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:	**2022/62/92393/W**
Site Address:	The Sun, 137, Highgate Lane, Lepton, Huddersfield, HD8 0HJ
Description:	Installation of decorative metal gates to garden area
Recommending Officer:	William Simcock

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.

Stuart Howden

AUTHORISED OFFICER

Date: 6th September 2022

The Sun, Highgate Lane, Lepton

Site Description

The Sun is a two-storey building on the junction of Rowley Lane and Highgate Lane (essentially a corner plot) in use as a drinking establishment. The original building, built in stone with a slate roof, is two-storey with a double-pitched roof, and has its main elevation facing south-east towards Rowley Lane, with a flat-roofed two-storey extension and further single-storey structures to the rear, and single storey extending element adjacent to Highgate Lane. The land within the curtilage to the north-west and towards the rear corner is in use a customer seating area. The surroundings of the inn are mostly residential, although the immediate neighbouring building on Highgate Lane (to the rear) is a general store, and there is some landscaping and a tarmac and concrete area providing informal car parking opposite the site.

Description of Proposal

The proposal is a retrospective one for the erection of decorative metal gates on the Highgate Lane frontage. The gates fill in a gap that formerly existed between the highway boundary wall / fence (mortared stone topped by an ornamental black-painted timber fence) and the old single-storey part of the building. The gates are in black-painted metal and are 2.5m high from ground to their highest point (the top of the ornamental scroll), the opening parts being 2m high.

History of negotiations/amendments received

None.

Relevant Planning History

None.

Representations

Final publicity date expires**:** 24-Aug-2021 (publicity by neighbour letter only in accordance with the requirements of the Development Management Procedure Order)

One representation received from a third party (which is anonymous with no address included). The response notes that this third party does not object to the gates in principle but objects to the fact that they have been erected in advance of planning permission being obtained.

Consultation Responses

Kirkburton Parish Council – No comment.

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 without designation on the Local Plan.

Local Plan:

- **LP 1:** Achieving Sustainable Development
- **LP 2:** Place Shaping
- **LP 21:** Highways and Access
- **LP 24:** Design
- **LP 30:** Biodiversity and Geodiversity
- **LP 48:** Community Facilities and Services
- **LP 51:** Protection and Improvement of Local Air Quality

Supplementary Planning Documents:

- KC Highways Design Guide 2019

Kirklees Council has adopted supplementary planning guidance on house extensions which now carries full weight in decision making. 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 SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

The following two documents have also recently been approved by Cabinet and these can be viewed at: https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx

- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

These documents can also be viewed in G:\Planning\SPDs & Guidance Notes.

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, 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 4** – Decision-Making
- **Chapter 6** – Building a Strong, Competitive Economy
- **Chapter 8** – Promoting Healthy and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 12** – Requiring good design
- **Chapter 14** – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity (including any heritage considerations)
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters – e.g. trees/ecology (e.g. bats)
5) Representations
6) Conclusion

1 – Principle of development:

NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Chapter 8 of the NPPF and Policy LP48 of the KLP look to support community facilities, which include public houses. The site is without designation in the Local Plan. Thus, the proposal could be acceptable in principle, but this is subject to other considerations which shall be discussed below.

2 –Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states:

"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

Policy LP24 states that proposals should promote good design by ensuring:

"a. the form, scale, layout and details of all development respects and enhances the character of the townscape…"

The gates are somewhat higher than the solid fence to their left but are only marginally above the eaves height of the single-storey structure to their right and appear subordinate to the building as a whole. Whilst high and within a very prominent position within the public domain, it is considered they do not appear stark given the existing boundary treatment and that it consists of railing rather than a blank wall.

It is considered that the height, design and finish colour of the gates, in this context, harmonises with the appearance of the existing building and pre-existing boundary treatments, and does not adversely affect local character.

The development thereby accords with the aims of Policy LP24(a) of the Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity: The installation of the gates does not in itself involve an intensification of the site and it is therefore considered to have no implications for noise or disturbance to surrounding residential properties.

It is considered that the gates, by reason of their position and nature, do not cause harm to residential properties by reason of loss of light or adverse impact on outlook.

It is therefore considered that the development is neutral in its impact on residential amenity and complies with the aims of Policy LP24(b) of the Kirklees Local Plan and paragraph 130(f) of the NPPF.

4 – Impact on highway safety: The gates are designed so that they can open inwards or outwards. The gates can therefore be opened without obstructing the footway or carriageway, and do not affect intervisibility for highway users. Based on the layout of the site, which has a large hard-surfaced area open to

the street on the Rowley Lane frontage, it would appear that the gates do not interfere with vehicular access for servicing or deliveries. In conclusion, the gates, are considered to have a neutral effect on the safe and convenient use of the highway and accord with the aims of Policy LP21 of the Kirklees Local Plan and Chapter of the NPPF

5 – Other matters:

Biodiversity:
The site is in the bat alert layer. Based on the nature and scale of the development, and its relationship with the existing building, it is very unlikely that it has had any impact on any structures with bat roost potential, or that it has had any other ecological impacts. The standard precautionary note will be added to the decision notice.

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.

In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development helps to address or combat climate change effects. As the development is for an enhancement of an existing use with no new build, it is considered that the applicant in this case does not need to demonstrate further measures to combat climate change. The development is deemed to be in accordance with the aims set out above, and set out in NPPF Chapter 14.

6 – Representations: The lack of objection by Kirkburton Parish Council is noted.

The other representation (which being anonymous cannot be afforded substantial weight in any case) does not object to the gates on their planning merits but complains that they were erected weeks before planning permission was applied for. Officer's response is that the fact that an application is retrospective, whilst it is at the developer's own risk, is without prejudice to the outcome, which will depend upon an assessment of the planning merits of the case.

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 constitutes sustainable development and is therefore recommended for approval. Since it is a retrospective application, the standard in relation to time does not need to be applied.

Recommendation **Approve**

Decision Authorisation - Delegated Powers

Application Number: **2022/92393**

Officer Recommendation: Approve

1. The development hereby permitted shall remain 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, LP21, LP22, LP24, LP30, LP47 and LP51 of the Kirklees Local Plan and Chapters 2, 4, 6, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.

NOTE: There is the potential for a bat roost to be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form	-	-	15-Jul-2022
Existing plans and photographs	2022-010-(20)001	-	15-Jul-2022
Proposed plans and photographs	2022-010-(20)002	-	19-Jul-2022

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. The case officer did not undertake negotiations with the applicant as no amended plans or additional information were considered necessary.

Report dated:

06-Sep-2022