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:	**2023/62/90725/W**
Site Address:	33, Oak Road, Bradley, Huddersfield, HD2 1SN
Description:	Boundary wall alterations and proposed boundary fence and gates
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: 04-Dec-2023

Officer Report

Site Description

2023/90725 – 33, Oak Road, Bradley, Huddersfield, HD2 1SN

The application site relate to the two-storey, end terraced and Grade II listed No. 33 which is part of a group of Listed buildings No. 33-37 Oak Road. It had been previously extended with a two-storey extension bringing it closer to the south boundary. It is of stone and slate construction with a small front, side and rear amenity space. The group of buildings is bounded by a low stone wall which allows easy views of the significant primary elevation of the terrace.

It is situated on the junction of Oak Road and Elder Lane which is an access drive/PROW (reference: HUD/11/10) through to Woodman Avenue. It faces out to Oak Road Recreation Ground & Oak Road Allotments, Bradley which is Urban Greenspace.

Description of Proposal

Boundary wall alterations and proposed boundary fence and gates

The proposal affects the boundary to the south and southwest of the site abutting the PROW. It is proposed to have metal railings (0.7m height) atop the stone wall (0.9m height from ground level), a sliding double gate of similar design and 4.5m width.

The boundary treatment would replicate an historic stone wall with railings.

History of negotiations/amendments received.

Several negotiations took place on the acceptability of the original design and finding an alternative suggestion based on an historic photograph of the site in order to achieve an acceptable outcome. Amended plans have been submitted to address the initially raised concerns.

Relevant Planning History

2015/90738 – Listed Building Consent for replacement windows. *Approved*.

2023/90726 – Listed Building Consent for boundary wall alterations and proposed boundary fence. *Pending*.

Enforcement

COMP/21/0288 – Alleged unauthorised demolition of wall and erection of fence (Listed Building). *Referred to submit a planning application and Listed Building Consent.*

Representations

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 neighbour notification letters, site notice and press publicity with a final publicity date of 30/04/2023.

Within an associated application for listed building consent it is noted that five instances of representations have been received from two people; raising points in support. A summary of the comments received is set out below:

- Improves visual amenity with screening
- Does not alter the appearance of building or structure of cottage
- Improves privacy and safeguarding
- Other examples of fencing to front amenity spaces to the locality
- Traffic on road damages the buildings

Officer Note: Those comments will be addressed in the Visual amenity and Heritage sections of the report. The last comment is outside the control of the planning application and is not a material consideration which can be afforded significant weight in the planning balance of the proposal.

The amended scheme was not readvertised as it did not substantially change the description and was considered to enhance the historic significance of the Listed Building.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Heritage amenity section of the report):

- KC Conservation & Design – Support.
- KC Public Right of Way – Objection to original proposal to have gates opening unto the PROW.
- KC Highway Development Management – Informally consulted. Concerns raised on the original proposal.

Officer note: The proposal to have sliding gates is discussed within the Highway and PROW section.

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 Listed Building and unallocated land for development on the Kirklees Local Plan. The site falls in an area identified, by the Coal Authority, as being at risk of land movement as a result of former mining activity. The site is in proximity to a public right of way.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design
- LP 34 – Conserving and enhancing the water environment
- LP 35 – Historic Environment
- LP 53 – Contaminated and unstable land

Supplementary Planning Guidance

- Highways Design Guide SPD
- House Extensions and Alterations SPD

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 05th September 2023, 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 9 – Promoting sustainable transport
- 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
1) Impact on visual amenity and heritage amenity
2) Impact on residential amenity
3) Impact on highway safety and Public Right of Way
4) Other matters
5) Conclusion

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

Key Design Principle 1 of the House Extensions and Alterations SPD have been used as a guide in considering the proposal's visual amenity impact on the streetscene.

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.

1.2 – Heritage

The property is a Grade II Listed Building '33-37, Oak Road'. 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, Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment support the Act.
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".*

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*."
Paragraph 197 goes on and states that Local planning authorities should consider:
"the desirability of sustaining and enhancing the significance of heritage assets… the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and; the desirability of development making a positive contribution to local distinctiveness" when determining these applications.

An analysis of whether harm to the significance of these heritage assets would occur, and in relation to the principle of the development, will be assessed and discussed later in the report.

2 –Impact on visual amenity and heritage amenity:

In terms of visual amenity, general design considerations are set out in Policy LP24 of the Local Plan, the Key Design Principles 1 and 2 of the House Extensions and Alterations SPD and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape, heritage assets and protect amenity. With respect to heritage, Officers are directed to consider LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF and legislation under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
The Conservation & Design Officer was formally consulted on the associated LBC application reference: 2023/90726 and following negotiations and amended plans to restore historic features noted their support.
A review of historic archive images of the site from 1986 show that the site had historically a low-level drystone wall, which ran the length of the boundary. The image below is for reference:



The drystone wall was largely extant and unaltered up to 2012 and had boundary planting. In 2018, the wall had a run of vertical close boarded timber fencing to the outside of the wall on posts. Between 2018-2021, the historic drystone wall was demolished in parts and altered with a reduced coursing of 3-4 courses and cement pointed. This indicates that a harmful erosion of the historic fabric of the wall had occurred in historic character, finish and height. The submitted Heritage Statement by Cadvis3d Limited stated that “the boundary wall does not form part of the heritage detail listing” and it does not physically adjoin to the Listed Building. Nonetheless, the drystone walling is a historic structure within the curtilage of the Listed Building and the inappropriate alteration of this would affect its character as a building of special architectural or historic interest.

Following negotiations, the agent submitted the below photographic image:



It is proposed to reinstate the historic boundary treatment with metal railings using this photograph as evidence. The side gate and the use of the side and rear amenity space as parking with use of paving is considered to add to the erosion of the setting of the Listed Building. This would cause less than substantial harm to the setting of the Listed Building as such public benefits are required.

The Statement states that the fence provide privacy to the occupants and to allow their work vehicle to be securely parked. Officers are in agreement that privacy has been achieved through boundary planting in the past which provided natural screening and that the removal of this screening increased the occupant's wish to have privacy. Those would be considered a private benefit to the occupants and not be public benefits. There have been supportive representations stating that privacy and safeguarding is improved to the occupants however those would not alter this conclusion.

Nonetheless the proposed restoration of the historic boundary treatment using high quality materials, detailing and natural stone walls would warrant public benefits to *clearly* outweigh this less than substantial harm to the heritage asset. The quality of which would be sufficiently controlled by condition within the associated Listed Building Consent 2023/90726.

The high quality and small scale proposal is therefore regarded as acceptable for permission in this regard as it would enhance the visual amenity of the area, would enhance the setting of the Grade II Listed Building by restoring historic boundary details with public benefits outweighing the identified less than substantial harm and to be in accordance with Policies LP02, LP24 and

LP35 of the Local Plan, the House Extensions and Alterations SPD and compatible with Kirklees Council's duties under section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan, supported by the House Extensions and Alterations SPD, states that alterations to existing buildings should:

"…maintain appropriate distances between buildings' and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 130 of the National Planning Policy Framework 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. Principle 16 goes requires that proposals maintain appropriate storage arrangements for waste.

It is considered that the proposed development on a corner plot location separated from its neighbouring property to the south by the footpath would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, or the creation of an overbearing effect. The proposal would not have a significant impact on the amenity space provision at the site.

The proposal would therefore be in general conformance with LP24b of the Kirklees Local Plan, the principles relating to residential amenity of the House Extensions and Alterations SPD and Chapter 12 of the NPPF.

4 – Impact on highway safety and Public Right of Way:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principles 15 and 16 of the adopted House Extensions & Alterations SPD seek to ensure that acceptable levels of off street parking / waste storage areas are retained and are also considered to be relevant.

Policy LP23 of the Kirklees Local Plan relates to cycling / walking network and sets out that proposals that may prejudice the function, continuity or implementation of the core walking and cycling network will not be permitted. This policy further states that existing public rights of way that form part of the

core walking and cycling network or elsewhere will be protected and enhanced.

The proposal seeks to have an off-street parking space to the side of its property with a sliding double gate to avoid opening out over a PROW footpath with a width of ~4.5m. The sliding gate would sufficiently enable unobstructed access for the PROW overcoming initial objections from the PROW Officer and can be controlled by condition that the scheme is undertaken in accordance with the submitted plans satisfactorily to be in accordance with LP23 of the Kirklees Local Plan.

A parking space has not been indicated on plans however the limited area of the amenity space may permit a 2.4m by 4.8m off street sparking space. The 4.5m width of the gate opening with limited space in the amenity area for a turning would have constrained access limiting the ability to have forward gear unto the highway unless the PROW was used for manoeuvring.

The boundary treatment with railings would sufficiently be permeable to aid visibility to Oak Road for preserved intervisibility of vehicles and pedestrians.

Bin arrangements have not been set out within plans however there is sufficient indicated space within the amenity areas to have the bin arrangement remain as existing.

Given the double gate would be of a sliding gate design it is considered the proposal would be appropriately accord with LP21, LP22 and LP23 or the Kirklees Local Plan, Key Design Principles 15-16 of the House Extensions and Alterations SPD and policies within Chapter 9 of the NPPF.

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 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. Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.

When determining planning applications the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.
It is therefore considered that the proposal is acceptable in this regard, in accordance with the aforementioned policies.
Drainage
The site is within a low probability Flood Risk Zone. Officers recommend a condition would be placed to ensure that the additional parking spaces would be drained sufficiently and/or made permeable in accordance with Policy LP28 and LP34 of the Kirklees Local Plan and the Highways Design Guide SPD.
High Coal Risk Area
The proposal is for a householder application and therefore referral to standing advice indicates that an informative attached to the Decision Notice would be sufficient to ensure public safety and to comply with LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF satisfactorily.
6 – 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 is acceptable in principle and would constitute sustainable development and is therefore recommended for approval.

Recommendation **Approve**

Decision Authorisation: Delegated

Application Number: 2023/90725

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 to accord with Policies LP01, LP02, LP21, LP22, LP23, LP24, LP28, LP34, LP35 and LP53 of the Kirklees Local Plan, Key Design Principles 1-17 of the Council's House Extensions & Alterations Supplementary Planning Document, and Policies within Chapters 2, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. Prior to the side amenity area being first brought into use as parking, the area shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. 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) these areas shall be so retained, free of obstructions and available for the parking of vehicles.
Reason: To ensure that sufficiently drained parking is provided for the site and to accord with Policies LP21, LP22, LP28 and LP34 of the Kirklees Local Plan, to accord with Key Design Principle 14 of the 'House Extensions and Alterations SPD' and Chapter 14 of the NPPF.

FOOTNOTE: This Decision Notice for the full planning application should be read with the Decision Notice attached to the associated Listed Building Consent application 2023/90726.

FOOTNOTE: Public footpath Huddersfield HUD/11/10 is adjacent to the development site and must not be interfered with or obstructed, prior to, during or after development works.

The Council's public rights of way unit may be contacted by telephone 01484 221000 and asking for Sharon Huddleston. The Public Rights of Way Team email address is publicrightsofway@kirklees.gov.uk

FOOTNOTE: Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected and that that the works carried out is lawful.

Plans and specifications schedule:-

Plan / Document Type	Reference	Version	Date Received
Location Plan, Existing Elevation of Boundary.	Drawing no. A(00)-01.	A.	15/03/2023
Location Plan and Proposed Elevation, Detail and Site Plans.	Drawing no. A(10)-01.	D	23/11/2023

Plan / Document Type	Reference	Version	Date Received
Heritage Statement	Heritage Statement by Cadvis3d Limited. Dated: March 2023 (revised). Job No. 2254.	Revised	15/03/2023

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 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. Amended plans were requested and subsequently submitted to address concerns in relation to impact upon the listed building / adjoining public footpath.

27/11/2023