# 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:** | 2020/62/92303/W |
| **Site Address:** | Oakwood House, 2, Hungerford Road, Edgerton, Huddersfield, HD3 3AL |
| **Description:** | Erection of perimeter fence on existing wall (Listed Building within a Conservation Area) |
| **Recommending Officer:** | Laura Yeadon |

**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.**

Kevin Walton

***AUTHORISED OFFICER***

**Date: 29-Jan-2021**

**Officer Report**

**https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92303**

**Site Description**

2 Hungerford Road is a Grade II Listed Building which is a detached two storey dwelling in extensive grounds currently occupied as a children's nursery. The entrance gate posts on Hungerford Road are also Grade II listed and attached to one of these is a stone wall which runs along the boundary of both Hungerford Road and Halifax Road. The site is also with the Edgerton Conservation Area. Surrounding development comprises of large Victorian villas set within extensive grounds.

**Description of Proposal**

Permission is sought for the erection of a perimeter fence on the existing wall. The application has been submitted retrospectively.

The fence is located along the permitter wall at a height of 0.82 metres above the existing wall and extends along the boundary with Halifax Road and also along Hungerford Road to the gate posts. It is also proposed to erect the fencing along the shared boundary with the neighbouring property to the north.

The fence is currently natural wood and correspondence has been received indicating that it would be finished in either a dark green or black colour.

An application for Listed Building Consent has also been submitted under application 2020/92092 and runs concurrently with this application.

**History of negotiations/amendments received**

Following receipt of the consultation response, the applicant was asked to provide details of the public benefits of the proposal to outweigh the harm of the development on the listed features of the site. Also accurate lengths of the fence were requested. In response, the applicant has provided further details which form part of the consideration of the proposal.

**Relevant Planning History**

| | |
|---|---|
| 1997/90600 | Change of use of students residences to offices |
| | Conditional Full Permission |
| 1998/90311 | Erection of access ramp and stairs (Listed Building within a |

| | |
|---|---|
| | Conservation Area) |
| | Conditional Full Permission |
| 1998/90061 | Listed Building Consent for internal alterations to form offices, removal of partitions, formation of toilets and external ramp access (within Conservation Area) |
| | Consent Granted |
| 2009/90246 | Change of use from office to single dwelling (Listed Building within a Conservation Area)<br>Conditional Full Permission |
| 2009/93477 | Change of use from Offices to day care nursery (Listed Building within a Conservation Area) |
| | Conditional Full Permission |
| 2009/93478 | Listed Building Consent for alterations (within a Conservation Area) |
| | Consent Granted |
| 2011/93190 | Works to TPO HU1/71 within a Conservation Area |
| | Granted |
| 2013/91919 | Dead or Dangerous Tree(s) |
| | Noted |
| 2015/92287 | Dead of Dangerous Tree(s) |
| | Noted |
| 2020/91717 | Dead or Dangerous Tree(s) |
| | Noted |
| 2020/91784 | Work to TPOs HD1/71 within a Conservation Area |
| | Part Granted/Part Refused |
| 2020/92092 | Listed Building Consent for the erection of a perimeter fence |
| | Not yet determined - runs concurrently to this application |

**Representations**

We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, site notice and newspaper advertisement.

Final publicity date expired 11th September 202- one letter of representation received with the following being a summary of comments:

- Fence increases boundary by 84 cm and applicant claims 61 cm and therefore mis-represented the alterations
- New fence is an eye sore and not in keeping with the host listed building, other buildings and boundaries fronting the highway in the area and in general the Conservation Area
- No other properties within the Conservation Area with frontages along Halifax Road or Hungerford Road that have such a fence
- Granting permission would set a dangerous precedent
- If necessary to erect a fence it should be within the grounds, set back from the wall in order to contain the children away from the wall – fence set back would not be visible from the highway and would have little impact in terms of the listed building and Conservation Area

Parish/Town Council comments – not applicable

**Consultation Responses**

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

K.C. Crime Prevention – no objection – advise recommendations in relation to further fencing, hates and CCTV

K.C. Conservation and Design – initial comments required additional details and clear public benefits along with any mitigation measures that could be put in place to outweigh the harm. Following the receipt of additional information, justification has been received and are acceptable subject to the fence being painted a dark colour and a condition relating to removal of the fence if not required

**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 a Grade II Listed Building and the gate posts are also listed and the site is also within the Edgerton Conservation Area within the Kirklees Local Plan.

The listing descriptions are as follows:

Oakwood:

*Mid C19. Hammer dressed stone. Ashlar dressings. Hipped slate roof. 2 storeys. Bracketed eaves cornice. Strings. 4 ranges of round-arched sashes, paired on 1st floor, with foliage capitalled colonnettes, moulded voussoirs and keystones. Ground floor windows have moulded surrounds and raised frames with dentilled and modillioned cornices, foliage panels and spandrels. 2 left-hand bays break forward. Porch in re-entrant angle, with 9 pink granite columns on raised bases connected by openwork balustrade, moulded voussoirs and elaborately carved keystones dentilled and modillioned cornice, open balustrade with carved piers and moulded cornice. 4 steps up with quadrant-shaped retaining walls carrying gadrooned and sculpted urns. Door with 4 moulded panels, semi-circular fanlight, moulded surround with colonnettes with foliage capitals. North front similar: 3 ranges with canted ground floor bay at right hand: panelled plinth, piers with foliage capitals, entablature and parapet as porch. Interior. Full height top-lit hall with bracketed cornice, some plaster decoration, patterned floor of very brightly coloured tiles and staircase with elaborate newels and bulbous balusters with foliage stems. One room with particularly fine plaster ceiling.*

Gate piers:

Mid C19. 2 pairs. Ashlar. Chamfered corners. Conical moulded caps.

**Kirklees Local Plan:**

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 24** – Design
- **LP 35** – 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-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- 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 and the Listed Building and Conservation Area
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 Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

"The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

In this case, it can be stated the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity, highway safety, Conservation Area and the Listed Building.

The site is within the Edgerton Conservation Area. Section 72 of the Listed Buildings & Conservation Areas 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 Chapter 16 of the National Planning Policy Framework and also LP35 of the Kirklees Local Plan.

As stated above, the building is a Grade II Listed Building. Section 66 of the Planning (Listed Building & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects a listed building or its setting the Local Planning Authority should shave special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. This is also reiterated within Policy LP35 of the Local Plan.

2 –Impact on visual amenity and the listed building and Conservation Area:

In terms of the impact of the fence on visual amenity, the fence is a total height of 0.82cm above the existing boundary wall along the boundary with Hungerford Road and Halifax Road. It is also proposed that the fence would be located along a section of the northern boundary of the site which is the shared boundary with No. 7 Halifax Road. The fence is currently untreated

timber and is proposed to be painted a dark green or black. Due to its location, the fence is clearly visible from public vantage points from the busy Halifax Road and from Hungerford Road.

In terms of the impact on visual amenity, the Listed Building and the Edgerton Conservation Area, Conservation and Design Officers were formally consulted regarding the development and consider that in terms of the villa, the fence would not cause harm to the setting of the villa itself due to the extent of the mature planting between the wall and house however it does have an impact on the character of this part of the Conservation Area and the listed boundary wall.

In the terms of paragraph 193 of the NPPF it is considered that the fence would cause less than substantial harm to the significance of the wall by introducing a tall and highly visible, almost solid structure on top of the listed wall and detracts from the good quality, particularly tooled copings and the leafy character of the suburb. It is not considered to cause substantial harm at no part of the historic structure is being lost. Paragraph 194 of the NPPF requires clear and convincing justification for any harm to the significance of a designated heritage asset, and paragraph 196 requires this harm to be weighed up against the public benefits of the proposal. LP35 requires proposals to maintain local distinctiveness and preserve and enhance the significance of heritage assets.

As such, details of the public benefits of the scheme were requested from the applicant, along with any mitigation measures that could be put in place if the benefits do outweigh the harm. Clarification of the length and height of the fence was requested.

In response, the applicant submitted additional information into the requirement of the fence and also clarification of the length of the fencing. This information was assessed by the Conservation and Design Officer. The Officer considered that the applicant has provided justification for the fence and explained that alternatives were explored and disregarded for security reasons due to the proximity of the mature trees behind the wall. It is considered that the justification put forward justifies the intervention of the fence and the public benefits outweigh the harm in this instance. However it was requested within the response that the fence is painted a dark colour which allows it to blend into the background and also that if the building changes use and the fence is no longer required it is removed. In response the Applicant has suggested a dark green or black coloured finish It is considered a black colour would be too strident in the streetscene and a general dark green may lack contrast between the backdrop of vegetation and a solid structure. It is considered a colour between a dark green/brown would be more acceptable. RAL 6008 is considered more appropriate.

It is therefore considered that with the change of colour of the fence, justification has been submitted to outweigh the harm to the listed boundary wall and therefore has an acceptable impact on visual amenity the listed features of the wall and host listed building and on the Edgerton Conservation

Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

3 – Impact on residential amenity:

In terms of residential amenity the property has shared boundaries with a dentist, medical centre and a large residential dwelling to the west. Facing the location of the fence is a large detached building which is used as office space. As such, in terms of residential properties, the proposal would have little impact on the amenity of residential dwellings. The neighbour to the west of the application site sits approximately 30 metres from the fencing that abuts the gate post which is considered to be acceptable. As such, the application is considered to be acceptable in terms of residential amenity which would be compliant with Policy LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

4 – Impact on highway safety:

At the junction of Hungerford Road and Halifax Road the fence is chamfered so as to not obscure the signage for the nursery/school. As such, the fence has limited impact on highway safety from the main road junction. As such, the proposal is acceptable from a highways perspective.

5 – Other matters:

*Climate Change* - On 12th 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. The fence is constructed from timber and is a natural material and therefore would not be of detriment to climate change initiatives.

6 – Representations:

One letter of representation has been received with the following being a summary of comments and LPA response:

- Fence increases boundary by 84 cm and applicant claims 61 cm and therefore mis-represented the alterations

Response: The applicant has confirmed the total height of the fence to be 82cm

- New fence is an eye sore and not in keeping with the host listed building, other buildings and boundaries fronting the highway in the area and in general the Conservation Area

Response: This has been addressed within the visual amenity section of this report

- No other properties within the Conservation Area with frontages along Halifax Road or Hungerford Road that have such a fence

Response: Noted

- Granting permission would set a dangerous precedent

Response: Each application is considered on its own merits against current local and national planning policy

- If necessary to erect a fence it should be within the grounds, set back from the wall in order to contain the children away from the wall – fence set back would not be visible from the highway and would have little impact in terms of the listed building and Conservation Area

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** **APPROVE**

**Decision Authorisation - Delegated Powers**

**Application Number:** 2020/92303

**Officer Recommendation:** Approve

**Conditions**

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 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 host listed building, listed wall and wider Conservation Area of the development on completion, and to accord with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

3. Within 6 months of the date of this permission, the fence shall be painted with a dark brown equivalent to colour RAL 6008 as defined in the RAL colour chart. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order), the fence colour shall be so retained thereafter.
**Reason:** In the interests of visual amenity and to ensure the significance of the listed structures are retained and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

4. The hereby approved fence and associated works shall be removed in its entirety within a period of 3 months form the date when the property ceases to be occupied by a children's day nursery or school establishment.
**Reason:** In the interests of visual amenity and to ensure the significance of the listed structures are retained and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location plan | | | 20th July 2020 |
| Proposed layout plan | | | 20th July 2020 |
| Proposed elevations | | | 20th July 2020 |
| Heritage Statement | | | 20th July 2020 |
| Photographs | | | 20th July 2020 |

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. Following receipt of the consultation response, the applicant was asked to provide details of the public benefits of the proposal to outweigh the harm of the development on the listed features of the site. Also accurate lengths of the fence were requested. In response, the applicant has provided further details which form part of the consideration of the proposal.

**Report Dated:** 26th January 2021

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