

**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: 2016/60/91954/W

Site Address: rear of, 191, Huddersfield Road, Thongsbridge,
Holmfirth, HD9 3TT

Description: Outline application for erection of 2 dwellings

Recommending Officer: Farzana Tabasum

DECISION – approval of reserved matters

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 19-Apr-2018

Site Description

The application site comprises 0.3 hectare of steeply sloping land from east to west and appears to be in a well maintained condition. The application site is part of a larger area of Provisional Open Land (POL) and lies to the eastern boundary of the wider, undeveloped part of the POL area, with the remainder of the POL being to the north, east and west. The southern boundary is bounded by the remainder of open land, comprising grassland, shrubs and mature trees.

A public right of way (HOL/53/10) runs along the existing private drive from Huddersfield Road then alongside the application site. There are grade II listed buildings beyond the south east corner of the site.

There are mature trees close to the northern boundary which are formally protected.

Description of Proposal

This application is a re submission of a scheme identical to that refused in 2015 under application no. 14/92413. The proposal seeks outline permission for two dwellings with details of access only to be considered at this stage. The proposals would include improvements to the junction of the access with Huddersfield Road.

Whilst no indicative plans are submitted, the design and access statement notes the scale of the proposed dwellings would be two storey in height to a maximum of 8m in height, no greater than 10 metres in depth and 14 metres in width. They would be served off an improved existing private drive.

The application is now accompanied with additional information relating to the applicants investigation into alternative access points into the site, the reasons for discounting them and therefore returning back to, in their opinion "the only feasible option available, which is from Huddersfield Road".

History of Negotiations:

- Additional supporting information received from Jim Westhead on 01/09/16, in response to DM Highway officers comments dated 13/07/16.
- Fire engine swept paths -received 18/10/16
- Design response to stage 1 RSA – received 18/10/16
- Road Safety Report - received 18/10/16

Relevant Planning History

2014/92413 - outline permission for two dwellings with details of access only-refused at Strategic Committee on 30/07/15, decision issued on 26/08/15.

The reason for refusal states:

- 1. Notwithstanding the highway improvements proposed along Huddersfield Road, the proposal will intensify the use of an access/lane*

which is substandard in width and visibility and also shares the route of a public right of way (HOL/53/10), onto a classified highway. It is considered that this intensification of use would lead to unacceptable conflict between vehicles and pedestrians. This would not be in the best interest of highway safety and contrary Policies D2 and T10 of the Unitary Development Plan and paragraph 35 of the National Planning Policy Framework

Representations

Final publicity date expired 22nd July 2016. As a result on the publicity, eight representations are received.

A summary of the comments received is set out below:

Highway concerns

- Access lane too narrow, single track not allowing traffic to pass which is also a public right of way with limited visibility
- Loss of existing on road parking to existing residents
- Narrowing of Huddersfield Rd would create a pinch point and be hazardous to motorists and cyclists
- Increased traffic to a small inadequate lane and impact on pedestrian safety
- Pedestrian access to property nos. 185, 187 & 189 will be severely restricted

General concerns:

- Proposals identical to those refused with no changes
- Loss of greenfield site, wildlife, trees and old stone wall
- Could cause further flooding in the area

None planning matters:

- loss of view
- noise & disturbance during construction

Holme Valley Parish Council– objects on the grounds of inappropriate development in the green belt and concerns regarding highways/access.

Consultation Responses

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

K.C. Highway Development Management: No objections subject to conditions

Policy

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The application site forms part of a larger area of Provisional Open Land (POL) on the Unitary Development Plan proposals map

Kirklees Unitary Development Plan:

D5 – Provisional Open Land

D2 – New development to consider residential amenity, visual amenity & highway safety

BE1 – Design principles

BE2 – Design of new development

BE12 - Space about buildings standards

BE23 – New developments to incorporate crime prevention measures

G6 - Development having regard to contamination

NE9 – Protection of mature trees

EP11 – Incorporation of integral landscaping scheme which protects or enhances ecology

R13 – development affecting a public right of way

T10 - Highway safety considerations

T19 - Parking standards

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

‘Core Planning Principles’

Section 4 - Promoting sustainable transport

Section 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring good design

Section 8 – Promoting healthy communities

Section 10 – Meeting the challenge of climate change, flooding and coastal change

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

Assessment

Principle of development:

The application site is allocated as Provisional Open Land (POL) on the Unitary

Development Plan. As such the proposal is considered against Policy D5. Policy D5 states

That:

“Planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”

The weight that can be given to Policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 49 and 215. These indicate that policies regarding housing should not be considered up to date unless the authority can demonstrate a five year supply of housing. The Council is currently unable to demonstrate a five year supply of deliverable housing sites.

Paragraph 14 states that there is a presumption in favour of sustainable development. For ‘decision taking’ this paragraph goes on to state that this means where relevant policies are out-of-date, planning permission should be granted *“unless any adverse impacts ... would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”*.

The proposal seeks outline consent for two dwellings so will have limited economic impacts. It will provide business opportunities for contractors and local suppliers. In accordance with the NPPF new houses will support growth and satisfy housing needs thereby contribute to the building of a strong

economy. The proposals would be creating additional demand for local services and potentially increasing use and viability of local bus services.

The development of a greenfield site represents an environmental loss. However, whilst national policy encourages the use of brownfield land for development it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply. The principle alone of a proposed development of two dwellings on this part of the wider POL allocation is considered to be acceptable.

In terms of Paragraph 58 of the NPPF lists criteria for the design of development. One of the criteria is to ensure that developments “optimise the potential of the site to accommodate development”. As this proposal only covers part of the POL site, it would need to be demonstrated that the implementation of this proposal would not prevent the remainder of the POL site being developed in the longer term if required through the Local Plan process. In the draft Local Plan the site has been allocated for safeguarded land under reference SL2189, however no weight can currently be afforded to the Local Plan policies or allocations.

Following discussions with Highway Officers, it is advised that in terms of traffic generation, other than the proposed number of dwellings shown, it is unlikely any further development can be served off this narrow private access road. Additionally the presence of the grade II listed building close up to the edge of the lane would make its widening to accommodate further traffic harmful, further restricting capacity. Given the surrounding highway network and general pattern of development, the most plausible access to the remainder of the POL may be considered from New Road, to the north west of the site. On this basis, the principle of developing this area of the POL site would not prejudice the future development of the remainder of POL land, where an alternative access would need to be sought, should the land come forward for development, subject to addressing all other material considerations.

Effect on Heritage Assets:

The application is in close proximity of grade II listed buildings to the south east of the site. Section 66 (1) of the Listed Buildings Act states “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

Paragraph 132 of the NPPF notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Conservation Officers previously commented on the identical refused scheme that subject to the consideration of detailed design proposals at reserved matters stage, the impact of two dwellings with associated highway improvements would lead to less than substantial harm to the setting of the listed buildings and the character of the surrounding area. In such circumstances NPPF para 134 states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case the harm is considered to be outweighed by the public benefits of the provision of housing in a sustainable location.

Effect on visual amenity:

A full assessment of the layout, scale and appearance of the dwellings would be made upon the receipt of reserved matters. Proposals for new development should respect the architectural qualities of surrounding development and their materials of construction in order to preserve and enhance the appearance of the area as stated in section 12 of the NPPF.

UDP Policies BE1 and BE2 state that the layout of buildings should respect any character the site and area may have. Development must respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area.

Given the sloping nature of the site, excavations and infilling would be required within the site. The submitted information makes reference to the scale of the proposed two dwellings and that parking and internal turning facilities would be provided within the confines of the site. Given the size of the plot and based on the information provided, in terms of the indicative size of the dwellings, there would be adequate space within the site to provide reasonable sized garden areas with space for waste bins for each plot. With regards to design and external appearance, these are matters which would be considered in detail upon future submission of reserved matters or full applications taking into account the above policies and the impact on the character and appearance of the surroundings. Permitted development rights to retain an adequate amenity area and to avoid any potential detriment to the amenities of the surroundings including the setting of the adjacent listed buildings from overly large incongruously designed extensions, could also be removed should the proposal be acceptable in all other aspects.

As external appearance is one of the reserved matters, details of this would need to be considered on subsequent reserved matters application. Again due to the topography of the site it is likely that retaining walls will be required on the periphery of and internally within the site. These issues can be addressed by applying a suitable condition, if the proposals are supported in all other aspects.

Notwithstanding the topography of the site Officers are of the opinion that a development on this site can be achieved without harm to visual amenity in accordance with UDP policy and the NPPF.

Effect on residential amenity:

Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises.

In this instance, the nearest residential property is no.191 Huddersfield Road, beyond the south east corner of the site. Officers are satisfied that a layout could be provided on this site for two dwellings which would safeguard the residential amenity of future occupants as well as those that are located within close proximity to the application site in accordance with Policy BE12 of the UDP, subject to the removal of permitted development rights by condition and all other matters being addressed.

Effect on Highways & road safety:

UDP Policy T10 states that “New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network ...” Policy T19 addresses car parking in relation to the maximum standards set out in Appendix 2 to the UDP.

The site is surrounded by residential properties to the north, west and east along Huddersfield Road some of which do not benefit from off road parking. The proposed works are to widen the existing access point where it meets Huddersfield Road. In addition, the works would include a junction build out with footway (4m in length) construction with reflective bollards & parking bays either side of the access point. The Highway statement accompanying the application states the proposed development is likely to generate approximately 2 trips during each of the network peak hours (morning peak between 8am and 9am, and evening peak between 5pm and 6pm), with between 12 and 16 vehicle movements per day. On assessment of this, Highway Officers consider the proposed improvement works, to provide improved visibility to both sides of the access point would allow for simultaneous two way traffic flow at the junction with Huddersfield Road and formalised parking along this part of Huddersfield Road, where currently there is no such provision.

However concerns remain in relation to the proposed works which are likely to create an adverse camber next to the widened access and car park space for no. 195 Huddersfield Road. The widening of the access road will raise the level adjacent to the car park space of no. 195 Huddersfield Road. This could be addressed with a condition requiring details to be submitted and approved to ensure that the proposed improvement works include any necessary works to retain the safe accessibility to and from the car park space of no. 195 Huddersfield Road.

DM Highway Officers requested additional information in the form of a Road Safety Audit for clarity of how the proposed works would work to assess the impact on highway safety. This information was submitted on 18/10/16 which included the "Designers response to stage 1 RSA " ref, no. 14028 dated November 2014. DM Highway Officers are satisfied that the proposed improvements including those to the existing private access/lane as shown on drawing no. 1402801D can be achieved and as such raise no objections to the proposal, subject to conditions.

Previous Application (2014/92413) and Highways Reason for Refusal

Notwithstanding the above and comments by the DM Highway Officer, whilst this is a new planning application, it is in effect an identical scheme to that previously refused by the LPAs Strategic Planning Committee on 30 July 2015 under application no. 2014/92413. The reason for refusal on that application is set out below:

1. Notwithstanding the highway improvements proposed along Huddersfield Road, the proposal will intensify the use of an access/lane which is substandard in width and visibility and also shares the route of a public right of way (HOL/53/10), onto a classified highway. It is considered that this intensification of use would lead to unacceptable conflict between vehicles and pedestrians. This would not be in the best interest of highway safety and contrary Policies D2 and T10 of the Unitary Development Plan and paragraph 35 of the National Planning Policy Framework.

It is noted that the current submission includes additional information identifying three alternative access points to the site which have been considered, and includes reasons for discounting them. These alternative access points have been shown on a plan.

On consideration of the additional information, Officers do not dispute the reasons given by the applicant for discounting the alternative access points. It is also acknowledged that works have been carried out to remove the bulge along part of the access road.

However, the works to remove the bulge are considered to be minor works, and the discounting of alternative access points do not address the previous reason for refusal set out by the LPAs Strategic Planning Committee.

It is therefore considered that the proposal would intensify the use of an access/lane which is substandard in width and visibility and also shares the route of a public right of way (HOL/53/10), onto a classified highway. It is considered that this intensification of use would lead to unacceptable conflict between vehicles and pedestrians. The supporting information submitted has not demonstrated how these concerns can be overcome and addressed. As such it is not considered that this application has addressed the reason for refusal of application 2014/92413 and the application cannot be supported by the LPA. The proposal would therefore be contrary to Policies T10 and D2 of

the UDP and paragraph 35 of the NPPF.

With regards to the Public Right of Way (PROW), as set out above, concerns were raised in the reason for refusal about the point of access also forming a public right of way. However it is not proposed to obstruct or interfere with the PROW.

Drainage Issues:

The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

The application form states that foul water would be disposed of by mains sewer and surface water by a soakaway. No other drainage details are provided.

The Strategic Drainage Officer on assessment of the previously refused application advised the principle of developing this site for two dwellings can be supported from a drainage aspect. However further details will be required at reserved matters stage. The advice of the Drainage Officer was previously conveyed to the agent, who agreed this to be reasonable and agreed to the imposition of the suggested condition by the Drainage officer to inform a future layout, to ensure the site can be adequately drained in accordance with advice in the NPPF.

Ecological Issues:

Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments.

UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The ecological report accompanying the application has identified the site as having semi-improved neutral grassland which has some ecological interest; there are some indicator species of unimproved grassland present and a stand of Japanese knotweed present, adjacent to the access track. In addition the Biodiversity Officer acknowledges a number of bat roosts occur within the area but the site itself has no features of relevance to roosting bats. Based on the above and the fact the site has minimal ecological interest these impacts can be mitigated by conditions of any planning permission requiring appropriate enhancement and compensation measures which are included in the Ecological appraisal accompanying this application. This would satisfy the requirements of the NPPF and Policy EP11 of the UDP.

There are no mature trees within the site. Nevertheless, any subsequent detailed application will need to make sure adequate distance is achieved between properties and the protected trees adjacent to the north of the site, to accord with Policy NE9 of the UDP.

Land Contamination:

The Phase 1 contamination report by JNP Group (dated 18/05/14; ref NG8482/THO/PH1), has been reviewed by the Council's Environmental Services. It has subsequently been confirmed that there is a low risk of pollutant linkages (contaminated land) however a precautionary phase 2 site investigation should be required by condition of any planning permission.

On assessment of the initial indicative layout for two dwellings, Environmental Health Officers advise that in order to promote green sustainable development, in accordance with NPPF section 4 paragraph 35 intrusive site investigations and appropriate remediation and validation reports/strategies shall be conditioned to comply with Policy G6 of the UDP as well as the aims of chapter 11 of the NPPF.

REPRESENTATIONS

Addressed in assessment above

Conclusion

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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation – refuse

Decision Authorisation - Delegated Powers**Application Number:**16/91954**Officer Recommendation:** refuse**Reasons for refusal**

1. Notwithstanding the highway improvements proposed along Huddersfield Road the proposal will intensify the use of an access/lane which is substandard in width and visibility and also shares the route of a public right of way (HOL/53/10), onto a classified highway. It is considered that this intensification of use would lead to unacceptable conflict between vehicles and pedestrians. This would not be in the best interest of highway safety and contrary Policies D2 and T10 of the Unitary Development Plan and paragraph 35 of the National Planning Policy Framework

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan			14/06/16
Proposed site block	1402801D Titled:- proposed access improvements & on street parking		14/06/16
Proposed site/block with red line	1402801D Titled:- proposed access improvements & on street parking		14/06/16
Fire engine swept paths			18/10/16
Designers response to stage 1 Road Safety Audit	By HY consulting 14028/ November 2014		18/10/16
Road Safety Audit	By PAH Highway Consultants RSA932/November 2014		18/10/16
Planning Statement			14/06/16
Highways Statement	By HY Consulting ref. no. 14028 dated April 2014		14/06/16
Design & Access Statement			14/06/16
Drainage/Foul Sewerage Assessment	By jnp group Consulting Engineers ref. no. NG8582/THO		14/06/16
Ecology Appraisal Statement	By Brooks Ecological ref no. R192401		14/06/16
Coal Mining Risk	By David Bellis		14/06/16

Plan Type	Reference	Version	Date Received
Assessment			

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 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. The submitted information does not address nor overcomes the previous reason for refusal which relates to an identical proposal. For the reason set out above the development would not improve the environmental conditions of the area.

Recommendation and Authorisation Box

Officer Signature :		Date:	16/01/17
Team Leader Signature:		Date:	18/1/2017