

**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: 2019/62/91349/W

Site Address: 77, Dean Brook Road, Netherthong, Holmfirth, HD9 3UF

Description: Formation of new gate opening in existing wall (within a Conservation Area)

Recommending Officer: Ellie Worth

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: 26-Jun-2019

Officer report

Site description

77 Dean Brook Road is a mid terrace property constructed from stone with a tiled roof. The property benefits from a driveway to the front and amenity space to the rear. Pedestrian access can be taken from the front and rear boundaries at the application site and vehicular access can be taken from the front boundary onto Dean Brook Road. Boundary treatment consists of stone walling to the rear. At the time in which the site visit was undertaken it was evident that the works to demolish part of the wall had been carried out.

The site and the wider area is dominated by residential properties, most of which are similar in design and form. Land levels fall within the wider vicinity from north east to south west.

The site is located within Netherthong/Deanthouse conservation area.

Description of development

The application is seeking permission for the formation of a new gate within an existing stone wall.

The gate will be 1.8m in height and 0.9m in width.

The design and access statement also states that the gate will be constructed from timber with a traditional design.

History of negotiations or amendments

No negotiations or amendments have been received during the course of the application.

Relevant Planning History

Various outline and planning applications submitted on the application site and no.s 79, 77 and 75 Dean Brook Road.

Representations

The application was advertised by site notice and neighbour notification letters.

Final publicity expires: 19th June 2019

As a result, no representations were received.

Holme Valley Parish Council: In support, subject to the gate being in a suitable material.

Consultation Responses

KC Environmental Health: No objections

KC Highway DM: No objections subject to a condition being attached to the decision notice regarding the gate opening inwards.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is located within Netherthong/Deanhouse Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety
- **LP24** – Design
- **LP30** - Biodiversity
- **LP35** – 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 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- **Chapter 12** – Achieving well design places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

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 highways
5. Other matters
6. Representations
7. Conclusions

1. Principle of development

The site is located within Netherthong/Deanhouse Conservation Area. Therefore, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of buildings or land within a Conservation Area. This relates to Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

Furthermore, LP35 states “development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm”. This harm will be assessed and discussed later in the report.

Alongside this, LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is also relevant and states that “good design should be at the core of all proposals in the district.

As such, the principle of development shall be assessed against other material planning considerations below.

2. Impact on visual amenity and the conservation area

The proposal is for the partial demolition of the rear boundary wall to allow for the formation of a new gate. The host property, as outlined above is within Netherthong/Deanhouse Conservation Area.

The application site is also situated within a residential area, whereby the neighbouring properties are of a similar age, style, size and materials.

At the time in which the site visit was undertaken it was evident that work had begun to partially demolish the wall to allow for the proposed gate.

The details for the proposed gate have not been submitted as part of this application. However, the design and access statement states that the maximum height of the gate will be 1.8m and that it will be constructed from

timber with a traditional design. Whilst the absence of specific design details for the gate is not ideal, it has been noted that the proposal would be located to the rear of the host property and would only serve pedestrian access, therefore being small in scale. It has also been assessed that the host property is part of a row of modern properties and therefore any harm on visual amenity on balance can be supported. The use of timber for the gate is considered to be acceptable and will be conditioned as such.

Notwithstanding this, it has been noted that there are no other examples of timber gates within the close vicinity.

Having taken into account the above, it has been assessed that the proposal would result in small scale demolition and therefore will not have any detrimental harm on the setting of the conservation area. As such, the proposal has been considered acceptable and complies with the aims of LP24 and LP35 of the KLP and Chapter 12 and 16 of the NPPF.

3. Impact on residential amenity

Given the nature and location of the proposal, it has been assessed that there would be no undue harm on the amenities of the neighbouring properties in regards to overbearing and overshadowing.

As a result, the proposal complies with LP24 from this perspective.

4. Impact on highway safety

KC Highways DM have been informally consulted as part of this proposal. Raising no objections as the proposal is for pedestrian access.

It has also been assessed that there would be no concerns with visibility for the uses of the highway.

Nonetheless, a condition will be attached to the decision notice which states that the gate will opening inwards to avoid any detrimental harm to the operation of the highway. As such, the proposal complies with LP21 of the KLP.

5. Other matters

Bats

Whilst the property is sited in area which is known to include bat habitats, in this instance, the works proposed are considered unlikely to have an impact on the bat population. The proposal would comply with the aims of Chapter 15 of the NPPF.

Contaminated land

KC Environmental Health were informally consulted as part of this application as the application site is located on contaminated land. However, given the nature of the proposal and the fact that the work had already been undertaken, the officer raised no objections.

6. Representations

None received

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 materials considerations. It is considered that the development would constitute to sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/91349

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, to preserve the character and appearance of the Netherthong/Deanhouse Conservation Area, and to accord Policy LP1, LP2, LP21, LP24 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The gate hereby approved shall be constructed from timber in accordance with the submitted information and shall thereafter be retained with this finish.

Reason: In the interests of visual amenity to preserve the character and appearance of the Netherthong/Deanhouse Conservation Area and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

4. The gate hereby approved shall be hung as to only open inwards within the application site, such arrangements shall be retained thereafter.

Reason: In the interests of highway safety, to avoid the need for vehicles to wait in the highway and in accordance with LP21 of the Kirklees Local Plan.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan	-	-	03.05.19
Photograph with elevations and measurements	-	-	03.05.19
Photograph showing actual width of widening the existing wall and the width of the gate opening	-		03.05.19
Conservation/heritage statement	-	-	03.05.19

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 instance, the application was considered acceptable in its submitted form and no amendments were sought.

Report Dated: 26.06.19