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:	**2023/62/92913/W**
Site Address:	17, Bog Green Lane, Upper Heaton, Huddersfield, HD5 0PW
Description:	Erection of fence
Recommending Officer:	Lucy Taylor

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: 29-Nov-2023

Officer Report

2023/92913 - 17, Bog Green Lane, Upper Heaton, Huddersfield, HD5 0PW.

Site Description

17 Bog Green Lane is a two-storey property. The external walls of the property are faced in stone, with a tiled gable roof above. This application is retrospective and therefore, fencing is erected around the boundaries of the site. The site is within a predominantly residential area surrounded by properties of varying type, age and design.

The application site is Allocated within the Green Belt in the Kirklees Local Plan.

Round Hill Lane, which provides access to the site is Allocated as a Bridleway in the Kirklees Local Plan.

Description of Proposal

Planning permission is sought for the erection of a fence (retrospective).

Parts of the fence are constructed on the property boundary wall and other parts of the fence are constructed behind the boundary wall.

The fencing has a maximum height of 1.35 metres.

The fencing is a uniform timber fence.

History of Negotiations/Amendments Received

No negotiations have taken place and no amended plans have been sought or submitted.

Relevant Planning History

No relevant planning history at the application site or to neighbouring properties.

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.

Final publicity date = 15th November 2023.

Whilst officer's note that Round Hill Lane is Allocated as a Bridleway in the Kirklees Local Plan it was not deemed necessary in this instance to publicise the application as affecting a public right of way via a site notice or within the newspaper. This is on the basis the fence does not prejudice the function or continuity of the Bridleway, retained within the existing boundaries of the application site and retaining an appropriate sense of openness for use given the location, setting and width of the Bridleway.

One representation was received, which set out the following concerns:

- Fence is already up without planning permissions and has been for quite some time without getting the correct authorisation.
- It obstructs the view when existing round hill lane and turning into round hill as cannot see vehicles coming down.
- This fence seems higher than previous fence, possibly due to the curve on it.
- Trees obstructing the view from their garden.

Consultation Responses

KC Highways Development Management – The proposal is considered acceptable

KC Health and Safety – Do not advise against, consequently, HSE does not advise, on safety grounds, against the granting of permission in this case.

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 application site is allocated within the Green Belt in the Kirklees Local Plan.

Round Hill Lane, which provides access to the site is Allocated as a Bridleway in the Kirklees Local Plan.

Part of the site is allocated within an area with a known presence of bats and the site is within an area identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP23 – Core Walking ad Cycling Network
- LP24 – Design
- LP30 – Biodiversity & Geodiversity
- LP51 – Protection and Improvement of Local Air Quality
- LP57 – The Extension, Alteration or Replacement of Existing Buildings

Supplementary Planning Documents:

Highways Design Guide SPD (2019)

House Extensions and Alterations SPD:

The Kirklees House Extension and Alterations SPD, adopted on 29 June 2021, has been prepared to help householders, developers, agents and architects who are planning and designing an extension or alterations (householder development) to an existing residential property, including conservatories and outbuildings, such as garages. It provides detailed guidance regarding the standard of development that will help achieve a well-designed house extension or alteration required by the Council.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 5th September 2023, together with Circulars, Parliamentary 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 13 – Protecting Green Belt land
- 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
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conclusion

1) Principle of Development

Sustainable Development:

Chapter 2 of the NPPF states that: *"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*

Chapter 2 of the NPPF goes onto further state that objectives should: *"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*

Policy LP1 goes further and states: *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

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".*

Green Belt:

For the purposes of assessing the proposal within the context of Green Belt policies, it is considered that the description of development, a fence, constitutes operation development in association with the host dwelling of 17 Bog Green Lane.

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.

Of particular relevance is Paragraph 149c of the NPPF, which sets out the following exception: '*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.*

Policy LP57 of the Kirklees Local Plan mirrors paragraph 149 of the NPPF, whereby LP57(c) sets out that Proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that: *'the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access…'*

Also of relevance is LP57(d) which sets out that the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that: *'the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting'.*

Below is an assessment of whether 1) the development would be inappropriate development in the Green Belt having regard to the aforementioned national and local policies, and 2) the effect of the development on the openness of the Green Belt.

It is considered that the scale of the development is no more than is reasonably required of the function of the fence, erected to provide security and privacy. It is also considered that the fencing would not appear obtrusive, constructed from timber and of a colour finish which appropriately harmonising with the setting of the site. Given the design of the fence, and its use in association with the established residential use of the site, it is considered that its erection is an alteration which is acceptable in this case in light of the aforementioned policies.

The overall impact upon openness both visually and spatially is not considered to be significant, given that the fencing is located either on the property wall or behind the boundary wall within the amenity space. Furthermore, it is considered that the proposal is of an acceptable scale. The proposal is not considered to conflict with any purposes of keeping land in the Green Belt as identified within policies contained within Chapter 13 of the NPPF.

As such, this applications proposal is considered to preserve the openness of the Green Belt and does not impact upon the purposes of keeping land within the Green Belt. Therefore, it is considered that the fence is an alteration which meets the requirements of LP57 of the Kirklees Local Plan and Chapter 13 of the NPPF.

1) **Impact on Visual Amenity**

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.

Key Design Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.

The proposal is for timber fencing around the boundaries of 17 Bog Green Lane, to a maximum height of 1.35 metres. The fencing is timber and of a pale green colour finish.

It is not considered that the fence appears as an incongruous feature, of a design and colour finish which appropriately harmonises with the vernacular of the streetscene and the rural Green Belt environment within which the site is situated.

The staggered heights of the fence further work to reduce any potential obtrusiveness, with the fence of a lower height along the frontage of the site, retaining an appropriate sense of openness around the site when viewed from public vantage points along Bog Green Lane.

The applicant has provided photographic evidence of the fence previously erected at the site, which consisted of two types of fencing, with solid brown wooden fencing along the western and southern and low green fencing along the front elevation of the site. The solid brown wooden fencing had a maximum height of 1.2 metres.

For all of the reasons outlined above, it is considered that the development does not cause detrimental harm to the visual amenities of the locality. The proposed development is therefore considered to comply with policies within Chapter 12 of the National Planning Policy Framework, policy LP24 of the Kirklees Local Plan and Key Design Principles 1 & 2 of the House Extension and Alterations SPD.

2) Impact on Residential Amenity

Section B and C of LP24 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 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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.

The proposal does not impact upon the extent of outdoor amenity space at 17 Bog Green Lane, in accordance with Key Design Principle 7 of the House Extensions and Alterations SPD.

The fence along the shared boundary with No. 19 Bog Green Lane is of a low height, on top of the existing boundary wall. In addition, this part of the fencing is adjacent to the access door of No. 19 and therefore, does not cut any line of 45-degrees with regard to habitable room windows at this neighbouring property. As such, the fencing is considered to be acceptable, not considered to pose any detrimental impacts of overbearing or overshadowing for the occupiers of No. 19 Bog Green Lane.
No. 2 Round Hill Lane is west of the site. The fence retains a separation distance of approximately 1.1 metres from the nearest elevation of No. 2 Round Hill Lane. In addition, the windows of No. 2 Round Hill Lane adjacent to the fence are not considered to serve a habitable room, in conjunction with the side porch. As such, the fencing is considered to be acceptable, not considered to pose any detrimental impacts of overbearing or overshadowing for the occupiers of No. 19 Bog Green Lane.

Given the principle of development sought it is not considered that there is any impacts to residential privacy for surrounding properties.

It is considered that the proposed works are sufficient distance away from any other properties to prevent undue harm to residential amenity in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing affect.

For these reasons, the fence is not considered to cause undue harm to the residential amenities of neighbouring properties. It is therefore considered that the proposed development complies with Chapter 12 of the NPPF, LP24 of the Kirklees Local Plan and Key Design Principles 3, 4, 5, 6 and 7 of the Council's adopted House Extensions and Alterations SPD.

3) 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 part of the determination of this application, KC Highways Development Management were formally consulted.

Within their consultation response, Highways Officers concluded that, although the sightlines are substandard for vehicles existing Round Hill Lane, the fence is a replacement of the previous fence which had similar dimensions. As such, Highways Officers concluded the application to be acceptable to Highways Development Management.

As such, it is considered the previously established situation has been continued and given the consultation response from Highways Officers it is

considered that the proposal does not lead to a significant detrimental impact in this regard and as such appropriately accords with Chapter 9 of the NPPF, LP21 and LP22 of the Kirklees Local Plan and Key Design Principle 15 of the House Extension SPD.

4) Other Matters

Bridleway:

The proposed fence does not prejudice the function, continuity or implementation of Bridleway KIR/1/10. Therefore, the proposal is considered to appropriately comply with LP23 of the Kirklees Local Plan.

Bats:

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.

Part of the application site lies within the bat alert layer on the Council's GIS system.

Given the principle of development been sought, a fence, it is not considered that works have the potential to disrupt any roosting bats at the site if they were to be present.

Even so, as a cautionary measure, in the event of any grant of permission a note would be added to the decision notice, stating that if bats are found development shall cease and the advice of a licensed bat worked sought. This is to accord with the aims of Chapter 15 of the NPPF.

Climate Change:

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.

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.

Considering the small-scale of the proposed development, it is considered that the proposed development does not have an impact on climate change that needs mitigation to address the climate change emergency. The development therefore complies with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

5) Representations

One representation was received, which is summarised below, accompanied with an officer response:

- Fence is already up without planning permissions and has been for quite some time without getting the correct authorisation.

Response: This application seeks to regularise the fence through this retrospective application submitted to the Local Planning Authority.

- It obstructs the view when existing round hill lane and turning into round hill as cannot see vehicles coming down.

Response: As part of the determination of this application, formal consultation was undertaken with KC Highways Development Management. Highways Officers concluded that the fence is acceptable.

- This fence seems higher than previous fence, possibly due to the curve on it.

Response: The fence is slightly higher than the previous fence, as shown on plan. However, the new, replacement fence is considered acceptable against all relevant material planning considerations.

- Trees obstructing the view from their garden.

Response: The presence of existing trees does not form part of the assessment of this application for a fence.

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 constitutes sustainable development and is therefore recommended for approval.

Recommendation: Approve
Decision Authorisation – Delegated Powers
Application Number: 2023/92913
Officer Recommendation: Approve

Conditions and Reasons:

1. 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 development on completion, and to accord Policies LP1, LP2, LP21, LP22, LP23, LP24, LP30, LP51 & LP57 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8 & 15 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 9, 12, 13, 14 & 15 of the National Planning Policy Framework.

Note: The application site is located in a low risk coal area.

Plans and Specifications Schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	23004-KAS-V1-ZZ-DR-A-1000	-	02.10.23
Replacement Fence	23004-KMA-V1-ZZ-DR-A-2100	-	02.10.23
Existing Fence	23004-KMA-V1-ZZ-DR-A-2000	-	02.10.23
Site Layout Block Plan	23004-KAS-V1-ZZ-DR-A-2200	-	10.10.23

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 preapplication 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 took place, and no amended plans were sought or submitted.

Report Dated: 29.11.23