KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – SECTION 16

DELEGATED DECISION TO DETERMINE APPLICATIONS FOR LISTED BUILDING CONSENT

Reference No:	**2023/65/91176/W**
Site Address:	Oakwood House, 2, Hungerford Road, Edgerton, Huddersfield, HD3 3AL
Description:	Listed Building Consent for erection of timber fence on top of existing boundary wall (within a Conservation Area)
Recommending Officer:	Laura Yeadon

DECISION – CONSENT GRANTED

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: 16-Jun-2023

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91176

Site Description

2 Hungerford Road is a Grade II Listed Building which is a detached two storey property in extensive grounds currently occupied 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 Planning Permission 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 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

2023/91175 Erection of timber fence on top of existing boundary wall (Listed Building 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 – no representations received

Parish/ Town Council – not applicable

Consultation Responses

K.C. Conservation and Design – no concerns

Policy

The building is Grade II listed and therefore Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic importance which is possesses'.

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:

Oakwood

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.

Kirklees Local Plan:

- **LP 2** – Place shaping
- **LP 24** – Design
- **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 16 – Conserving and enhancing the historic environment

Assessment

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.

The works have been detailed within the submitted plans and also the Design and Access Statement and Heritage Statement as required by Chapter 16 of the NPPF. These are also detailed as above within the 'Description of Proposal' section of this report.

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 which is a public benefit outweighing the harm to the heritage assets. In addition the proposal, contributing to the continued operation of the nursery is a benefit in terms of the provision which is made by the use.

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.

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.

Representations:

None

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 **GRANT CONSENT**

Decision Authorisation - Delegated Powers

Application Number: 2023/91176

Officer Recommendation: Approve

Conditions:

1. The development shall be begun within three years of the date in which this consent is granted

Reason: Pursuant to Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by 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 LP2, LP24 and LP35 of the Kirklees Local Plan and policies 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 Aril 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