
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Feb-2023

Subject: Planning Application 2022/92911 Change of use of vacant land to domestic garden 39, Carr Side Crescent, Batley, WF17 7JN

APPLICANT

K Daji

DATE VALID

02-Sep-2022

TARGET DATE

28-Oct-2022

EXTENSION EXPIRY DATE

06-Dec-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Batley East

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 to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (total of 26 representations received). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is a triangular parcel of land approximately 290sqm in area. It is grassed and bounded by a brick wall to the north and mature vegetation to the west. To the southeast is a footway linking Carr Side Crescent and Public Right of Way (PROW) footpath BAT/32/10, which is adjacent to the eastern corner of the site. The site is located directly to the east of 39 Carr Side Crescent, Batley, a semi-detached dwelling faced in brick which benefits from gardens to the front, side, and rear.

2.2 The site is surrounded by residential development to three sides, with Hyrstmount Junior School to the east (designated as Urban Greenspace UG274 in the Kirklees Local Plan). The site is not within a conservation area, nor are there any listed buildings within close proximity to the site.

3.0 PROPOSAL:

3.1 The applicant is seeking permission for the change of use of vacant land to domestic garden associated with 39 Carr Side Crescent.

4.0 RELEVANT PLANNING HISTORY

4.1 No record of any similar applications found at the site or its immediate surroundings.

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

5.1 During the course of the application, it was discovered that an administrative error during validation had led to the red line boundary being extended to the highway, thereby including land which would not be subject to the change of use. Specifically, it included part of the footway linking Carr Side Crescent and PROW footpath BAT/32/10. This was amended and the correct red line boundary re-advertised.

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 unallocated on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design

National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by neighbour letter, site notice, and press advert (due to the site's location adjacent to a PROW), giving until 17th October 2022 to comment on the initial plans. As a result of the above publicity, 22 representations have been received: 6 in support, 15 in objection, and 1 general comment. These have been published online. The material considerations raised as concerns are summarised as follows:

- Loss of footway linking Carr Side Crescent and PROW footpath BAT/32/10
- Loss of open space
- Loss of privacy
- Overshadowing
- Ecology
- Future development on site

7.2 Amended plans were advertised by neighbour letters giving until 15th November 2022 to comment. 4 further representations were received: 1 in supports and 3 in objection. However, no new material considerations were raised. These representations have also been published online.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None.

8.2 Non-statutory:

KC Disposals and Acquisitions – comments addressed within the report.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. 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 Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.
- 10.2 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24 suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.
- 10.3 In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

Impact on visual amenity

- 10.4 Consideration in relation to the impact on the visual amenity of the host dwelling and street scene shall now be set out, taking into account Policy LP24 (a), which sets out 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*”.
- 10.5 In terms of visual amenity, the vacant land does not currently have a designated purpose of use. As such, it is considered that any harm caused by changing the use would be neutral. It is noted that, as a result of the change of use to domestic garden the plot of no.39 would be somewhat larger than the neighbouring properties. However, there is some variation in plot size and shape in the surrounding area and as such this is considered acceptable on

balance. Furthermore, the local area is predominantly residential and as such, the change of use to domestic curtilage is not considered to cause harm to the character of the area.

- 10.6 The change of use to garden does not necessarily result in a loss of green space. The site is unallocated in the Kirklees Local Plan. It is further noted that designated Urban Greenspace UG274 (Hystrmount Junior School) is directly to the east of this site, with a smaller amenity greenspace at Beaumont Street to the northwest. Therefore, it is considered that there would be no detrimental loss of greenspace as a result of the proposed development.
- 10.7 Having taken the above into account, the proposed development would not cause any significant harm to visual amenity, complying with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Impact on residential amenity

- 10.8 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.9 Given the nature and location of the proposal, it is not likely to cause any significant additional impact on the amenities of the neighbouring properties. Therefore, the proposal would comply with Policy LP24 of the Kirklees Local Plan and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety

- 10.10 The applicant is seeking permission for the change of use of vacant land to domestic garden associated with 39 Carr Side Crescent. The development would not increase the amount of liveable space in the property. The proposed development is therefore unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at the site.
- 10.11 Therefore, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, and Chapter 9 of the National Planning Policy Framework.

Other matters

- 10.12 Ownership issues – The application was accompanied by ownership certificate B, in which the applicant certified that notification had been served on the current/previous owner of the land, Kirklees Council. Therefore, KC Disposals and Acquisitions were informally consulted. It has been confirmed that the applicant is currently in negotiations to purchase the land from Kirklees Council, subject to receiving planning permission for change of use to garden land. Accordingly, KC Disposals and Acquisitions have no objections to this proposal.

- 10.13 Public Right of Way – PROW footpath BAT/32/10 runs adjacent to the eastern corner of the application site. Given the nature of the proposed development, and the small area of site which would abut the PROW, it is considered that the proposal would not have a significant impact on the amenity of its user in this instance, according with Policy LP23 of the Kirklees Local Plan.
- 10.14 Ecology – Officers note that there are no records of any ecological constraints on this site.
- 10.15 Future development – Concerns have been raised regarding future development on the site. Any future development would likely require a separate planning application and would be considered on its own merits against the relevant policy considerations.
- 10.16 Carbon budget – in this case, due to the nature of the proposal, it is considered reasonable not to require the applicant to put forward any specific resilience measures.
- 10.17 There are no other matters considered relevant to the determination of this application.

Representations

- 10.18 Following the initial round of publicity, 22 representations were received: 6 in support, 15 in objection, and 1 general comment. The material considerations raised as concerns are summarised as follows:
- Loss of footway linking Carr Side Crescent and PROW footpath BAT/32/10
 - Loss of open space
 - Loss of privacy
 - Overshadowing
 - Ecology
 - Future development on site
- 10.19 **Officer comment:** The above material considerations have been addressed within the report.
- 10.20 Following the amended plans publicity, 4 further representations were received: 1 in support and 3 in objection. However, no new material considerations were raised.

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 development means in practice.
- 11.2 The proposed change of use of vacant land to domestic garden is considered to constitute an acceptable form of development and would have no adverse impact on residential or visual amenity, or highway safety.

11.3 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 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. Commencement of development within 3 years.
2. Development to be in accordance with the approved plans

Background Papers:

The application can be found online here:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92911)
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92911>

Certificate of Ownership – Ownership Certificate B has been signed, with notice served on Kirklees Council.