
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Mar-2020

Subject: Planning Application 2019/94149 Reinstating of garden wall and erection of mesh fencing to form cat cage (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield, HD7 6HB

APPLICANT

R Haworth

DATE VALID

24-Dec-2019

TARGET DATE

18-Feb-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: Colne Valley

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed enclosure by reason of its scale, form, siting and materials would fail to preserve the character and appearance of the host building, the terraced row of dwellings of which it forms part and the wider Marsden Conservation Area causing harm to its significance and to the visual amenity of the area in general. The harm is considered to be less than substantial harm, however, as required by paragraph 193 of the National Planning Policy Framework, great weight has been given to that harm in assessing the impact of the proposed development. Public benefits have not been demonstrated to outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 (a and c) and LP35 of the Kirklees Local Plan and paragraphs 127, 130, 190, 193 and 196 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The original application for the erection of a cat cage was determined by the Sub-Committee at the meeting on 18th July 2019. Following this, officers consider that this new proposal should also be determined by the Sub-Committee.
- 1.2 The Chair of Sub-Committee has agreed with this procedure.

2.0 SITE AND SURROUNDINGS:

- 2.1 22 Ottiwells Terrace is an end terraced property within the Marsden Conservation Area and Ottiwells Terrace is one of the three streets of terraces consisting of five long rows of cottages. The houses on this street date back to the early 20th Century and they are typical of mill worker's housing of the late 19th and early 20th Centuries with hammer dressed stone external walls, ashlar stone window and door surrounds and the repetitive design of windows and doors along the terrace.
- 2.2 The dwellings within the terraced row are typified by low stone boundary walls with gate posts around small front gardens, some of which have hedges, short railings or low dividing boundary fences. The boundary treatments are, in the main, at low level and in keeping with the character of the terrace by the use of traditional materials.
- 2.3 The site is located in a mainly residential area with the vicinity comprising of mainly terraced properties. The rear elevations of the properties facing the application site are relatively modern detached properties.

3.0 PROPOSAL:

- 3.1 The application seeks planning permission for the reinstatement of part of the garden wall and erection of mesh fencing to form an enclosure. At the time of the officer's site visit, an alternative form of cat cage and shed were in situ at the property.

- 3.2 The proposed enclosure, called a 'cat containment area' would encompass the front garden area projecting forward of the front elevation of the property by just over 4 metres at a width of 3.9 metres. The enclosure would be erected around existing decking which is 0.3m in height. The mesh fencing proposed would be supported by 6no. cranked posts (black powder coated of 30mmx30mm in width) that measure 2 metres to the highest point. At 1.8m in height the posts would be angled inwards to form a partial enclosure of 750mm wide around the garden area. The proposed mesh would be coloured black and is described by the applicant as 'lightweight, none permanent and almost invisible'.
- 3.3 The proposal also includes the partial reinstatement of the garden wall. A shed has been erected on part of the wall and the coping stones removed. The shed would be removed and the wall repaired.
- 3.4 Whilst there is limited information to accompany the application it is understood that the enclosure is required to provide safe outdoor space for young cats/kittens at the property and protect them from loss or harm and prevents them causing motor accidents.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/90623 – Erection of cat cage and garden shed – Refused 18th July 2019
- 4.2 Enforcement history: COMP/18/0297
Enforcement Notice served requiring the removal of the metal cage and timber shed/structure erected to the front of the dwelling and removal of all resultant debris from the land. An appeal has been lodged and this is pending determination by the Planning Inspectorate.

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

- 5.1 The applicants were invited to submit justification for the development including any benefit to the community, so that this could be considered in an assessment of the impact of the development on the conservation area. This information has not been forthcoming.
- 5.2 The applicant agreed to submit samples of the supporting posts and mesh but these have not been received.

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 The site is within the Marsden Conservation Area within the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP35** – Historic environment

Supplementary Planning Guidance / Documents:

6.4 Marsden Conservation Area Appraisal

6.5 National Planning Guidance:

- **Chapter 12** – Achieving well-designed places
- **Chapter 14** -
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application proposals were advertised by neighbour notification letter, site notice and press notice. It has not attracted any representations.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC Conservation & Design: Object due to the impact on the host property and wider Conservation Area.

9.0 MAIN ISSUES

- Principle of development
- Impact on the Conservation Area/visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Conclusion

Principle of development

10.1 The site is within the Marsden Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. Policy LP35 requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and to ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

Impact on the Conservation Area/visual amenity

Information submitted with regards to significance

- 10.2 Paragraph 189 of the National Planning Policy Framework requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. The applicant has provided a Design and Access Statement which falls short of the tests set out in paragraph 189. Paragraph 190 requires that the particular significance of any heritage asset that may be affected by a proposal is assessed by the Local Planning Authority and this includes setting.
- 10.3 Whilst recognising that the revised proposals are an improvement on what has been previously considered: the shed would be removed, the wall reinstated and a more lightweight enclosure proposed; concerns remain regarding the impact of the development on the significance of the Conservation Area. The applicants were invited to submit further justification in respect of any community benefit as well as samples of the materials proposed in support of the submission however, no further details have been received at the time of writing. As such the development shows limited regard to the significance of the Conservation Area by introducing an incongruous feature to the front garden area where the significance lies in the visibility of the line of facades and low boundary features. The scale of the posts and mesh fencing, notwithstanding that this is a more lightweight proposal than the unauthorised structure on site, is out of keeping with the host property, terrace and wider Conservation Area.

Impact of the proposal on the significance on the Conservation Area

- 10.4 Policy LP24 of the Local Plan requires that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape and minimise impact on residential amenity of future and neighbouring occupiers.
- 10.5 Policy LP35 of the Local Plan states that development proposals affecting a designated heritage asset, in this case the conservation area, should conserve those elements which contribute to its significance. It also states that proposals should retain those elements of the historic environment which contribute to the distinctive identity of the Kirklees area and ensure that they are properly conserved.
- 10.6 Chapter 16 of the NPPF, paragraphs 193 and 196 state that great weight should be given to the heritage asset's (the conservation area's) conservation and where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed up against the public benefits of the proposal.
- 10.7 The proposed mesh fencing, although lightweight and with simple slimline posts and lower in height than the existing cage (extending to around the transom level of the ground floor window and top of the front door) it is significantly higher than other boundary features along this terrace. Officers consider that the structure proposed causes less than substantial harm to the character and significance of the conservation area by introducing a high

mesh enclosure, more appropriate in a commercial setting, to the front garden area of the property. The introduction of this structure would interrupt the open vista along the facades of the terrace resulting in harm to its distinct character.

Justification for the harm to significance

- 10.8 Having established that the development will result in less than substantial harm, Paragraph 194 of the NNPF requires that the Local Planning Authority should require clear and convincing justification for any harm.
- 10.9 The applicant's Design and Access Statement does not include any assessment in respect of the development's impact on the heritage asset. The supporting information does not include any justification or public benefit. The applicant was invited to submit further information in this respect, but no further justification has been provided. The application refers to the enclosure as a cat containment area and it has been designed as such. This is considered to provide private, rather than public, benefits. It has not been demonstrated that there is a public benefit that outweighs the harm to the character and significance of the Conservation Area. As set out above, in the absence of any convincing justification the proposals fall short of the requirements of the National Planning Policy Framework.
- 10.10 It is considered that the development results in an unacceptable form of development in terms of its impact on visual amenity and the heritage asset that is not outweighed by clear and convincing public benefits. It would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan as well as the aims of Chapters 12 and 16 of the National Planning Policy Framework.

Impact on residential amenity

- 10.11 The slimline posts and mesh enclosure is a maximum of 2m in height and set in from the boundary with the adjoining property, No. 21 Ottiwells Terrace. Taking into account the distance the enclosure is set away from this adjoining property and the materials of construction, it is considered it would not cause significant harm to the amenities of the adjoining property. The rear elevation of the properties on Deer Hill Drive would face the application site but are separated from the structure by a boundary wall and Ottiwells Terrace and as such there will be no material impact on any occupant of these properties.

Impact on highway safety

- 10.12 The proposed scheme is considered acceptable from a highways perspective as the wire mesh design would not compromise inter-visibility at the top of Ottiwells Terrace. The reinstatement of the wall to its original height would, similarly, not result in a detrimental impact on highway safety. The proposal accords with Policy LP21 of the Local Plan.

Other matters

- 10.13 The site is located within the Council's GIS bat alert layer however, it is not identified on the map as having bat roosts and the proposal does not interfere with the existing roof of the property. As such, it is not considered that a Bat Survey is required in this instance.

10.14 *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.

10.15 It is not considered necessary or proportionate to request specific measures in respect of the climate change agenda given the scale and nature of the development proposed.

11.0 CONCLUSION

11.1 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 means in practice.

11.2 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposal does not accord with the development plan and that the application of policies within the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

Background Papers:

Application web page:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f94149>

Certificate of Ownership – Certificate A signed and dated 23rd December 2019