

**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:	2024/62/93042/E
Site Address:	Greengates House, 123, Chickenley Lane, Chickenley, Dewsbury, WF12 8QS
Description:	Erection of fence
Recommending Officer:	Nicole Helliwell

DECISION - REFUSE

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 3 February 2025

Officer Report

Reference no. 2024/62/93042/E

Site Address: Greengates House, 123, Chickenley Lane, Chickenley, Dewsbury, WF12 8QS

Proposal: Erection of fence

Site Description

The application relates to Greengates House, a two-storey detached property situated in Chickenley, Dewsbury. The surrounding area comprises residential and commercial properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The applicant is seeking retrospective planning permission for the erection of a fence along the perimeter of Greengates House and the Catholic Church of St Thomas More. The fence would have a height of approx. 2.6m and a cumulative height of approx. 3.8m taking into account the existing boundary wall. The fence would be constructed from metal bars and solid grey wooden panels.

History of negotiations/amendments received

No amendments were sought or received during the course of the application.

Relevant Planning History

- **2024/93287:** Use of premises for online dessert shop. [Planning application details | Kirklees Council](#) – Pending Consideration
- **2022/90815:** Work to TPO trees. [Planning application details | Kirklees Council](#) – Part Granted/Part Refused

Representations

The application was advertised by neighbour letters, which expired on 12th January 2024. As a result of the above publicity, no representations have been received.

Parish/Town Council Comments

Not Applicable.

Local Ward Members

Not Applicable.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Trees – No objection

KC Highways Development Management – Concerns regarding sight lines and the verge.

Planning Policy Background

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 site is UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity & Geodiversity
- **LP 33** - Trees
- **LP 52** - Protection and Improvement of Environmental Quality

In this case, the following SPDs are applicable:

Highways Design Guide SPD (adopted 4th November 2019)

Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2024, 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 9** – Promoting Sustainable Transport

- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Assessment

1. Principle of Development

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant and Chapter 12 of the NPPF, regarding design.

In this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety.

2. Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape.

The NPPF also offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: "The creation of high-quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

The proposed fence would span the perimeter of Greengates House and the Catholic Church of St Thomas More and would sit above the existing boundary wall. The fence would have a height of approx. 2.6m and a cumulative height of approx. 3.8m with the existing wall. The submitted plans confirm that the boundary treatment would be constructed from metal bars and solid grey wooden panels. The fence would form a solid barrier and would have a harsh appearance which is visually incongruous. Due to its height and siting, the boundary treatment would also be highly prominent from public vantage points along Chickenley Lane and Maple Road. Whilst it is noted that there is an array of boundary treatments in the vicinity including low level brick/stone walls, hedges and timber fencing, there is nothing of this scale in such a prominent location. For these reasons, it is considered that the fence

would cause significant harm to the visual amenity of the host dwelling and the wider street scene. Therefore, the proposal would fail to accord with Policies LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

3. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be outlined, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

Due to its siting, the proposed boundary treatment would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the adjacent neighbouring occupants, over and above the existing arrangements on site. Therefore, having considered the above factors, the proposal is not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

This application seeks approval to the erection of fence at Greengates House in Chickenley, Dewsbury. As such, KC Highways Development Management have been formally consulted as part of the application. The proposed 2.6m high fence is proposed to run around the full boundary of 123 Chickenley Lane and Catholic Church of St Thomas More. It is noted that access to the site is from Chickenley Lane.

KC Highways Development Management have raised concerns regarding these proposals. Chickenley Lane is relatively wide and straight at this location which could mean that the actual speeds along this length of road are higher than the 30mph speed limit. In the absence of speed surveys, KC Highways DM would recommend that the fence is set back 2.4 metres from the carriageway edge of Chickenley Lane to maximise sight lines from the access. Furthermore, the verge to the Marple Road frontage is part of the

public highway and will need to be formally stopped up as highway maintainable at public expense before it is enclosed by the fence.

The applicant was made aware of the highway safety concerns with the application, although has not provided any additional information or amended plans in order to address the above concerns.

Therefore, given the reasons outlined above, it is considered that the proposed development in its current form would lead to a detrimental impact on highway safety, contrary to Policies LP21 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework and the Highways Design Guide SPD.

5. 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 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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

Biodiversity

The application form states that the development subject to the de minimis exemption, would be exempt from providing Biodiversity Net Gain. At this stage, Officers are only able to assess this on the basis of submitted information. Should the proposal be considered not exempt by reason of not being this or other relevant categories for the scale of the development then an appropriate condition, supported by a BNG metric submitted for the approval of the LPA, would be required to ensure on-site BNGs would last for at least 30 years to meet the requirements of this legislation.

Protected Trees

There are 4 protected trees on this site covered by TPO 10/18. On the whole, KC Trees have confirmed that they have no objection to the proposals as the wall is already existing and therefore there will be no digging within the root

protection areas of any trees. It appears that a timber fence would be added to the top of this wall. It is unclear if this work requires any facilitation pruning to the surrounding trees however, if this is necessary then an application must be submitted with the proposed pruning specification. This is likely achievable and there would be no lasting effect on the trees, in accordance with Policy LP33 of the KLP. As such, KC Trees have raised no objection and have no further comments to make in this regard.

There are no other matters relevant to the determination of this application.

6. Representations

No representations were received following the statutory publicity.

7. Conclusion

This application for the erection of a fence at Greengates House has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

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. For the reasons set out above, it is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation: Refuse

Decision Authorisation - Delegated Powers

Application Number: 2024/93042

Officer Recommendation: Refuse

Reasons for Refusal

1. The proposed fence by virtue of its siting, scale and design would result in an incongruous feature within a prominent location which would detract from the character and appearance of the host property and the wider street scene. To permit the proposal would be contrary to Policy LP24 of the Kirklees Local Plan and advice contained within Chapter 12 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate, through the submission of speed surveys, that adequate sight lines can be achieved from the proposed access onto Chickenley Lane. As such, the development proposed would be contrary to Policy LP21 of the Kirklees Local Plan and advice contained within Chapter 9 of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	TQRQM24304113611993	-	04/12/2024
Greengates House Fence Drawing	N/A	-	04/12/2024
Fence Planning	TQRQM24304113611993	-	04/12/2024

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.

Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. The applicant was made aware of the highway safety concerns relating to the development, however no additional information/amendments were forthcoming in respect of these. In any case, the impact of the development on visual amenity remained as a reason for refusal.

Report Dated: 31/01/2025