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:	**2023/62/90390/W**
Site Address:	King James School, St Helen's Gate, Almondbury, Huddersfield, HD4 6SG
Description:	Erection of fence and gate for tractor access (within a Conservation Area)
Recommending Officer:	Tom Hunt

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.

John Holmes

AUTHORISED OFFICER

Date: 30th June 2023

Officer Report

2023/90390 – King James School, St Helen's Gate, Almondbury, Huddersfield, HD4 6SG

Site Description

King James's School is located in Almondbury, off St Helen's Gate Road. The school site comprises a Grade II Listed entrance building attached to several buildings which were constructed over numerous decades in a mixture of architectural styles. Materials are prominently natural stone.

The specific application site is to the playing fields southwest of the main collection of school buildings. The application site runs alongside an existing low stone wall.

Description of Proposal

Erection of fence and gate for tractor access (within a Conservation Area)

This is an application for full planning permission for an ~1.8m height x 130m in length, black tango rail fencing with a double gate for tractor access alongside the wall and the playing field.

It would serve a safeguarding function and the remaining wall would not be affected. The fence design is to match existing fences.

Officer Note: While to scale plans were not submitted for elevations, images were supplied of the existing fence and gate to be erected for this proposal, with annotated dimensions and appearance, as well as a to scale site plan detailing the location of the proposal.

History of negotiations/amendments received

Additional detail was sought relating to the fence to overcome Sports England's initial objection.

Relevant Planning History

There has been a multitude of planning applications for the wider site for sports pitches, buildings, etc. The following is considered the most relevant:

2003/93941 – Erection of Fencing (within the curtilage of a Listed Building). Approved.

Representations

Publicity is being taken in accordance with statutory requirements. Neighbour letters We are currently undertaking statutory publicity requirements, as set

out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via Site Notice which expired: 17/04/2023 and Press Publicity which expired: 08/04/2023

No representations have been received.

Consultation Responses

KC Trees - no objection

Sports England – no objection

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 in Almondbury Conservation Area, in the Green Belt and also within the curtilage of a Listed Building (sited to the northeast of the site with intervening building screening the specific site amply from view). Listed Buildings are also found to the southeast of the site on Arkenley Lane. It is adjacent to a Kirklees Wildlife Habitat described as woodland.

Kirklees Local Plan (KLP):

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 21** – Highway and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity & geodiversity
- **LP 33** - Trees
- **LP 35** – Historic environment
- **LP 49** – Educational and health care needs
- **LP 56** – Facilities for outdoor sport, outdoor recreation and cemeteries

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 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- 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 including heritage
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters
6) Representations
7) Conclusion/Planning Balance

1 – Principle of development

1.1 – Principle of development

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability.

LP 49 of the Kirklees Local Plan is relevant. In this instance it would offer improved safeguarding for playing field users to improve the quality of the school. Sports England have been re-consulted with further information set out in the relevant section and do not object. As such, the proposal to improve public safety would be compliant with LP49 of the Kirklees Local Plan and policies within Chapter 8 of the NPPF.

1.2 – Land allocation – Green Belt

The site is within the Green Belt and it is to enhance existing facilities for outdoor sport; Officers have to consider relevant policy within LP56 of the Kirklees Local Plan and Chapter 13 of the NPPF on the matter.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they

fall within one of the exception categories set out in paragraph 149 or 150 of the NPPF. In this instance, the fence and gate are not classed as a building so para. 149 would not apply. The proposal is regarded as an engineering operation under para. 150b) which is identified as development not inappropriate in the Green Belt as long as they preserve its openness and do not conflict with the purposes of including land in it.

Policy LP56 sets out that facilities associated with outdoor sport, outdoor recreation
or cemeteries will normally be acceptable as long as the openness of the Green Belt is preserved and there is no conflict with the purposes of including land within it.

The proposal, being to secure and provide additional facilities upon land used as playing field is considered to fall into the category as being associated with outdoor sport and recreation.

The fence and gate would run alongside an existing fence, be of a visually permeable black metal rail fencing design, adjacent to and visually screened by mature woodland to its west and south and would not interfere with a playing field.

The proposals scale is no more than is reasonably required of the function of the fence and gate for safeguarding and it would be unobtrusively located of permeable design and black colour finish set against dense woodland so as to avoid any urbanising effect.

In addition the fencing is within the grounds of an existing school and of the same design and colour finish as fencing serving this existing facility. The overall impact upon openness both visually / spatially is not considered to be significant given the use of the land already and the scale / design of the development. Furthermore, it is considered the proposal would not entail encroachment into the green belt given it would not be of significant scale and does not seek to change the use of the land. The proposal is not considered to conflict with any other purposes of keeping land in the Green Belt as identified within policies contained within Chapter 13 of the NPPF.

As such, this application proposal would not entail preserve the openness of the Green Belt and would not impact upon the purposes of keeping land within the Green Belt, in compliance with LP56a) and b) of the Kirklees Local Plan and Chapter 13 of the NPPF.

1.3 – Heritage assets

The site is located within Almondbury Conservation Area and is within the curtilage of a nearby Grade II Listed Building identified as ‘Entrance Block and Extensions to North and North West at King James Grammar School, St Helens Gate’.

The identified building was part of the school when it was listed in 1978 and from review of historic imagery, the school fields also appear to have been part of the school on the listing date too. Consequently, the functional links between the land and the Listed Building appear established at the time of listing and the layout suggests close association as set out in caselaw to be within the curtilage of the Building.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In addition, 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…harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring…public benefits that clearly outweigh the harm"*.

This is mirrored in Chapter 16 of the NPPF of which paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

A detailed consideration of the impact on the heritage assets will be considered below.

The principle of development here is considered acceptable subject to the satisfactory taking into account of material considerations.

<u>2 –Impact on visual amenity and character of the area:</u>

Policy LP24 of the Kirklees Local Plan, consistent with chapter 12 of the NPPF, states that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. In addition, the significance of Almondbury Conservation Area and the Listed Building is taken into account within LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF

The proposal seeks to match existing fencing in design, material, permeability and colour siting it adjacent to existing mature woodland, which will minimise

its visual impact within Almondbury Conservation Area. It would be at great distance from the Listed Building amply screened by intervening school buildings therefore would not be associated with the Listed Building visually. It would not appear incongruous viewed against the established nature of the school features and fences and would retain use of the playing fields as part of ensuring historic and cultural significance is not harmed. As such, Officers consider that no harm has been identified that warrant the demonstration of public benefits in this case.

Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. It is considered that with appropriate conditions relating to the protected trees – which themselves afford visual amenity value – to ensure minimum impact on the heritage assets, that this policy requirement has been met.

The development therefore would be acceptable in terms of general visual amenity and would accord with policies LP24 and LP35 of the KLP and chapters 12 and 16 of the NPPF.

3 – Impact on residential amenity:

Policy LP24c of the Kirklees Local Plan require of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

The proposed fencing and gate installation would represent operational development attendant to an existing use, and would not introduce any amenity impacts beyond this use. The fencing would be permeable, 1.8m in height and sited at an established woodland boundary; and therefore cannot introduce overshadowing or loss of privacy to any neighbouring residential property.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan, The Council's adopted Highway Design Guide and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application.

The proposed gate and fence would not abut a highway nor would affect parking. The proposed development, therefore, is considered to be acceptable in terms of highway safety and parking and consistent with policies LP21 and LP22 of the KLP.

5 – Other matters:

Sport England

Sport England is the statutory consultee for applications which may affect the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Based on initial information supplied within the proposal, they raised an initial objection on the basis the development had not been demonstrated to constitute any of the exceptions to Sport England's Playing Fields Policy or with paragraph 99 of the NPPF.

Further information was submitted with photographs to support the proposal. It set out that the proposed would be outside of the playing pitch, would not interfere with its functions and would be used to increase safety of users. Sports England was re-consulted with this additional information and was satisfied that the proposed development meets exception 3 of the Playing Fields Policy and Guidance in that:

> *"The proposed development affects only land incapable of forming part of a playing pitch and does not:*
>
> - *reduce the size of any playing pitch;*
> - *result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);*
> - *reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;*
> - *result in the loss of other sporting provision or ancillary facilities on the site; or*
> - *prejudice the use of any remaining areas of playing field on the site."*

As such the initial objection was withdrawn. The proposal is therefore considered to meet the requirements of Sport England and is considered to be acceptable in terms of the impact it would have upon a playing field.

Climate change

When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda to achieve net zero targets.

The proposal is a minor development, being for a fence to an educational campus. Further conditions attendant to the climate change agenda are therefore not considered to be necessary in this case.

Trees and biodiversity

The Trees Officer was consulted and found that the proposal was not submitted with detailed information on trees. The indicated site would be

under the canopy of protected significant amenity trees and there are some low hanging branches. It is likely that some facilitation pruning to remove low branches will be necessary and additional information was sought to clarify what works would be undertaken to ensure that the trees would not be harmed. The further submitted detail sets out that the work would be carried out during winter months, have the fence posts hand dug to the minimum required depth to secure them whilst watching out for tree roots and to have minimal pruning of branch ends. In addition the submitted information confirms that it is not envisaged that overhanging tree limbs would require works to secure the fence. Photographs have been supplied as part of the additional information submitted which details the condition of trees

In light of the further submitted information, and extent of the works confirmed to be undertaken, it is considered the impact of the proposal would not be significant and subject to condition requiring works to be in accordance with that as set out the proposal would ensure the continued health of those significant trees, the continued function of Kirklees Wildlife Habitat Network Woodland and amenity value.

The proposal is a minor fence to an educational campus, and would have a permeable design ensuring that wildlife are still able to go through it with no significant impacts on biodiversity.

Subject to condition, the proposed works are concluded to be compliant with Policies LP24h) and i), LP30 and LP33 of the Kirklees Local Plan and Chapter 15 of the NPPF.

Safeguarding

The proposal would increase security at the playing fields for the users of the school playing grounds ensuring that it would minimise risk of crime and be safer for the existing use. In addition, the permeable fence and gate design would offer suitable visibility between the open spaces in order to aid safety further when compared to a solid boundary feature. This would comply with the guidance set out in LP24e) and g) of the Kirklees Local Plan.

6 – Representations:

None received.

7 – Conclusion/Planning Balance:

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: Approval
Decision Authorisation – Delegated
Application Number: 2023/90390
Officer Recommendation: Approve
Conditions and Reasons

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
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 submitted information 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, the special character of the heritage assets within the Green Belt, and to accord with Policies LP01, LP02, LP21, LP22, LP24, LP30, LP33, LP35, LP49 and LP56 of the Kirklees Local Plan, and policies within Chapters 2, 8, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. The development hereby approved shall be undertaken in accordance with the submitted document titled 'Work required for erecting of fence' received on 29th June 2023 for the entirety of the construction phase.
Reason: In the interests of tree protection, preserving the setting of the Conservation Area and visual amenity to accord with policies LP24, LP33 and LP35 of the Kirklees Local Plan and policies within chapters 12 and 16 of the National Planning Policy Framework.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans Specification

Plan Type	Reference	Version	Date Received
Location Plan		Unamended	27/02/2023
Proposed Elevation Image (with annotated dimensions and colour)	1	Unamended	23/02/2023

Proposed Elevation Image (with annotated dimensions and colour)	2	Unamended	23/02/2023
Proposed Elevation Image (with annotated dimensions and colour)	3	Unamended	23/02/2023
Heritage Assessment		Unamended	17/02/2023
Supp Info – General	Photos for Planned new Fence	Original	07/06/2023
Supp Info – General	Work required for erecting of fence on Rugby field	Original	29th June 2023
Supp Info – General	Photographs of trees along the fence line	Original	29th June 2023

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 has, 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 the initial Objection by Sports England, further information in support was requested from the applicant and had been re-consulted. This was sufficient to overcome the issue with approval by Sports England in line with exception 3 in their Playing Fields Policy and Guidance (March 2018). As the development proposal has now been found to be acceptable a recommendation of approval has been duly made.