
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 28-Apr-2021

Subject: Planning Application 2020/93237 Erection of detached outbuilding and formation of raised patio 61, Celandine Avenue, Salendine Nook, Huddersfield, HD3 3US

APPLICANT

A Hussain

DATE VALID

20-Oct-2020

TARGET DATE

15-Dec-2020

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

Location Plan



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 This application is brought before Strategic Planning Committee for determination in accordance with the terms of the Scheme of Delegation as the proposal is deemed to be a departure from the development plan as the site is within an area allocated as urban green space (UGS) of the Kirklees Local Plan.

2.0 SITE AND SURROUNDINGS:

2.1 No.61 Celandine Avenue is a semi-detached two storey brick, render and tile dwelling which has a garden to the front and rear, with a driveway running along the side. The main elevation faces north-east. It is situated within a neighbourhood consisting of more houses of the same type.

2.2 Adjacent to the south-western boundary of the property is a field used for informal recreation. To the south-east is further open land consisting mainly of maintained grass, trees and shrubs which serves as additional amenity space for nos. 41-61 Celandine Avenue, with the upper (north-western) parts generally appearing more domesticated with more boundary markers, planting and structures.

2.3 This application concerns a plot of land measuring 19 by 12m within this maintained open area adjacent to no. 61's curtilage and the field. Additional open grassland further to the south-east is shown to be within the applicant's ownership but does not form part of the application site. The boundary with the recreational field is formed by a low dry stone wall. A small greenhouse has been erected in the upper part of the site adjacent to no. 61's curtilage boundary, which is marked by a timber fence.

3.0 PROPOSAL:

3.1 The proposal is for the erection of a raised patio and single-storey detached outbuilding located near the north-eastern boundary of the site. The patio would measure 14m by 7m. The outbuilding would have a footprint of 6.0m by 5.0m and be 2.5m high with a flat roof. The walling materials would be vertically-boarded timber, with brick footings. The surfacing materials for the patio are unspecified. The patio would be raised by approximately 500mm at its highest point above natural ground level, which is its south-eastern edge.

3.2 A start was made on the development last year before the application was made, the applicant at the time being under the impression that planning permission was not required. The footings of the patio have been largely completed but since the application was submitted no further work has been done.

3.3 The building would be internally divided, the south-eastern part being a sun lounge and the north-western part being used for the storage of tools in connection with the applicant's work (as a builder). The window openings would face north-west, south-east and south-west, with the north-eastern elevation being a solid wall.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 There is no planning history for this site. The following application has been received which affects the original dwelling and its curtilage, and is as yet undetermined:

2020/93150 – Erection of two-storey side and rear extensions to dwelling.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 15-Mar-2021: Amended plans submitted to clarify the scale and nature of the works, in particular the patio. These were not subjected to new publicity since owing to the scale and nature of the works proposed they were not considered to raise substantial new planning issues.

6.0 PLANNING POLICY:

6.1 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).

6.2 Kirklees Local Plan (2019):

The site is within land designated as urban green space on the Local Plan proposals map.

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways and access
- **LP 24** – Design
- **LP 61** – Urban Green Space

6.3 Supplementary Planning Guidance / Documents:

No Supplementary Planning Documents are deemed to be relevant here.

6.4 National Planning Guidance:

- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Publicity expiry date 14-Jan-2021. Publicity was undertaken by site notice and press advertisement in addition to neighbour notification letters because the proposal was deemed to be a departure from the adopted plan.

7.2 Three representations have been received, objecting to the proposal. The concerns raised are summarised below:

- Contrary to urban green space policy
- Harm to visual amenity
- The size and nature of the tool store suggests a commercial not a residential use
- It lies outside the original curtilage and would go against the restrictive covenant which only allows a greenhouse, garden shed or summerhouse
- It could set a precedent for further proliferation of such buildings
- The footings have already been laid for a much larger building than is shown on the drawings
- The size of the building and stated mains service connection suggest a potential for future change of use by stealth
- There is an undetermined proposal for extensions to the dwelling, and taken together, they would represent an over-intensification of the site
- The application refers to the building being screened by hedges, but currently all hedges are on neighbour's land.
- Any new hedging should be limited to a maximum of 8 feet in height and the type of hedging specified in the interests of visual and residential amenity
- The building will give rise to obstruction of light into garden
- The building will result in loss of views
- The installation of a sewer will give rise to odours and affect enjoyment of neighbouring garden land
- Part (15) of the application form not completed [trees or hedges adjacent to the proposed development]
- The existing land is untidy and this does not bode well for the period of construction.

8.0 CONSULTATION RESPONSES:

Below is a summary of the consultation responses received, where appropriate, these have been expanded on further in the appraisal section of this report.

8.1 Statutory:

None

8.2 Non-statutory:

KC Planning Policy – The proposal is contrary to LP61 because it has not been demonstrated that the land is surplus to requirements in the Kirklees Open Space Study.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site lies within land designated urban green space (UGS) on the Local Plan proposals map. The site is not within the recognised domestic curtilage of no. 61 and therefore cannot benefit from permitted development rights. Under Policy LP61 of the KLP, development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:
- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
 - b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
 - c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.
- 10.2 Criteria (b) and (c) do not apply in this instance since the use proposed is not an alternative open space use, nor is any compensatory open spaces use being proposed as part of the application.

- 10.3 As for criterion (a), it has *not* been clearly demonstrated that the land is no longer required to meet local needs for open space, sport, or recreational facilities. The application site forms part of a larger open space (site OLS 736 – ID 129) categorised as allotments/food growing land in the Kirklees Open Space Study (KOSS) 2016 based on existing and previous allotment/food growing use. The open space was assessed in the KOSS as having medium value as open space and was not identified as being surplus to requirements. There is also a deficiency of allotment provision in the Golcar ward. The safeguarding of existing allotments, and the creation of new ones where practicable, plays a role in helping to deliver public health goals as set out in Policy LP47 by providing opportunities for outdoor exercise and lower-cost healthy eating. So, the planning implications of the loss of allotments, or land earmarked for such a use, must be carefully considered.
- 10.4 Given that this urban green space allocation is in multiple private ownership, there would appear to be very little prospect of the historic allotment use being resumed in the near future. Any resumption of the allotment use on part or all of this urban green space allocation would presumably depend upon compulsory purchase. Even if this were to happen, it is considered that the proposed development would not significantly compromise the potential of the wider allocation to be used as allotments.
- 10.5 As previously stated, and as can be corroborated by observations from aerial photographs, the upper, or north-western part of the urban green space allocation, consisting of approximately the first 20m back from the established rear garden boundaries of 41-59 Celandine Avenue, is more heavily domesticated, with a number of small lightweight outbuildings and other structures, although it is noted that these are relatively small, consisting of garden sheds and greenhouses. The remaining, and larger, part of this allocation is generally more open. While most of the ownership strips are maintained as lawn as if used for private amenity space, they lack hard or permanent boundary treatments, the boundaries being marked, if at all, by hedgerows or intermittent trees and shrubs, and few buildings can be seen.
- 10.6 It is considered that the wider open space allocation, of which the application site forms part, makes a positive contribution to local amenity owing to its openness and the presence of mature trees. An unlimited proliferation of outbuildings, especially in the more open south-eastern part, and if built in brick or other permanent materials, would be undesirable as it would lead to increased domestication and loss of visual amenity. However, it is considered that the formation of a raised patio and the erection of a timber outbuilding in this specific location would not detract from amenity or the quality of the landscape. It is noted that the proposed building, being about the same length as a standard double garage and almost as wide, would be larger than most other structures on the urban green space, but it is considered that its footprint, height and design would not lead to an urbanising effect on its surroundings. The patio, it is noted, would only be raised significantly at its south-eastern extremity, and therefore would not seem a particularly prominent or incongruous feature within the landscape.
- 10.7 According to the Design & Access Statement, the storage element of the building would be used in connection with the applicant's work. In general, it is an accepted principle of the planning system that a householder can operate a business from their home address, whether from the dwelling itself or from an outbuilding, provided that it does not give rise to a material change in the

residential character of the premises (for instance, by reason of noise, odours, or additional vehicular trips to or from the premises). In such circumstances the business use is considered to be incidental to the enjoyment of the dwelling house. In this case, the proposed building is outside the recognised domestic curtilage and would therefore require planning permission whatever the proposed use but, given the small scale of the business-related element (approximately 15sqm of floorspace), it is considered that it could be deemed incidental to the enjoyment of the dwellinghouse and its associated land. It would use the same access to the highway as the existing dwelling. It is considered that the proposed development would not materially change the residential character of the area.

10.8 To conclude, the proposed development does not comply with Policy 61(a) of the KLP in that it would amount to permanent built development on land that is designated as urban green space and has not been shown to be surplus to requirements for open space, sport, or recreational facilities locally. However, for the reasons set out above, it is considered that, in this instance, it can be allowed contrary to the Policy since it would not result in a loss of useable open space and would not give rise to a detrimental impact upon visual amenity or the wider landscape, subject to the condition as set out in the paragraph above.

10.9 Any implications for biodiversity will be considered later in the report.

Urban Design issues

10.10 It is considered that the scale and design of the proposed building, which would be constructed in lightweight materials, would not detract from the character of the landscape or townscape and would comply with the aims of LP24(a) of the KLP and chapter 12 of the NPPF.

Residential Amenity

10.11 The windows would face north-west and south-east on to the applicant's own land, or south-west towards the field. No windows would face towards neighbouring land belonging to another residential property. The building would be placed on or very close to the boundary with land belonging to 59 Celandine Avenue and used by the occupants as additional recreational space but it is considered that the scale and height of the building, taking into account that it would be slightly raised above natural ground level, would not be such as would give rise to an overbearing impact upon them. For the avoidance of doubt it is recommended that it be conditioned that no window or other openings be formed in the north-eastern elevation. Subject to this it is considered that it would not give rise to any loss of residential amenity and would accord with the aims of policy LP24(b) of the KLP.

Landscape issues

10.12 As set out in paragraphs 10.5 - 10.8 above, it is considered that the proposal would not have an undue impact on the wider landscape.

Highway issues

10.13 On the basis that the building is to be used for purposes incidental to the enjoyment of the dwelling house as such, it would not give rise to any material implications for parking or the safe use of the public highway. As a

precautionary measure it is recommended it be conditioned that the building must not be sold or let separately to the original dwelling, since independent use might result in increased parking demand that could not be accommodated within the site. Subject to this it would accord with the aims of policies LP21 and LP22 of the KLP.

Drainage issues

- 10.14 The site is not located within land that is known to be at risk of flooding. The formation of a patio could result in increased water run-off. The application form (Part 12) indicates that there would be a connection made to the existing main sewer. Given the scale of the development this is not considered to raise significant issues as the overall contribution to run-off would be slight.

Representations

- 10.15 Concerns about the overall appropriateness of the development, and its impact on visual and residential amenity, have been assessed in the main part of the appraisal but are highlighted here with other issues raised.

Contrary to urban green space policy

Response: For the reasons set out in detail earlier in this report, it is considered that the development can be allowed despite not being in accordance with the aims of Policy LP61 of the KLP.

Harm to visual amenity

Response: For the reasons set out earlier in the report, it is considered that the development would not be harmful to visual amenity.

The size and nature of the tool store suggests a commercial not a residential use

Response: It is considered that the development can be classed as incidental to the use of the dwelling house.

It lies outside the original curtilage and would go against the restrictive covenant which only allows a greenhouse, garden shed or summerhouse

Response: It is noted that the proposed development lies outside the original curtilage. The enforcement of restrictive covenants is a private matter and is not a material planning consideration.

It could set a precedent for further proliferation of such buildings

Response: Any future applications on this urban green space allocation would be assessed and determined on their own merits.

The footings have already been laid for a much larger building than is shown on the drawings

Response: The footings are for a patio – this was not clear on the original submission documents.

The size of the building and stated mains service connection suggest a potential for future change of use by stealth

Response: The size of the building means it is unlikely to be able to function as a dwelling. In the event of any future application for change of use being made, it would be assessed on its own merits.

There is an undetermined proposal for extensions to the dwelling, and taken together, they would represent an over-intensification of the site

Response: The site is not within the original curtilage of no. 61, which is itself on land without designation, not urban green space. The two applications will therefore be considered separately. The final assessment of the extension proposal (2020/93150) will be considered having regard to the overall scale of the extensions and whether they would amount to overdevelopment within the curtilage.

The application refers to the building being screened by hedges, but currently all hedges are on neighbour's land. Any new hedging should be limited to a maximum of 8 feet in height and the type of hedging specified in the interests of visual and residential amenity

Response: The 3-D visual shows a hedge adjacent to the boundary. It is assumed that this is meant to represent the boundary treatments on the neighbouring land (which are in fact some low-level planting and a low timber fence) and not a proposal for new planting on the applicant's land, which would be impracticable owing to the lack of space between the new patio and the boundary. It is therefore not being assessed as part of the proposal. Any new planting that the developer may consider in the future will be limited by the high hedge legislation and does not need to be controlled by a specific condition.

The building will give rise to obstruction of light into garden.

Response: It is considered that the scale and design of the proposal would not give rise to any significant loss of amenity arising from obstruction to light.

The building will result in loss of views.

Response: Obstruction to a private view is not a material planning consideration.

The installation of a sewer will give rise to odours and affect enjoyment of neighbouring garden land

Response: The application form says that disposal both of surface and foul water drainage is to be by the main sewer. It does not explicitly say that a new sewer will be required for the new development, but new drainage connections for domestic outbuildings are normally covered by the Building Regulations, to which the applicant would have to conform.

Part (15) of the application form not completed [trees or hedges adjacent to the proposed development]

Response: There are no trees close to the site that are considered to have high amenity value so this omission is not considered to be significant.

The existing land is untidy and this does not bode well for the period of construction.

Response: The scale and nature of the proposal is such that the construction works are likely to be of short duration and not give rise to a large amount of waste.

Other Matters

- 10.16 The site is not under any special designation for wildlife conservation. The site is unlikely to have significant biodiversity value in its present condition and owing to the scale and nature of the development proposed, there are unlikely to be opportunities for enhancement.

10.17 *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 pre-dates 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.

10.18 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. Since the proposal is for development incidental to the enjoyment of an existing dwelling house within a sustainable location, it is considered that in the circumstances the applicant does not need to demonstrate further measures to combat climate change and the proposal is deemed to be in accordance with the aims set out above, and set out in NPPF Chapter 14.

11.0 CONCLUSION

11.1 It is considered that the development, subject to conditions, would have no adverse impact upon visual amenity, residential amenity, highway safety, or the natural environment. Whilst it would not be compliant with the wording of Policy LP61 it is considered in this instance that the loss of urban green space would be insignificant and would have no material impact upon the availability of open space, sport, or recreational facilities for the public. It is therefore considered that it can be granted planning permission as a departure from the adopted plan.

11.2 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 would constitute sustainable development and it is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Development to be carried out in accordance with the plans and specifications
2. Facing and surfacing materials for the patio?
3. No window or other openings to be formed in the north-eastern side elevation.
4. The building shall not be let, sold or separated from the main dwelling of 61 Celandine Nook

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f93237>

Certificate of Ownership –Certificate A signed.