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:	**2023/62/91175/W**
Site Address:	Oakwood House, 2, Hungerford Road, Edgerton, Huddersfield, HD3 3AL
Description:	Erection of timber fence on top of existing boundary wall (Listed Building within a Conservation Area)
Recommending Officer:	Laura Yeadon

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: 16th June 2023

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91175

Site Description

2 Hungerford Road is a Grade II Listed Building which is a detached two storey property in extensive grounds currently used 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. Planning permission and Listed Building Consent have been approved and the works implemented for previous permissions for a perimeter fencing along a stretch of Hungerford Road and Halifax Road.

Description of Proposal

The application is for the erection of a fence on top of the existing boundary wall. An application for Listed Building Consent for the works has also been submitted under application number 2023/91175 and runs concurrently with this application.

The fence would be located behind the existing wall at a height of 0.8 metres above the wall front Hungerford Road. The fence would be located between the existing gate posts for a stretch of 27m. The fencing would be supported by 75mm x 75mm sawn tannalised posts. The fence would be constructed from timber.

History of negotiations/amendments received

No negotiations have taken place with the applicant/agent due to the application being considered acceptable in its submitted format. However, confirmation was sought to ensure that the fence would be the same height as that existing at the site.

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 a Conservation Area
Consent Granted

2009/90246 Change of use from office to single dwelling (Listed Building within a Conservation Area)
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 or Dangerous Tree(s)
Noted

2020/91717 Dead or Dangerous Tree(s)
Noted

2020/91784 Work to TPOs HU1/71 within a Conservation Area
Part granted/part refused

2020/92092 Listed Building Consent for the erection of a perimeter fence
Consent Granted

2020/92303 Erection of perimeter fence on existing wall (Listed Building within a Conservation Area)
Conditional Full Permission

2020/92958 Dead or Dangerous Tree within a Conservation Area
Noted

2021/93844 Erection of canopy for outdoor learning space (Listed Building within a Conservation Area)
Conditional Full Permission

2023/91176 Listed Building Consent for erection of timber fence on top of existing boundary wall (within a Conservation Area)
Not yet determined – under consideration

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 10th June 2023

Parish/ Town Council – not applicable

As a result of the public consultation period no representations have been received.

Consultation Responses

K.C. Crime Prevention – no comment to add

K.C. Conservation and Design – no concerns

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. The site is also within the Edgerton Conservation Area within the Kirklees Local Plan.

The listing descriptions are as follows:

<u>Oakwood</u>

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.

The following policy is considered relevant to the consideration of this application:

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 24** – Design
- **LP 30** - Biodiversity
- **LP 33** - Trees
- **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 21st 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 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

The Town & Country Planning Act 1990 (as amended).
The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
The Planning and Compulsory Purchase Act 2004.

Assessment

The following matters are considered in the assessment below –

1) Principle of development

1) Impact on visual amenity, Listed Building and Conservation Area
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) 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."

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

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 and gate posts are Grade II Listed Buildings. 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.

In the case, it can be stated that the principle of development could be supported subject to an assessment of impacts on visual and residential amenity and heritage assets being concluded as acceptable, as well as an assessment into other relevant material considerations.

2 – Impact on visual amenity, Listed Building and Conservation Area:

In addition to the policy / legislation set out in section 1 of this report, of relevance to the consideration of this proposal is policy LP24 of the Kirklees

Local Plan and policies within Chapter 12 of the NPPF which set out that development should be of an acceptable design.

The principle of a boundary fence being erected above the existing stone boundary wall has been established to this property. Applications 2020/92303 and 2020/92092 sought and obtained permission for a permitter fence to be located along Halifax Road and part of Hungerford Road at a height of 0.82 metres.

This application is to erect a further hit and miss fence, to match the existing, located between the existing gate posts and points of entry to the site on Hungerford Road at a total length of 27 metres. The proposed fence would sit behind the existing boundary wall and would be a total height of 0.8m above the stone wall. Due to its prominent location, the fence would be clearly visible from public vantage points on Hungerford Road.

In terms the impact on the visual amenity, the Listed Building and the Edgerton Conservation Area, as part of the previous application, Conservation and Design Officers were formally consulted and at that time Officers concluded 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 planning between the wall and the villa however, it was considered that the works would have an impact on the Conservation Area and host Listed wall.

As part of the previous application, reference was made to paragraph 193 of the NPPF which, following an update to the NPPF is now paragraph 199 and relates to harm to heritage assets. It was considered via the previous assessment 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 which detracts from the good quality copings and the leafy character of the suburb. It was not considered at that time that the works caused substantial harm as no part of the historic structure would be lost.

Under paragraph 200 of the NPPF (current issue), this requires clear and convincing justification to any harm to the significance of a designated heritage asset and paragraph 201 continues that this harm should be weighed up against the public benefits of the proposal. Policy LP35 of the Kirklees Local Plan requires proposals to maintain local distinctiveness and preserve and enhance the significance of heritage assets.

As part of the previous assessment, the applicant submitted 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 was subsequently considered that the justification was acceptable and that the public benefits outweighed the harm.

As part of this application, the submitted Heritage Statement highlights that there have been some trees felled due to disease which has exposed another area of boundary wall which needs further fencing to remain secure.

Informal discussions have taken place with the Council's Conservation and Design Officer and there are no objections to the proposed fencing within the location proposed. The use of the building has not changed and therefore in line with the previous approval, a condition can be attached to the decision notice to ensure that the fencing shall be removed in its entirety should the property cease to be used as a children's day nursery or school establishment. It is accepted that a fence is required for security purposes and it is considered the continued operation of the nursery is a public benefit outweighing the harm to the heritage assets.

In terms of the finishing colour of the fence, this can be conditioned to match the existing to protect the amenity of the Listed Building, Conservation Area and street scene.

It is therefore considered that subject to the above condition, the security of the facility by erecting a fence above the existing wall outweighs the harm to the listed boundary wall and therefore has an acceptable impact on the visual amenity of the wall, the host listed building and the Edgerton Conservation Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan and advice within the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers

There would be little impact on residential amenity as the facing property is utilised as office space. The neighbour to the west of the site would be separated by approximately 24 metres from the fence line which is considered to be acceptable. As such, the proposal is considered acceptable in terms of residential amenity and Policy LP24 of the Kirklees Local Plan.

4 – Impact on highway safety:

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. As the fencing would be located along a section of Hungerford Road, behind the existing wall, it is considered that the proposal is acceptable in terms of highway safety.

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.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Biodiversity – Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the works not impacting on a structure where bats would be roosting.

Trees – the trees within the site are protected by virtue of being located within a Conservation Area. The submitted details indicate that a number of trees have recently felled due to disease. This appears to be reflected within the planning history of the site where a number of trees work applications have been submitted. A Tree Safety Assessment has been submitted with the application and identifies trees requiring attention. The fence would attach to the wall and therefore would not impact on tree roots, with the nature of development not increasing the potential demand for future pruning. As such, it was not considered necessary to formally consult with the Council's Arboricultural Officer in this instance.

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the

locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

6 – Representations:

None

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: 2023/91175

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 51 of the Planning and Compulsory Purchase Act 2004.

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 host listed building, listed wall and wider Conservation Area of the development on completion, and to accord with Policies LP1, LP2, LP24, LP30, LP33 and LP35 of the Kirklees Local Plan and advice within Chapters 2, 12, 15 and 16 of the National Planning Policy Framework.

3. The design and colour finish of the fencing hereby approved shall in all respects match that of the existing fencing.
Reason: In the interests of visual amenity and to ensure the significance of the listed structures are retained accord with Policies LP1, LP2, LP24 and

LP35 of the Kirklees Local Plan and advice within Chapter 12 of 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 in use as 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 Chapters 12 and 16 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location plan	TQRQM23114094316657		24th April 2023
Site survey	09-C25-01		19th April 2023
Proposed elevations			19th April 2023
Design and Access Statement			19th April 2023
Heritage Assessment			19th April 2023
Tree Safety Assessment	Ascerta – Ref: P.1129.19 – dated January 2019		19th April 2023
Estimate	Swift Improvements Ltd – dated 17th April 2023		19th April 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.

No negotiations have taken place with the applicant/agent due to the application being acceptable in its submitted format. However confirmation was sought to ensure that the fence would be the same height as that existing at the site.

Report Dated: 14th June 2023

Coal – low