Kirklees COUNCIL

Originator: Katie Wilson

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/90272 Outline application for erection of residential development (2 dwellings) Land to rear of, 119/127, Marsh Lane, Shepley, Huddersfield, HD8 8AS

APPLICANT
Marcus Hall Builders

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
25-Jan-2017	22-Mar-2017	21-Apr-2017

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:	Kirkburton Ward
Yes	Ward Members consulted (referred to in report)

RECOMMENDATION:

DELEGATE approval of outline application and the issuing of the decision notice to the Head of Strategic Investment 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 for determination in accordance with the Council's scheme of delegation at the request of Cllr John Taylor for the following reason:

"This application, if approved will detrimentally affect the open aspect of the land and the adjoining greenbelt land. This plot is actually a small section of a much larger agricultural field, the remainder of which is in greenbelt and the anomaly of this small proportion of the field not being in greenbelt has been recognised by the Council and in fact is planned to be addressed in the Local Plan.

There is a strong argument for retaining this as agricultural land which is currently in use so that it can be added to the greenbelt to create a far stronger greenbelt boundary around the village footprint. To allow development on this site would permanently weaken the greenbelt boundary at this point and this needs to be avoided at all costs. There are no exceptional circumstances that would suggest that this should approve, there are 5 development sites within the village currently or planned in the Local Plan for housing which should more than meet the local need and are more appropriate sites for development than this greenfield site".

1.2 In addition, there have been a significant number of representations received during the course of the application.

1.3 The Chair of the Sub-Committee has confirmed that Councillor Taylor's reason for making this request is valid having regard to the Councillors' protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is an L-shaped piece of land approximately 0.3 hectares in area. It is relatively level grassland currently divided into two rectangular areas by a drystone wall and gateway.

2.2 The site is located to the rear of 119 to 127, Marsh Lane, Shepley and accessed between 127 & 129, Marsh Lane, Shepley. These properties are to the north west of the application site and comprise detached and semi-detached houses of various ages and designs, two storey or single storey with rooms in the roof space and several have extensions and outbuildings at the back. To the north east of the application site is single and two storey, red brick building, whilst the south east and south west are open fields with several large trees on the boundary subject to a Tree Preservation Order.

2.3 This section of Marsh Lane is characterised by residential properties lining either side of the road, many with long gardens at the back and open fields beyond that are in the allocated Green Belt. There is also a small cul-de-sac of houses set back from Marsh Lane to the north east of the site.

3.0 PROPOSAL:

3.1 The application is in outline with access only being considered at this stage. All other matters are reserved.

3.2 The access would be taken from Marsh Lane.

3.3 Whilst layout is a reserved matter, a block / site plan shows one indicative layout option with two rectangular footprints on land to the rear of 119 to 127, Marsh Lane. They are parallel to each other and the south eastern boundary of the site and some annotated separation distances are provided. This is indicative only as layout is a reserved matter showing how the site could potentially be developed to accommodate two dwellings.

4.0 RELEVANT PLANNING HISTORY:

4.1 99/91477 – Erection of 4no. detached houses with garages - Conditional full permission.

00/93239 – Outline application for erection of 2 dwellings - Refused.

02/90734 – Erection of 1no 5 bedroom detached house with integral garage - Conditional full permission.

5.0 HISTORY OF NEGOTIATIONS:

5.1 During the course of the application an indicative layout plan (shown on the block / site plan) was submitted.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2 **D2** – Land without notation on the UDP
BE1 – Design Principles
BE2 – Quality of design
BE12 – Space about dwellings
T10 – Highway safety
H1 – Meeting the housing needs of the district

Supplementary Planning Guidance / Documents:

6.3 None considered relevant.

National Planning Guidance:

6.4 **Chapter 6** – Delivering a wide choice of high quality homes
Chapter 7 – Requiring good design
Chapter 11 – Conserving and enhancing the natural environment

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

6.5 The site is without notation on the draft local plan.

Policies:

PLP1 – Presumption in favour of sustainable development
PLP3 – Location of new development
PLP21 – Highway safety and access
PLP24 – Design
PLP30 – Biodiversity and geodiversity

7.0 PUBLIC/LOCAL RESPONSE:

7.1 19 individual letters of representation received and one petition with 39 signatures (including some who have made individual representations).

Issues raised are summarised as follows:

- Loss of visual amenity from this 'back development'
- Loss of prime greenfield land.
- Previous similar application (ref: 2000/93239) was refused on grounds of inadequate visibility splays and contrary to Planning Guidance (PPG3) in that development is proposed on greenfield land.
- The site is designated green belt and the proposal could lead to development of the entire green belt.
- The land is susceptible to standing water and building on it may cause flooding issues.

- The site is a haven for wildlife.
- It will change the whole complexion of the village and Marsh Lane in particular.
- Adverse impact upon highway safety from increased traffic in the area and unsuitable junction onto Marsh Lane.
- There would be a loss of views.
- Adverse impact upon protected trees
- There would be loss of privacy.
- There would be an overbearing impact.
- The proposal is not in-keeping with the existing pattern of development along Marsh Lane.
- Local amenities cannot support increased development.
- Mains sewers already inadequate.
- It would oppose intensions of the Local Plan which has rejected development on the site.
- The site could possibly accept a greater number of houses. If principle is established it would soon be re-submitted with increased number of houses.
- The block plan refers to access already granted via 99/91477, however this was denied in subsequent 2000/93239 refusal.
- Shepley annual folk festival is held on adjacent land.
- It is a greenfield site.

7.2 **Kirkburton Parish Council**: Confirmed 'no comments'.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

K C Highways (Development Management) – the proposals in principle are considered acceptable from a highways point of view subject to conditions ensuring adequate visibility at the junction with Marsh Lane, and vehicle parking areas shall be of a permeable surface.

8.2 **Non-statutory:**

K C Pollution and Noise Control: No objections subject to condition relating to reporting unexpected contamination and provision of charging plug-in facilities for electric vehicles

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 is unallocated on the Unitary Development Plan (UDP) proposals map and as such there is a presumption in favour of development unless it would have a detrimental impact on residential or visual amenity, highway safety or the character of the area. At the heart of the NPPF is also a presumption in favour of sustainable development.

10.2 The site is also unallocated on the emerging Local Plan. Policy PLP1 sets out that the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF; Policy PLP3 sets out that development will be permitted where it supports the delivery of housing and employment growth in a sustainable way; Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application.

10.3 It is noted that some representations received in response to this application refer to the application site being designated Green Belt. To clarify, as part of the preparation of the Local Plan, the Council undertook an exercise to capture the Green Belt boundary in electronic format on an up to date Ordnance Survey base. As part of that exercise a change to the position of the boundary was originally proposed in this location to place the field (at the rear of 119 to 127 Marsh Lane) within the Green Belt. This was advertised as change reference 1809/01 in the Green Belt Review and Outcomes report November 2015 and formed part of the consultation on the draft Local Plan which took place between November 2015 and February 2016.

10.4 Following that consultation the Council reviewed all the advertised changes to the position of the Green Belt boundary and deleted change reference 1809/01 from the plan, as the exceptional circumstances required by national policy (NPPF paragraph 83) to justify an amendment to the position of the boundary could not be demonstrated in this instance. The Green Belt boundary is now proposed to remain in the same position as it is in the Unitary Development Plan and this formed part of the consultation on the Publication Draft Local Plan that took place between November and December 2016.

10.5 Until the adoption of the Local Plan the statutory position of the Green Belt boundary remains as shown on the Unitary Development Plan.

10.6 Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant housing policies should be considered to be out of date, in the event that the Council is unable to demonstrate a 5 year supply of deliverable housing sites.

10.7 The Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, and the site is in a sustainable location. As such there is no objection to the site coming forward for residential development at this stage.

10.8 Whilst the term ‘greenfield’ is not used in the NPPF, the site is not previously developed, however it is on land without notation where there is a presumption in favour of sustainable development.

Urban Design issues

10.8 UDP policies BE1 and BE2 are considerations in relation to design, materials and layout. They require development to respect the scale, height, and design of adjoining buildings, and in keeping with the character of the area.

10.9 Other than access, the application is submitted with all other matters reserved. The indicative layout, which is for illustrative purposes only, shows how the site could be developed with houses set back from the road frontage, as already occurs nearby along this stretch of Marsh Lane at 103a, 105a, and 105b Marsh lane and at Dob Royd. Should outline planning permission be granted this would not approve the indicative layout submitted with this application. A full assessment of the layout, scale, landscaping and appearance of the proposed development would be made upon receipt of any subsequent application for approval of reserved matters if outline permission is granted. It is however, considered that a scheme can be achieved on the site which would be in-keeping with the character of the surrounding area and in accordance with Policies D2, BE1, and BE2 of the UDP, chapters 6 and 7 of the NPPF, and emerging Policy PLP24 of the Publication Draft Local Plan.

Residential Amenity

10.10 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.

10.11 In this instance, the layout plan submitted is for indicative purposes only, but shows that it may be possible to provide two houses on the site and maintain normally recommended distances between habitable and non-habitable room windows. Officers are satisfied that details of layout, scale and design could be designed so as to safeguard the residential amenities of future occupants as well as those that are located within close proximity to the application site in accordance with Policies D2 and BE12 of the UDP and emerging Policy PLP24 of the Publication Draft Local Plan.

Landscape issues

10.12 UDP policies BE2 and NE9 seek to ensure that mature trees are retained for their amenity value.

10.13 In this instance there are several mature trees subject to Tree Preservation Orders adjacent to the south eastern boundary of the site. The Council's Arboricultural officer has been consulted and commented that as layout is a reserved matter, they are content that there is room for two properties on the site whilst allowing sufficient space for the protected trees. At this stage they request a footnote for an Arboricultural Method Statement and Tree Survey to BS5837, should the outline application be approved. This should ensure that any future application takes into account the adjacent trees and compliant with the aims of policies BE2 and NE9 of the UDP.

Highway issues

10.14 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. Guidance in the NPPF states under paragraph 32 that plans and decisions should take account of whether, amongst other things, "safe and suitable access to the site can be achieved for all people".

10.15 The site is accessed from Marsh Lane, a classified and adopted road which serves numerous other residential properties on either side of the road. It is also subject to a 30 mph speed limit along the section of highway where the site is situated.

10.16 Access details for the current proposal are for consideration at this stage. No specific details on plan have been submitted, however the application form states that new or altered pedestrian and vehicular access would be formed from the public highway and reference is made to planning permission 99/91477 (also annotated on the indicative layout plan). This approval was for the erection of 4 no detached houses on the western part of the site between 127 and 131, Marsh Lane. There does not appear to be evidence that this application was implemented. Subsequently planning permission was granted for one house (reference 2002/90734) on site of plot 2 reference 99/91477 which is built and is known as 129, Marsh Lane.

10.17 It is also noted that the application site has outline planning refusal for the erection of 2 dwellings (reference 2000/93239). One of the reasons for refusal being that the proposed development cannot provide satisfactory improved visibility for drivers leaving the site and joining Marsh Lane, when visibility to the right is taken into account.

10.18 The Council's Highways officers have been consulted and commented that visibility onto Marsh Lane is good in both directions. The proposals are in principle considered acceptable from a highways point of view subject to conditions relating to ensuring visibility along the carriageway edge along the full frontage of the site and provision of permeable surfacing. It is also noted that since the previous refusal, highways consultation document 'Manual for Streets' has been introduced and the proposal would comply with this document.

10.19 As such, officers are satisfied that an adequate access point to accommodate the principle of development of the site for residential purposes can be achieved subject to conditions without creating or materially adding to highway safety or environmental problems on the surrounding highway network, in accordance with Policy T10 of the UDP and emerging Policy PLP21 of the Publication Draft Local Plan.

Drainage issues

10.20 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.

10.21 The application site is within Flood Zone 1 (ie. the lowest risk) and as the site area is under 1ha and less than 10 houses, Yorkshire Water are not consulted. The application form also declares that surface water would be disposed to a soakaway and foul water to a mains sewer. The standing advice from the Council's Strategic Drainage section is that soakaways cannot be agreed without evidence that they will work and must be located 5m from any property. If outline planning permission is granted, it is recommended that a footnote is attached for consideration at reserved matters stage.

Representations

10.22 Officer response to the concerns set out in the representations are as follows:

- Loss of visual amenity from this 'back development'.
- It will change the whole complexion of the village and Marsh Lane in particular.

Response: the proposal seeks the principle of developing the site for residential development with details of access only at this stage. Scale, layout, landscape and appearance at matters to be considered at reserved matters on subsequent applications.

- Loss of prime greenfield land.

Response: the site is not previously developed, however it is on land without notation where there is a presumption in favour of sustainable development.

- Previous similar application (ref: 2000/93239) was refused on grounds of inadequate visibility splays and contrary to Planning Guidance (PPG3) in that development is proposed on greenfield land.

Response: With regards to visibility splays, Highways officers have commented that visibility onto Marsh Lane is good in both directions and the proposals are in principle considered acceptable from a highways point of view subject to conditions relating to ensuring visibility along the carriageway edge along the full frontage of the site and provision of permeable surfacing. It is also noted that since the previous refusal, highways consultation document 'Manual for Streets' has been introduced and the proposal would comply with this document.

With regards to the site being on contrary to PPG3 in that it was development on greenfield land. Since the previous refusal, PPG3 has been replaced by the NPPF and at the heart of this is a presumption in favour of sustainable development. Pending adoption of the Local Plan, the UDP is the statutory development plan and whilst the site is not previously developed, it is on land without notation where there is a presumption in favour of sustainable development.

- The site is designated Green Belt and the proposal could lead to development of the entire Green Belt.
- It would oppose intensions of the Local Plan which has rejected development on the site.

Response: The site is unallocated on the UDP proposals map and the draft Local Plan. To clarify, as part of the preparation of the Local Plan, the Council undertook an exercise to capture the Green Belt boundary in electronic format on an up to date Ordnance Survey base. As part of that exercise a change to the position of the boundary was originally proposed in this location to place the field (at the rear of 119 to 127 Marsh Lane) within the Green Belt. This was advertised as change reference 1809/01 in the Green Belt Review and Outcomes report November 2015 and formed part of the consultation on the draft Local Plan which took place between November 2015 and February 2016.

Following that consultation the Council reviewed all the advertised changes to the position of the Green Belt boundary and deleted change reference 1809/01 from the plan, as the exceptional circumstances required by national policy (NPPF paragraph 83) to justify an amendment to the position of the boundary could not be demonstrated in this instance. The Green Belt boundary is now proposed to remain in the same position as it is in the Unitary Development Plan and this formed part of the consultation on the Publication Draft Local Plan that took place between November and December 2016.

Until the adoption of the Local Plan the statutory position of the Green Belt boundary remains as shown on the Unitary Development Plan.

- The land is susceptible to standing water and building on it may cause flooding issues.

Response: details of how the site would be drained to be conditioned.

- The site is a haven for wildlife.

Response: This is noted and a condition requiring a preliminary ecological appraisal and any follow up work or assessment is recommended.

- Adverse impact upon highway safety from increased traffic in the area and unsuitable junction onto Marsh Lane.

Response: Highways DM officers have advised that the proposal is acceptable in principle subject to conditions.

- There would be a loss of views.
- Local amenities cannot support increased development.

Response: These are not valid planning considerations.

- Adverse impact upon protected trees
- There would be loss of privacy.
- There would be an overbearing impact.
- The proposal is not in-keeping with the existing pattern of development along Marsh Lane.

Response: the proposal seeks the principle of developing the site for residential development with details of access only at this stage. Scale, layout, landscape and appearance at matters to be considered at reserved matters on subsequent applications.

- Mains sewers already inadequate

Response: this is noted.

- The site could possibly accept a greater number of houses. If principle is established it would soon be re-submitted with increased number of houses.

Response: This is noted, however each application is assessed on its own merits and the current proposal is for the principle of 2 dwelling within the red line site boundary.

- The block plan refers to access already granted via 99/91477, however this was denied in subsequent 2000/93239 refusal.

Response: Notwithstanding the above, access to the site for the current proposal has been considered by highways development management officers and found to be acceptable.

- Shepley annual folk festival is held on adjacent land.

Response: This is noted, however access rights would be a separate matter between the landowners.

Planning obligations

10.23 Not applicable to this application

Other Matters

Air quality:

10.24 In order to promote sustainable methods of transport and to address district wide issues surrounding poor air quality, any approval would be conditional upon a scheme for plug-in points for electric vehicles. This would be in accordance with the NPPF as well as 'air quality and emissions – technical guidance.

Contaminated land:

10.25 Environmental Health also recommend a condition relating to reporting unexpected contamination at the site in order to ensure compliance with the aims of policy G6 of the UDP and chapter 11 of the NPPF.

Ecological considerations:

The NPPF requires planning to aim to conserve and enhance biodiversity by amongst other things encouraging opportunities for biodiversity in and around development.

In this instance the Council's ecologist has assessed the proposal and raises no objections subject to condition requiring preliminary ecological appraisal and any follow up work or assessment. Provided this is applied, the proposal would comply with the aims of the NPPF.

10.27 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

11.1 To conclude the site is unallocated on the UDP where there is a presumption in favour of development. It is also in a sustainable location adjacent to existing residential development. As such a residential use would be appropriate and in accordance with both the UDP and the emerging local plan.

11.2 The proposal is in outline with all matters reserved except access and this has been assessed and found to be acceptable subject to conditions.

11.3 Outline approval is recommended subject to appropriate conditions.

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

1. Approval of the details of the layout, scale, appearance, and the landscaping (standard outline condition).
2. Plans and particulars of the reserved matters (standard outline condition).
3. Application for approval of any reserved matters (standard outline condition)
4. The timeframe for implementation of the development (standard outline condition).
5. Adequate sight lines at the access onto Marsh Lane, along the full frontage of the site.
6. Surfacing and drainage of access, parking, and turning areas.
7. Method of storage / access for waste
8. Details of surface water disposal.
9. Provision of electric vehicle recharging point (one per dwelling).
10. Reporting of unexpected land contamination.
11. Requiring preliminary ecological appraisal and any follow up work or assessment

Background Papers:

Application and history files – As noted above under section 4.

Link to the application details:-

http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90272

Certificate of Ownership – Notice served on Richard Haigh and Certificate B signed.