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:	2016/62/93110/W
Site Address:	adj 6, Sands Terrace, Leeds Road, Huddersfield, HD2 1YX
Description:	Erection of 2 dwellings
Recommending Officer:	Neil Bearcroft

DECISION - REFUSED

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 07-May-2021

Officer Report

Site Description - adj 6, Sands Terrace, Leeds Road, Huddersfield, HD2 1YX

The application site relates to a rectangular piece of land that currently comprises a hardstanding area and decking. It is surrounded by a residential terrace (Sands Terrace) to the south-east, a playground to the north-west, bowling green to the north-east and a garage to the south-west. Fieldhouse Lane runs to the south-west of the site with along with byway HUD/43/50.

Description of Proposal

The application seeks full planning permission for the erection of a pair of semi-detached dwellings that would be constructed in natural coursed stone and designed with a hipped roof that would be finished in artificial slate. Each dwelling would benefit from a single bedroom. Four parking spaces are proposed to be provided to the north-western side of the properties which would be accessed off Fieldhouse Lane which comes off Leeds Road.

History of negotiations/amendments received

During the course of the application, amended plans (25/10/2016) were received to address concerns raised by the Environment Agency with regards to flooding. Further amendments (23/12/2016) were received to improve the design of the proposal and to enable the proposal to offer a good standard of amenity to future occupants. The Case Officer also set out that the proposal could not be supported on Flood Risk grounds and further information seeking to pass the sequential test was submitted.

Relevant Planning History

COMP/15/0078	Alleged unauthorised material change of use to site residential caravan	Enforcement Notice Issued	05/08/2016
2010/92811	Erection of semi detached dwellings	Withdrawn	23/09/2010
2010/90452	Erection of semi detached dwellings	Withdrawn	10/05/2010
2005/94518	Erection of 2 no. Dwellings	Refused	08/12/2005

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired: 15 November 2016 – no comments received.

The further information submitted was not re-advertised as they sought to address technical matters in relation to flood risk.

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 Highways Development Management** – No objections
- **KC Environmental Services** – No objections
- **KC Public Rights of Way** – No objections
- **KC Lead Local Flood Authority** – No objection
- **Environment Agency** – No objections
- **Health and Safety Executive (HSE**) - does not advise, on safety grounds, against the granting of planning permission in this case.

Policy

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 allocated as a priority employment area on the Kirklees Local Plan.

The following Policies are therefore relevant.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place Shaping
- **LP8 –** Safeguarding employment land and premises
- **LP21** – Highway Safety
- **LP22** - Parking Standards
- **LP24** – Design
- **LP27** – Flood Risk
- **LP30** – Biodiversity
- **LP52** - Protection and improvement of environmental quality

Supplementary Planning Documents (SPDs)

- Kirklees Highway Design Guide (Adopted)
- Kirklees Housebuilder Design Guide (Draft)
- Kirklees House Extensions and Alterations (Draft)

Officer Note: Weight afforded to the draft SPD which be proportionate to their stage in the adoptions process. The two draft SPDs outline above have been through public consultation but are not yet adopted by the Council.

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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.

- **Chapter 11** – Making effective use of land
- **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

Guidance
- Flood risk assessment: the sequential test for applicants
- Nationally described space standards

Assessment

The application site is allocated as a priority employment area on the Local Plan and the impact of the development on this designation needs to be considered. Policies LP1 and LP2 are also relevant which support sustainable development. The site is located in Flood Zone 3 and this is a key matter for consideration for this proposal in relation to flood risk. Other matters to be considered are the proposals design and the impact on the character and appearance of the local area, highway safety, residential amenity and all other material planning considerations.

Priority Employment Area

The site is located within a Priority Employment Area and therefore Policy LP8 of the Local Plan needs to be considered. LP8 seeks to protect areas of existing employment land. Where schemes come forward for non-employment uses, the Policy states proposals will only be supported where the a site is no longer capable of an employment use, and the proposed use is compatible with neighbouring uses, and where practical would not prejudice the continued use of neighbour land for employment. The site forms land adjacent to a residential dwelling which has not been in an employment use and represents a small site which only has very limited scope for any employment use, therefore it is not considered that it would lead to the loss of employment land. Further the site is located adjacent to other residential uses and is separated from the other main employment uses by the access road. Further as set out in the residential amenity section of this report, a noise report has

been provided which demonstrates that an acceptable level of amenity can be achieved for future occupiers which would also protect the adjacent employment uses. It is therefore considered that the proposal would not lead to a loss of viable employment land and would meet the requirements of Policy LP8.

Flood Risk

The application site is located in flood zone 3a, on the Environment Agency's Flood Maps and on the Kirklees Strategic Flood Risk Assessment (SFRA). The application has therefore been assessed by the Environment Agency and the Lead Local Flood Authority team of the Council. Policy LP27 of the Local Plan in relation to Flood Risk needs to be considered in detail along with Policies set out in the NPPF and guidance in the PPG.

Paragraph 163 of the NPPF is most relevant for this application which sets out:

163. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
    a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
    b) the development is appropriately flood resistant and resilient;
    c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
    d) any residual risk can be safely managed; and
    e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

As set out in the PPG, residential uses in Flood Zone 3a on a site only allocated for the protection of employment uses in the Local Plan as set out above, first needs to pass the sequential test. Flood Zone 3a is defined in Table1 of the PPG as an area of High Probability of flooding and forms land having a 1 in 100 or greater annual probability of river flooding. The PPG provides further guidance on flooding matters and defines the different types of flood zones, and the type of uses which are appropriate within each zone. The proposed residential use is defined under Table 2 of the PPG as being 'more vulnerable.' Table 3 details where different types of uses are appropriate or inappropriate. Table 3 advises that development types classified as 'more vulnerable' located in flood zone 3a should only be approved if the exceptions test can be passed. In light of the above Policy context if the sequential test is passed, the exceptions test would then need to be passed. Finally an acceptable site specific flood risk assessment has to be provided.

To support the application the applicant has submitted a site specific flood risk assessment, a sequential test, and additional information to support the proposal and to meet the requirements of the exceptions test.

Sequential Test

The applicant has submitted a sequential test on two occasions with the most recent submission being by Johnson Mowat Dated 16 December 2019. The submitted document tests out the catchment for the proposal to be the Huddersfield market area and has utilised the Strategic Housing Land Availability Assessment (SHLAA) along with an online search on Rightmove and Zoopla to undertaken an analysis of available sites, the size of site being restricted to 0.1 hectares to reflect the small size of the application site.

The submitted document has been assessed in detail by Planning Officers, however the proposed residential use does not seek to meet a site-specific need such as a school might and would more broadly contribute to the overall housing supply of the whole district. Therefore, a wide catchment area is considered appropriate, with Policy LP27 of the Local Plan suggesting that the starting point should be a district wide search. The search area has been restricted to the Huddersfield market area which whilst not forming the whole district is on balance considered to be a reasonable approach for someone looking to provide homes in and around Huddersfield. The restriction on site size however is considered to be overly onerous given that the application site is very restricted in size and there is no demonstrated reason why sites of a larger scale could not be considered given that the residential use is only meeting a broad housing need. It is therefore considered that sites up to 0.15 hectares would be more appropriate which would potentially provide land for up to 5 dwellings, which is typically considered to be a small scale development.

The sequential assessment has relied on the SHLAA to search for sites available, however the currently available SHLAA dates back to 2014 and therefore it is considered that the information within SHLAA can not be relied on to be current and up to date. There are other evidence bases such as the Kirklees Brownfield register and these provide a more updated list of sites but are restricted to land which is classified as being brownfield, again not a considered a comprehensive list. The submitted sequential assessment has also set out that sites which have gained planning permission should be discounted. However, guidance document “Demonstrating the Flood Risk Sequential Test for Planning Applications’” clearly sets out in the section on potential alterative sites:

> *Also look at sites that haven’t been allocated in the local plan, but that have been granted planning permission for a development that’s the same or similar to the development you’re proposing. Your local planning authority will have details of sites with planning permission.*

The applicant has provided no details that such a search has taken place. In addition, the latest PS returns for the district January to the end of March

2021, the authority has determined 85 applications for dwellings of less than 10 units across the district, the vast majority of which have been approved. From a review of permissions from 2020 in the Huddersfield area only, Officers have approved 117 of these applications for dwellings of less than 10 units. Whilst it is accepted that some of these will be not be directly similar to the application site, there will be a number which are. It is considered that this highlights that that there is a significant supply of new sites/land available within the district to meet the housing need.

Finally, and most importantly, the Council can demonstrate a 5-year land supply for housing to serve the district. This is set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).

In conclusion given the currently available evidence Officers concluded that the sequential test has not been passed for the site.

Exceptions Test

Whilst the sequential test has failed, for completeness it is considered appropriate to assess the information submitted within respect to the exceptions test. To pass the exceptions test the PPG sets out that wider sustainability benefits to the community need to be demonstrated first, followed by ensuring that the development is safe for its lifetime.

The submitted statement sets out that the applicant considers the site to be located within a sustainable location and within easy access to public transport shops etc, and that bringing the site forward for development would provide wider benefits to the local community. The limited information provided in this respect is not considered sufficient to pass the first part of the exceptions test. The statement refers to generic circumstances found at many sites across Huddersfield, including those not within a flood zone and does not set out any site specific benefits. It is therefore concluded that the first part of the exception has failed.

Turning to the second part, the applicant has provided a site specific flood risk assessment which has been assessed by the Environment Agency (EA). The submitted FRA is considered to be acceptable to the EA provided the floor levels achieve those set out in the FRA, which could be secured by condition. In light of these comments the second part of the exceptions would be passed.

Conclusion

In conclusion, the proposed development has failed the sequential test and the first part of the exceptions test on Flood Risk grounds. The proposal would therefore fail to accord with Policy LP27 of the Local Plan and guidance in chapter 14 of the NPPF.

Design

General design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity.

The application proposes a pair of semi-detached dwellings which would sit adjacent to the existing terrace to the south-east of the site. Access to the dwellings would be taken off Fieldhouse Lane. The layout of the development proposed thus would not be out of character when considered against existing surrounding development.

In terms of the design and appearance, the proposed dwellings would be two storey and of traditional design. They have been designed to result in a comprehensive and balanced appearance to the front and rear elevation, with fenestration aligned and consistent with each other. Architectural detailing on the plans would positively contribute to the aesthetics of the dwellings. The proposed materials are also acceptable as they are evident within the vicinity. As such, the dwellings are considered to be acceptable in design terms.

In addition, dwellings would take a subservient role, being smaller in scale and massing in comparison to but would be in keeping in design terms with the adjacent terrace resulting in a subservient and in keeping addition to the street scene.

The plot is large enough to accommodate two dwellings with adequate amenity space provision without resulting in over development.

The proposed dwellings have been carefully designed such that by virtue of its layout, scale and design, it would result in a development that is acceptable in design terms, relates to the existing terrace of which it would sit adjacent to and would not compromise the visual of the area. In conclusion the overall design and scale of development is considered to be acceptable and would have an acceptable impact on the local area and would accord with Policy LP24 of the Local Plan and Policies in Chapters 12 of the NPPF.

Residential Amenity

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to "*provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.*" This is further supported by policies set out in

Chapters 12 and 15 of the NPPF. The application has also been assessed by Environmental Services.

The nearest residential property to the dwellings proposed is no.6 Sands Terrace. The proposed pair of semi-detached dwellings would be situated to this side of this terrace projecting approximately 0.8 metres beyond the front elevation of this property and set back approximately 1.0 metres from the rear elevation. It would also be situated to the north-west and would not comprise any south-east facing habitable room window. As such, it would not result in any adverse material impacts upon the amenities currently enjoyed by the occupiers of this neighbouring property.

However, as the dwelling would be located in close proximity to this property, it is likely that noise generated during construction of the dwellings may affect the occupier of this property and the occupant of the rest of the terrace. To address this matter, K.C. Environmental Services have recommended that a note requiring the works to undertaken during the time when noise and disturbance levels are generally high. This note can be relayed onto the applicant via the decision notice if this application is approved in the interest of neighbour amenity.

In terms of the future occupants of the dwelling proposed, the internal floor space of the dwellings along with the provision of amenity space is acceptable for one bedroomed properties such that they would offer a good standard of amenity to the future occupiers. The applicant has also submitted a noise report, reference DRUK/ACC/RS/AMSTH/2507 which states that the noise climate of dwellings on Sands Terrace is mainly from road traffic noise, nearby Toyota dealership, air craft over flights, children playing in the adjacent open playground, Leeds Road Sports Facility and pedestrians along Pit Lane. However, the report concludes that the noise can be contained by the building envelope components and thus no additional attenuation measures will be required. K.C. Environmental Service concur with the conclusions of the report and therefore it is considered that that the future occupiers of the development would not be exposed to noise levels that would affect their amenities.

In light of the above and subject to the stated conditions, the proposal is considered to have an acceptable impact on residential amenity and would therefore accord with Policy LP24 of the Local Plan and Policies in Chapters 12 and 15 of the NPPF.

Highway Safety

Turning to highway safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options. The application has also been assessed by Highways DM Officer. The site would also be accessed via Public Right of Way (PROW) Hud/43/50 which is

a Byway and runs along Fieldhouse Lane and the application has been assessed by the PROW Officer.

This application seeks approval of the erection of 2 dwellings at land adjacent to 6 Sands Terrace, Fieldhouse Lane off Leeds Road, Huddersfield. It is proposed that access to the proposed dwellings is off Fieldhouse Lane which also serves 6 neighbouring dwellings at Sands Terrace. Fieldhouse Lane is an un-adopted highway and public right of way with access off Leeds Road (A62) to Broad Canal towpath/ Birkby/ Bradley Greenway. It has a width of 3.4m with a grass verge to either side. Sightlines onto Leeds Road are good in both directions.

The applicant has also proposed 4 parking spaces for the two one bedroomed dwellings proposed with a width of approximately 6.0 metres which is satisfactory for a double drive and also allows space for pedestrian access.

In addition, the site location gives easy access to public transport links.

The proposed access, parking and layout is therefore considered to be acceptable from a highways point of view and KC. Highways DM have no objections to the scheme subject to a condition requiring adequate surfacing and drainage of the proposed vehicle access and parking areas and a note which are in the interest of highway safety and can be imposed if this application is approved. There is space to provide bin storage on site. Details of bin storage and presentation point for bins could be secured by condition if the application was to be approved.

With regard to the byway, the PROW Officer has noted that there would be concerns if the footpath had to be closed during the construction of the dwellings. Therefore, they have recommended a footnote stating that the byway must not be interfered with or obstructed, prior to, during or after development works. This note will be relayed on to the applicant via the decision notice if the application is approved in the interests of highway safety.

In light of the above, the proposal is considered to have an acceptable impact on highway safety subject to conditions. The application would therefore accord with Policies LP21 and LP22

Other Matters

Biodiversity - The site is in the bat alert area however there are no bat roosting opportunities on the site, and the site currently forms vacant land adjacent to a dwelling with a concrete base and is considered to be of low ecological value. However, in the interest of enhancing the biodiversity of the site and to accord with Policy LP30 of the Local Plan and Chapter 15 of the NPPF, a bat and bird boxes integral to the new dwelling can be secured via condition.

Health and Safety - The site is the inner zone of a Hazardous Materials Site (inner zone of the Syngenta Ltd). The Health and Safety Executive do not advise on safety grounds against the granting of planning permission in this case. Therefore it is not considered that the occupants of the proposal would at risk from this respect.

Air Quality – Given that the application would propose new development at the site and to mitigate against potential air quality impact of the development and to accord with the West Yorkshire Low Emissions Strategy and Policy LP24 of the Local Plan an electric charging point for each dwelling could be secured by condition, if the application was to be approved.

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.

In this instance no information has been put forward by the applicant, however the site is located in a built up urban area with good access to public transport and dwellings would be constructed to modern building standards helping them to be thermally efficient.

Conclusion

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 due to the site being in an area of high flood risk. The adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF taken as a whole.. Policy LP27 of the Local Plan and Chapter 14 of the NPPF indicate that such development should be restricted.

Recommendation – Refusal

Decision Authorisation - Delegated Powers
Application Number: 2016/93110
Officer Recommendation: Refuse

Reason for Refusal

1. The application site is located within Flood Zone 3a as set out in Environment Agency's Flood Maps and on the Kirklees Strategic Flood Risk Assessment (SFRA), which is an area at the highest risk of flooding. As set out in the Planning Practice Guidance (PPG) residential uses represent more vulnerable uses and should only be permitted in Flood Zone 3a if the sequential test and exceptions test are passed. The submitted sequential test has not sufficiently demonstrated that there are no other available sites within the Huddersfield market area at a lower risk of flooding that could accommodate the proposed scale of development or similar. Furthermore the Council can demonstrate a 5 year supply of land for housing across the district which demonstrates that there is a good supply of housing land available. In addition, the submitted exceptions test has failed to demonstrate sufficient wider sustainable benefits brought about the development which outweigh flood risk concerns. The proposed development would therefore fail to accord with Policy LP27 of the Kirklees Local Plan and Policies in Chapter 14 'Meeting the challenge of climate change, flooding and coastal change' of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan; Site Plan and Floor Plans	01	Rev B	23/12/2016
Proposed Elevations	02	Rev B	23/12/2016
Location Plan	01	P1	23/12/2016
Flood Risk Assessment			06/10/2016
Sequential Test (Flood Risk Assessment)	May 2018		15/5/2018
Flood Risk Sequential and Exceptions Test	16 December 2019		16/12/2019
Noise Assessment	DRUK/ACC/RS/AMSTH/2507 8th January 2016		23/12/2016
HSE Advice			23/12/2016

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 case officer undertook negotiations with the agent to seek additional information in relation to flood risk, however the information provided was not sufficient to address the concerns set out in the reason for refusal.

Report Dated: 6/5/2021