

**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/92542/E

Site: Market Square, Market Place, Batley, WF17

Description: Certificate of lawfulness for proposed groundworks to
facilitate public space (within a Conservation Area)

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 14-Nov-2024

Officer Report

Site Description

Market Square is a historic public town square used to host events in Batley. It is a large open square with a sloping landscape.

Description of Proposal

Permission is sought for a certificate of lawfulness for proposed groundworks to facilitate public space (within a Conservation Area). The groundworks include raising the ground level to the northern corner of the existing market Place to provide a level area. There are proposed steps to the corner of the raised area. Further works include the re-positioning of the existing benches/bins and other street furniture.

History of negotiations/amendments received

No history of negotiations or amendments.

Relevant Planning History

2013/92272- Change of use from a public toilet to A1 Retail use (within a Conservation Area)- Refused

2023/93091- Certificate of lawfulness for proposed maintenance/ improvement to highways and improvement of public space (within a Conservation Area)- Granted

Consultation responses

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

Issues and 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; If so, whether Permitted Development rights apply to the property; and
1. 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 12 (Development by local authorities), Class A.

The proposal comprises groundworks to create a raised platform as well as the addition of steps, thus the proposal constitutes the carrying out of building on and over land. As such, it is regarded as development as defined by section 55 of the Town and Country Planning Act 1990.

A planning history search for the site has been undertaken and the application site does enjoy all its Permitted Development Rights.

The application therefore falls to be considered under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 12 (Development by local authorities), Class A.

Permitted development:

The Order states that permitted development includes:

A. The erection or construction and the maintenance, improvement or other alteration by or on behalf of a local authority or on behalf of an urban development corporation of-

(a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;

(a) lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, electric vehicle charging points and any associated infrastructure, and similar structures or works required in connection with the operation of any public service administered by them.

Interpretation of Class A

A.1 For the purposes of Class A, “urban development corporation” has the same meaning as in Part 16 of the Local Government, Planning and Land Act 1980 (urban development)

A.2 The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

The purpose of the groundworks and the fixing of street furniture at the site are to create a level grade to facilitate the space for public and community use. The site comprises a Market Square and therefore forms land owned and maintained by the Local Authority for the purposes of public amenity rather than as a statutory undertaker. The proposal also accords with the interpretation of Class A with respect to its height and volume.

Conclusion

The proposed works at Market Square, Batley would benefit from a general planning permission by virtue of Article 3(1) and Class A, Part 12 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Existing and Proposed Plans and Sections	(03)043	06.09.2024
Market Place Indicative Visual	(03)046	06.09.2024
Location plan	1057536	06.09.2024
Application form	1057537	06.09.2024

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.

Dated: 08/11/24

