

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF
LAWFUL DEVELOPMENT**

Reference no.: 2023/CL/93091/E

Site: Batley Market Place and adjacent area, Batley,
WF17 9EL

Description: Certificate of lawfulness for proposed
maintenance/improvement to highways and improvement of public space
(within a Conservation Area)

Case Officer: Edward Cheseldine

Decision Reference: PROPOSED OPERATIONS GRANT

**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.**

Kevin Walton

AUTHORISED OFFICER

Date 12-Jan-2024

Officer Report

2023/93091 - Batley Market Place and adjacent area, Batley, WF17 9EL

Site Description

The application site relates to Batley Market Place which is a historic public town square and adjacent road.

Application Proposal

The application is for a certificate of lawful proposed development for the pedestrianisation of the road, construction of a water feature, resurfacing and landscaping of the town square. The onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal is permitted development.

Relevant Planning History

None.

Consultation Responses

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

Policies

The Town and Country Planning Act 1990 Section 55 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment: -

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990.
1. If so, whether Permitted Development rights apply to the property; and
2. Whether the proposed development falls within permitted development under The Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended), Schedule 2, Part 9 (Development relating to roads), Class A (development by Highways Authorities).

The proposal comprises works to improve and enhance the highway network for pedestrian access by replacing the existing road infrastructure, narrowing the road and replacing the surfacing with stone additionally raised beds will be installed besides tree planting areas. A water feature will be installed within the town square These works are to be carried out within the boundaries of the existing highway and thus can be considered to be exempted from the description of development by virtue of section 55(2)(b) as it is not considered the works have a significant adverse effect upon the environment.

However, some of the works are to be carried out beyond the boundaries of the existing highway and cannot therefore benefit from the exemption from section 55(2)(b). As such, these works must be regarded as development as defined by section 55 of the Town and Country Planning Act 1990.

These works therefore fall to be considered under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 9 (Development relating to roads), Class A (development by Highways Authorities).

PART 9

Development relating to roads

Class A – development by highways authorities

Permitted development

A. The carrying out by a highway authority—

(a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b) of the Act; or

(b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.

The development proposed would represent an improvement to the highway network and land adjoining the highway and would be carried out by the Highways Authority and as such comply with Part 9, Class (a) & (b).

Class B – development by the Secretary of State or a strategic highways company under the Highways Act 1980 –

B. The carrying out by the Secretary of State or a strategic highways company of works in exercise of the functions of the Secretary of State or the company under the Highways Act 1980(2), or works in connection with, or incidental to, the exercise of those functions.

The development proposed would represent an improvement to the highway network and land adjoining the highway and would be carried out by the Highways Authority and as such comply with Part 9, Class (b)

Conclusion

The proposed highways improvements to Batley Market Place is not considered to be development by virtue of Section 55(2)(b) of the Town and Country Planning Act 1990 as they are considered not to lead to adverse effects upon the environment. The proposed development outside the boundaries of the existing highway is considered to benefit from a general permitted development granted by virtue of Article 3(1) and Schedule 2, Part 9 (Development relating to roads), Class A (development by Highways Authorities).

Delegated decision:

Grant Consent

Decision Authorisation - Delegated Powers**Application Number:** 2023/93091**Officer Recommendation:** Grant certificate

The proposed highways improvements to Batley Market Place is not considered to be development by virtue of Section 55(2)(b) of the Town and Country Planning Act 1990 as they are considered not to lead to adverse effects upon the environment. The proposed development outside the boundaries of the existing highway is considered to benefit from a general permitted development granted by virtue of Article 3(1) and Schedule 2, Part 9 (Development relating to roads), Class A (development by Highways Authorities).

Plans and specifications schedule: -

Plan Type	Reference	Reason	Date Received
Location Plan	LP	1	19/10/2023
General document	01	1	09/11/2023

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 Planning 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 amendments were sought.