

**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:	2021/62/94122/E
Site Address:	rear of, 19, Howard Street, Batley, WF17 6AA
Description:	Change of use of land to domestic garden
Recommending Officer:	Olivia Roberts

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.

Emma Thompson

AUTHORISED OFFICER

Date: «Current_Date»

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Officer Report

Site Description

The application relates to a small piece of land to the rear of 19 Howard Street. The land forms part of a larger grassed area which is located to the rear of the properties on Howard Street, fronting onto Howard Place and adjacent to an electric substation.

The surrounding area is residential in nature. The properties within the vicinity of the site vary in terms of their house type, style and design.

Description of Proposal

The application seeks planning permission for the change of use of the land to domestic garden associated with 19 Howard Street.

History of Negotiations/Amendments Received

No information has been submitted as part of the application regarding the boundary treatment proposed for the additional area of garden space. Clarification was sought from the applicant who confirmed that the boundary treatment would comprise a wooden picket fence, not exceeding 3ft (0.91m) in height. As the boundary treatment would not exceed 1m in height, planning permission in its own right would not be required. As such, this element has not been added to the description of the proposal and has not been advertised in this particular case.

Relevant Planning History

No relevant planning history at the application site or neighbouring properties.

Representations

The application was advertised by neighbour letters which expired on 14th December 2021. As a result of this publicity, no representations have been received.

Parish/Town Council comments: not applicable.

Consultation Responses

No consultations were considered necessary during the course of the application.

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 unallocated on the Kirklees Local Plan.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 51 – Protection and improvement of local air quality

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, and 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 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Supplementary Planning Documents:

Kirklees Council has recently adopted its supplementary planning guidance on house extensions which is now being considered in the assessment of

householder planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPG will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

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 highway safety
- 5) Other matters
- 6) Representations
- 7) 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 The House Extensions and Alterations Supplementary Planning Document (SPD) and Chapter 12 of the NPPF, regarding design. Whilst the proposal does not involve extensions and alterations directly to 19 Howard Street, it does comprise an extension to its existing amenity space and as such, the application of the House Extensions and Alterations SPD is considered relevant.

The area of land is unallocated on the Kirklees Local Plan and is not subject to an assigned purpose, use or environmental designation. As such, the change of use of the land to domestic garden is considered acceptable in principle. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

2 – Impact on visual amenity:

The application relates to the change of use of an existing piece of land to domestic garden. The land is not assigned a particular designation or use and is not considered to contribute significantly to the visual amenity of the wider area, with the land located to the rear of existing residential properties. Given the residential nature of the area, its use as domestic curtilage is considered appropriate and would not result in harm to the appearance or character of the street scene or wider area. It is noted that a section of the larger grassed area would be retained.

The applicant has confirmed that the boundary treatment would comprise a low level wooden, picket fence. Whilst, due to its height not exceeding 1m, planning permission would not be required for this element, the impact on the visual amenity of the street scene is considered acceptable as it is noted that there are some areas of fencing within close proximity of the site.

Having taken the above into account, the proposal would not cause any significant harm to the visual amenity of the wider street scene, complying with Policy LP24 of the KLP (a) and (c), Key Design Principles of the House Extensions and Alterations SPD and the aims of Chapter 12 of the NPPF.

3 – Impact on residential amenity:

The area of land that is subject to the application is located to the rear of the properties adjoining 19 Howard Street and as such, is not considered to impact on their amenity. The change of use would extend the existing amenity space of 19 Howard Street closer to the properties on Howard Place. The area to the front of these properties is relatively open and it is noted that their private amenity space is located to the rear. It is considered that sufficient distance would be retained between the additional area of amenity space and these properties to prevent harmful overlooking towards the openings in their principal elevation. The distance retained, along with the height of the proposed boundary treatment, would prevent any overbearing or overshadowing.

Having considered the above factors, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants, thereby complying with Policy LP24 of the KLP (b), Key Design Principles of the House Extensions and Alterations SPD as well as Paragraph 130 (f) of the NPPF.

4 – Impact on highway safety:

The proposed development would not result in an intensification in the domestic use of the dwelling that would require the provision of additional parking. Furthermore, the provision of additional domestic garden would not affect the existing bin storage and collection arrangements at the site. Whilst the rear of the extended garden would front onto the highway (Garden Place),

the applicant has confirmed that the boundary treatment would comprise a wooden picket fence not exceeding 3ft (0.91m). When taking this into consideration, aided by the fact that the fencing would not be located immediately adjacent to a junction or driveway entrance, it is considered that the proposal would not represent additional harm in terms of highway safety complying with Policies LP21 and LP22 of the KLP as well as Key Design Principles 15 and 16 of the House Extensions and Alterations SPD.

5 – Other matters:

Carbon Budget

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 predates 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 proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Ownership of the Land

The application has been accompanied by Certificate B, in which the applicant has certified that notification has been served on the current owner of the land, Kirklees Council. The applicant has also submitted a copy of correspondence with KC Disposals and Acquisitions, in which they raised no objection to the proposal. As such, they have not been consulted as part of the application.

6 – Representations:

No representations have been 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 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: 2021/94122

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 Policies LP1, LP2, LP22 and LP24, of the Kirklees Local Plan, Key Design Principles of the House Extensions and Alterations Supplementary Planning Document and the aims of the National Planning Policy Framework.

NOTE: Please note that the granting of planning permission does not override any private 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 may involve access to land outside your ownership.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays 08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	-	-	29/10/2021
Email Correspondence with Disposals and Acquisitions	-	-	29/10/2021

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. Clarification was sought from the applicant regarding the proposed boundary treatment. The applicant confirmed that this would comprise a wooden picket fence not exceeding 3ft (0.91m) in height.

Report Dated:

18/02/2022
