the existing dwelling or the surrounding area. The proposal is thus considered to be compliant with Policies BE1, BE2, and D2 (criteria vi and vii) of the UDP and Policy PLP24 of the Publication Draft Local Plan.

3 – Impact on residential amenity:

The proposed fence does not directly face any other properties and does not adjoin any other homes. As such, it is not considered that there will be any impact on residential amenity.

The overall impact on residential amenity is, therefore, acceptable and compliant with policy D2 of the UDP and Paragraph 17 of the NPPF.

4 – Impact on highway safety:

As originally proposed, visibility may have been compromised both from the perspective of vehicles entering, emerging or passing the site and from that of pedestrians using the pavement.

The reduced fence and gate height, the more 'open' gate design, and the setting back of the gates from the site boundary all combine to reduce these risks to an acceptable level.

The amended proposal is thus considered compliant with Policy D2 (criterion iv) of the UDP.

5 – Other matters:

None.

6 – Representations:

Concerns regarding the impact on the visual 'openness' of the estate were raised by an objector and Meltham Town Council. These concerns are considered to be addressed by amendments to the plans – reducing the heights of the fence and gates, and incorporating a gate that is more 'open' in design. Given that other fences already exist on highway boundaries within the estate, it was not considered that the revised proposal would unacceptably impact upon the character of the neighbourhood.

Restrictive covenants, where they exist, are not a material planning consideration.

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: Approve

Decision Authorisation - Delegated Powers

Application Number: 2017/93848

Officer Recommendation: Full Conditional Permission

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 Policy D2 of the Kirklees Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.

3. The gates incorporated within the development hereby approved shall be of the 'Pembroke Entrance Gate' design manufactured by Gatewrights or similar in terms of style and shall be fixed to timber gateposts and shall be a maximum of 1.25 metres in height.

Reason: In the interests of visual amenity and to accord with Policy D2 of the Kirklees Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	-	-	14/11/2017
Proposed Plans	-	Revision A	22/01/2018
Proposed Elevations & Details	-	-	15/01/2018
Details of Pembroke Gate Design	-	-	17/1/2018

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 undertook negotiations with the applicant to secure amended plans in order to minimise the impact of the scheme on neighbouring properties.

Date of Report :

29/01/2018