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:	2018/62/91702/E
Site Address:	Birstall Primary Academy, Chapel Lane, Birstall, Batley, WF17 9EJ
Description:	Erection of external gate and fencing and demolition and reconstruction of of existing external steps (within a Conservation Area)
Recommending Officer:	Josh Kwok

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.

Julia Steadman

AUTHORISED OFFICER

Date: 26-Jul-2018

Officer Report

Site Description

The building to which this application relates is Birstall Primary Academy, Chapel Lane, Birstall. It consists of a number of single storey stone buildings with extensions and two playgrounds. The boundary treatment comprises stone walls, green paladin fencing and gates. The application site is adjacent to a combination of retail, office and residential premises

Description of Proposal

The proposal is for erection of external gate and fencing and demolition and reconstruction of existing external steps (within a Conservation Area). The details of the proposal shall be set out below.

- 2.5m deep x 1.0m high x 3.4m wide
- Handrail to be installed to both sides
- Steps to be constructed in natural stones
- Railing to be constructed in steel and powder-coated in green
- External gate to be 2.4m high and 1.2m wide
- Fencing to be 2.0m high

History of negotiations/amendments received

The applicant has requested that the design of the steps to be amended as per the drawings and plans received on 18-Jul-2018. The applicant has also request that the height of the fencing to be reduced to 2.0m to comply with the limitations set out in Class A of Part 2 of the Town and Country Planning (General Permitted Development) Order 2015. For clarification, the erection of fencing does fall within permitted development and as such the impact of which shall not be assessed in this assessment. The description of proposal has been expanded to include the erection of the 2.4m high external gate.

Relevant Planning History

99/92654 – Erection of 2.4m heras fencing and gates to part of boundary of school (Birstall County J&I School) – Approved

Representations

The application was advertised by site notices, neighbour letters and local newspaper, which expired on 18-July-2018. As a result of the above publicity, three representations have been received from the residents of the neighbouring property, who expressed the following concerns.

- The erection of fencing as proposed would deprive the right of access (protected by conveyance) of the neighbouring property on no.9 Chapel Lane
- The proposal would give rise to parking issues

Consultation Responses

KC Conservation & Design – some concerns in respect of the design of the handrail as it is unsympathetic to the school building, which is of a traditional design. There is also considered to be some adverse impact on the character of the conservation area.

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 49 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 (2018), 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 on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- D2 – unallocated land
- BE1 – design principles
- BE2 – quality of design
- BE5 – conservation area
- T10 – highway safety

Kirklees Publication Draft Local Plan (PDLP):

- PLP1 – achieving sustainable development
- PLP2 – place shaping
- PLP21 – highway safety
- PLP24 – design
- PLP35 – Historic environment

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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 8 – Promoting healthy communities
- Chapter 12 – Achieving well designed places
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

Principle of development

This application is for erection of 2.4m high external gate, 2.0m high fencing and the reconstruction of existing steps. The application 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]". Paragraph 94 of the NPPF is also of significant relevance in this case as it requires local planning authorities to give great weight to the need to create, expand or alter schools. In this case, the development proposal would help improve the health and safety of the staffs and students by creating DDA compliant external access and steps. It may therefore be appropriate in principle, provided that it complies with all other considerations specified in Policy D2 of the UDP, which shall be addressed later in this assessment.

The site is also situated within the Birstall Conservation Area. Section 72 of the
Listed Buildings & Conservation Area Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Policy BE5 of the Unitary Development Plan together with the guidance in chapter 16 of the NPPF. The Birstall Conservation Area does have a Conservation Area Appraisal, which identifies the character of the Conservation Area and the key elements which attribute to such character. The development proposal shall be assessed with reference to the details in the Conservation Area Appraisal and the relevant policies in the UDP and the PDLP.

Impact on visual amenity (including heritage consideration)

The erection of a 2.4m high gate facing Chapel Lane is not considered to impact on the appearance and the character of the school building nor the significance of the designated heritage asset over and above the existing

situation as there is already a 2.4m high fencing presented at the boundary of the school. Meanwhile, the gate is to be painted in green to match the fencing. The element is likely to be of a neutral impact on the street scene.

Concerning the reconstruction of steps, it would be of minimal impact on visual amenity as it would appear similar to the existing steps in terms of scale, material and design. Having said that, the design of the handrail would adversely impact on the character of the building in the Conservation Area as it would fail to respect the traditional appearance of the building. Nonetheless, it is not considered to be unduly detrimental in this particular case because a handrail of a similar design is already approved by virtue of application 2017/91063. For this reason, it would be difficult to resist the design of the handrail as proposed in spite of its potential negative effect on the designated heritage asset (ie. the conservation area).

In summary, the proposal would be of an acceptable scale and design and would be constructed in similar materials as existing. As such, it would have very limited impact on the visual amenity of the existing building and the wider street scene. Although there is a concern in respect of the design of the handrail, it is not considered to substantiate a reason for refusal in this case because of the planning precedence that is already established at the application site. Meanwhile, to support the development proposal would be consistent with the guidance in paragraph 94 of the NPPF. The proposal would therefore be acceptable in terms of visual amenity and heritage considerations, complying with the overall aims of policies D2, BE1, BE2 and BE5 of the UDP, policies PLP24 and PLP35 of the PDLP and chapters 12 and 16 of the NPPF.

Impact on residential amenity

The erection of a 2.4m gate would not adversely affect the amenity of any neighbouring occupants as it would not appear to be visually overbearing nor would it overshadow any properties in close proximity. Likewise, the reconstruction of steps is unlikely to impact on residential amenity because it is to be relatively small in scale and be located in a reasonable separation distance from any nearby properties. In terms of the 2.0m high fencing, it is permitted development in its own right and as such the impact of which is not to be assessed in this application.

In all, the development proposal would cause no adverse impact on the residential properties in immediate vicinity and as such would be in compliance with the aim of policies D2, BE1 and BE2 of the UDP and policy PLP24 of the PDLP

Impact on highway safety

There is considered to be no highway implications as a result of the proposals.

Other matters

Procedural matter

The design of the steps and the height of the fencing have been amended upon the request of the applicant. The application description has also been changed to include the erection of the 2.4m high external gate as shown on the submitted plans and drawings. It is not considered necessary to re-advertise such amendments as they are unlikely to cause any adverse impact over and above the original submission or to prejudice the rights of any individuals to comment on this application.

Permitted development

The erection of 2.0m high fencing adjacent to the neighbouring property on no.9 Chapel Lane is likely to cause a significant adverse impact on the occupants of this property. It would be oppressive when viewed from the habitable room windows in the side elevation of this property. However, as already noted in the history of negotiation section in this assessment, the erection of 2.0m high fencing constitutes permitted development, which does not require planning permission. Therefore, whilst the fencing in question is likely to result in some harm to these neighbours, it cannot be resisted in this case.

Representations

- The erection of fencing as proposed would deprive the right of access (protected by conveyance) of the neighbouring property on no.9 Chapel Lane
  Response: The right of access is not a planning matter. Having said that, an advice note can be added to the decision notice to clarify that the granting of planning permission does not overrule private legal rights of ownership and private rights of way.
- The proposal would give rise to parking issues
  Response: The applicant is responsible of managing the traffic associated with the construction work in such a way that help minimise the impact on highway safety and parking. The potential impact on parking during the construction period is not a planning matter in any case as it is of a temporary nature and hence not permanently affecting the amenity of the residents of the neighbouring properties.

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: 2018/91702
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 preserve the character and appearance of the Birstall Conservation Area in accordance with Policies D2, BE1, BE2 and BE5 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP35 of the Kirklees Publication Draft Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Elevations, site and location plans as existing	2018.011.PL01		01-Jun-2018
Elevations, site and location plans as proposed	2018.011.PL02	B	18-Jul-2018
Site plan as proposed	2018.011.PL03	A	18-Jul-2018
Heritage statement			01-Jun-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. In this case, the design of the steps and the height of the fencing have been amended upon the request of the applicant. The application description has also been changed to include the erection of the 2.4m high external gate as shown on the submitted plans and drawings.

With regard to the 2.0m high fencing, falls within the parameters of permitted development as set out in the Town and Country Planning (General Permitted Development) Order (2015) (as amended).

Report Dated: 23-Jul-2018