

**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.: 2024/CL/91656/E

Site: Bradford Road, Cleckheaton, BD19

Description: Certificate of lawfulness for proposed widening of highway to accommodate bus lane, removal of trees and hedgerow and planting works

Case Officer: Charlotte Hancock

**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 19-Aug-2024**

## **Officer Report**

### **Site Description**

Bradford Road is a classified C road that connects to the Chain Bar roundabout which in turn connects to the M62. The existing road along this section only has a pedestrian footway on the western side, with the eastern side having a grass verge boundary. The application site is located to the east of Bradford Road and comprises a field that is lined with various trees. These trees are not subject to any Tree Preservation Orders.

### **Description of Proposal**

The application is for a certificate of lawfulness for proposed widening of highway to accommodate bus lane, removal of trees and hedgerow and planting works. Only part of the A638 Bradford Road is to be widened as part of the works, with the existing lanes to be narrowed to allow for part of the bus lane width, but an additional narrow widening of the road is required to allow the full bus lane width by removing the grass verge to the east of the road. Earthworks are required to create a stable supportive platform for the road, with the majority of the trees and hedges along the road being removed.

A proposed planting scheme to replace the lost trees and hedges along the edge of the road, with some being outside of the boundary of the road has been submitted as part of this application. It is noted that the submitted plans demonstrate that there is to be a post and wire fence along the ownership boundary of the application site.

### **History of negotiations/amendments received**

No negotiations or amendments received.

### **Relevant Planning History**

No relevant planning history.

### **Consultation Responses**

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

## **Assessment**

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as

defined in section 55 of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015;

2. If so, whether Permitted Development rights apply; and
3. Whether the proposed development falls within permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposal comprises works to improve and enhance the highway network to provide a bus lane by narrowing the existing lanes to allow for part of the bus lane width, but also an additional widening of the road to allow for the full bus lane width by removing the highway grass verge.

Section 55(2) (b) of the Town and Country Planning Act 1990 (TCPA) states that the following operations shall not be taken for the purposes of the act to involve development of the land...

*(b) the carrying out on land within the boundaries of a road by a highway authority of any works required for the maintenance or improvement of the road.*

The widening of the carriage way is proposed to be undertaken within the existing highway boundary, including the grass verge and is in this instance is an improvement to the road. Therefore, the proposal would benefit from the exemption under section 55(2) (b) of the TCPA 1990 and is not considered to be development.

The highway design plans indicate that the works also include a proposed earthwork slope along the majority of the western boundary which encroaches into the adjacent fields. These works are considered to be outside the boundaries of the road and as such not exempted by virtue of Section 55(2)(b). However, Part 9, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) provides a deemed planning permission for the Highway Authority to undertake works outside but adjoining the boundary on an existing highway. It is considered the works outside the road would benefit from this deemed planning permission.

It is noted that there is some tree planting proposed to be outside of the highway boundary, on the boundary of the application site and the adjacent field. However, the planting of vegetation is not classed as being development as defined in Section 55 (1) of the TCPA 1990.

## **Conclusion**

The proposed widening of the highway to accommodate the bus lane is not considered to be development as defined under Section 55 (2) (b) of the Town and Country Planning Act 1990 where the works are carried out within the

boundaries of the highway. The proposed works outside the boundaries of the highway would benefit from a general planning permission granted by virtue of Article 3(1) and Part 9, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

**Recommendation:** Grant certificate

**Decision Authorisation - Delegated Powers**

**Application Number:** 2024/91656

**Officer Recommendation:** Grant certificate

The proposed widening of the highway to accommodate the bus lane is not considered to be development as defined under Section 55 (2) (b) of the Town and Country Planning Act 1990 where the works are carried out within the boundaries of the highway. The proposed works outside the boundaries of the highway would benefit from a general planning permission granted by virtue of Article 3(1) and Part 9, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Planting Plan Bradford Road	HD-25- 65530-LL-101-002	C	12/06/2024
General Arrangement	HD-25-65530-GA-101-02-D02	-	12/06/2024
Construction Plan	HD-25-65530-CP-101-01 D02	-	12/06/2024
Construction Plan	HD-25-65530-CP-101-02 D02	-	12/06/2024
Kerbing Layout	HD-25-65530-KF-101-01 D02	-	12/06/2024
Kerbing Layout	HD-25-65530-KF-101-02 D02	-	12/06/2024
Tree Removal-AO	HD-25-65530-LL-101-T1	-	12/06/2024
Planting Plan Bradford Road	HD-25-65530-LL-101-001	C	12/06/2024
General Arrangement	HD-25-65530-GA-101-01-D02	-	12/06/2024
Location Plan	HD-25-65530-LL-101-004	-	12/06/2024
Supporting Case	1046605	-	12/06/2024

Baseline Tree Survey	1046604	-	12/06/2024
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**Report Dated:** 09/08/2024