

**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:** 2019/62/94131/E

**Site Address:** 3, Howard Street, Batley, WF17 6AA

**Description:** Change of use of land to domestic garden

**Recommending Officer:** Jennifer Booth

**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: 17-Feb-2020**

## **OFFICER REPORT**

### **Site Description**

The application site is an area of the land to the south of the garden associated with no.3 Howard Street in Batley. This is adjacent to a garage block to the east and a modern pair of semi-detached properties to the west. There is an access road to the south of the site which provides access from Skipton Street to the garage area.

### **Description of Proposal**

The applicant is seeking permission for the change of use of the land to extend the garden area of 3 Howard Street.

### **Relevant Planning History**

None

### **Representations**

The application was advertised by site notices and neighbour letters, which expired on 13/02/2020

As a result of the above publicity, no representations have been received.

### **Consultation Responses**

None

### **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 27<sup>th</sup> February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map

On 12<sup>th</sup> November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and

guidance documents to embed the climate change agenda under other matters.

### **Kirklees Local Plan Policies**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 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 19<sup>th</sup> February 2019, and the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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-designed places

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Negotiations
- 7) Conditions
- 8) Conclusion

#### **1 – Principle of development:**

The site is without notation on the Kirklees Local Plan (KLP). Policy 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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

These issues along with other policy considerations will be addressed below.

## 2 –Impact on visual amenity:

The site currently comprises of an area of land that is enclosed by residential dwellings and garages which is accessed off Skipton Street and set down from the properties on Howard Street. Therefore, this is not prominent within the wider area. Given the unkempt nature of the site and its location, it offers little amenity value to the wider area. As such, its re-use as part of the garden area of 3 Howard Street would have no significant impact in terms of the street scene. At the time of the site visit, a white painted timber fence was in situ which does appear to have been there for some time. There are a variety of boundary treatments within the surrounding area, it is therefore considered that although this is not ideal, it would be satisfactory in terms of visual amenity.

### *Summary*

Having taken the above into account, the proposal the change the use of the existing land would not cause any significant harm to the visual amenity of either the associated property or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and the aims of chapter 12 of the National Planning Policy Framework.

## 3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

Given the nature of development proposed, it is not considered to give rise to any adverse material impacts upon the amenity currently enjoyed by the occupiers of neighbouring dwellings. In addition, the proposal would provide the host dwelling with additional amenity space.

### *Summary*

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of promoting good design by minimising the impact on residential amenity of neighbouring occupiers as well as Paragraph 127 (f) of the National Planning Policy Framework.

## 4 – Impact on highway safety:

The land is currently adjacent to the garage site to the rear of the properties on Howard Street although this area is enclosed and appears to have been for some time. Given the nature of the proposal, this would the proposal lead

to a requirement for any additional parking. The scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan.

#### 5– Other matters:

##### *Carbon Budget*

The proposal is a small scale domestic development in association with an existing dwelling and requiring of no building operations. As such, no special measures were required in terms of the planning application with regards to carbon emissions.

##### Permitted Development Rights

It is considered to be appropriate to include a note bringing to the attention of the applicant that the granting of planning permission does not confer any permitted development rights on the land as this does not extend the curtilage of the dwelling, it only allows the use of the land as a domestic garden associated with 3 Howard Street.

There are no other matters considered relevant to the determination of this application.

#### 6 – Representations:

None

#### 7 – Negotiations:

None

#### 8 – Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

It is considered to be appropriate to attach a footnote setting out that the granting of planning permission does not confer any permitted development rights on the land as this does not extend the curtilage of the dwelling, it only allows the use of the land as domestic garden associated with 3 Howard Street.

## 9 – Conclusion:

This application to change the use of land to the rear of 3 Howard Street to garden has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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.

As set out above, 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:** 2019/94131

**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 Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

**NOTE:** The grant of planning permission does not confer any permitted development rights relating to the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) within Classes A through E of Part 1 of Schedule 2 to that Order on the land.

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

Plans and specifications schedule: -

| Plan Type     | Reference | Web ID | Date Received |
|---------------|-----------|--------|---------------|
| Location plan | 01        | 787745 | 23/12/2019    |

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 Planning 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. As the submitted plans were considered to be acceptable, no amendments / further information was sought during the course of the application.

**Report Dated**

14/02/2020