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: 2017/62/91531/W

Site Address: 11, Ballroyd Lane, Longwood, Huddersfield, HD3 4TA

Description: Erection of 1 dwelling

Recommending Officer: Farzana Tabasum

DECISION – conditional full permission

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: 22-Dec-2017

Site Description
The application relates to a rectangular shaped plot, served off Ballroyd Lane and currently accommodating a car port. The site falls towards the south west from Ballroyd Lane and is tarmac surfaced. The site is bound predominantly by timber fencing with a stone wall along part of the south east boundary. Residential properties exist to the north, east and west separated from the application site by the existing road, drive and vacant over grown land. South of the site lies existing industrial mill buildings at a lower level than the application site. A public right of way runs parallel along the outside of the south eastern boundary

Description of Proposal
The application is submitted in full for the erection of one detached dwelling. The submitted plans indicate the dwelling to be two and three storey with a pitch roofs. Accommodation will be over three floors with the principal openings in the front and rear elevation towards the north east facing onto Ballroyd Lane and towards the south west. The gables would incorporate non-habitable room openings and not directly face any dwelling. The two storey element would accommodate a garage with bedroom above. The proposed site block plan would introduce a turning area to the front of the dwelling and retention of the definite route of the public right of way no. HUD/308/10.

History of negotiations/amendments received
27/06/17- submission of a noise report

Relevant Planning History
2016/91714 – outline for one dwelling with all matters reserved – granted 21st Feb 2017
96/90697 – Change of use of land to garden- granted PD rights removed
94/92206 – outlie application for 1or 2 dwellings – withdrawn Oct 1994

Representations
Final publicity date expired 2nd June 2017. No representations received.

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. Highways Development Management – raise no objections provided Public Footpath Huddersfield 154 is not interfered with or obstructed prior to, during or post construction.

K.C. Environmental Services – Support on receipt of noise report and subject to conditions

K.C.PROW Officer – do not object and an advisory note will be included on the decision notice

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 is currently in the process of reviewing its development plan through the production of a Local Plan. 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 Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and also unallocated on the Kirklees Publication Draft Local Plan. The definitive route of public footpath no HUD 308/10 runs through the site. Although on site this is not evident.

Kirklees Unitary Development Plan:
D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE11 – Materials
BE12 – Space about buildings
EP4 – development and noise
T10 – Highway safety
T19 – parking provision
G6 – Land contamination
T10 – Highway safety
R13 – development affecting a right of way

Kirklees Publication Draft Local Plan (PDLP):
PLP24 – Design
PLP21 – Highway safety and access
PLP22 – Parking
PLP52 – protection and improvement of environmental quality (noise)

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.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Delivering a wide choice of high quality homes (Section 6)
Requiring good design (Section 7)

ASSESSMENT
Main issues

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Highway issues
- Other Issues
- Representations

APPRAISAL
Principle of development:
The principle of developing this site for housing (one dwelling) was granted earlier this year. There has been no change in circumstances since the granting of the outline permission as such the principle of developing this site remains acceptable.

Impact on visual amenity:
UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. The layout of buildings, should respect any traditional character the area may have. Development should respect the scale, height and design of adjoining buildings/land levels and be in keeping with the predominant character of the area.

The proposed dwelling would be sited back some 12.50m into the site, behind the definitive route of the public right of way which runs through the site. It would be sited adjacent to the garage on the neighbouring site. Due to the land levels within the site and the topography of the surrounding sites the new dwelling, although of considerable height and scale, would not appear overly dominant in the street scene, particularly as it would be lower than the adjacent dwelling nos. 11/2 to the northwest and properties to the east which are sited on an elevated position and adjacent to the road. The proposed dwelling would be seen in context with these buildings.

The surrounding development consists of the more traditional stone cottages and fairly modern constructed dwellings with a variety of external facing materials. The proposed dwelling in the simplistic design form with pitch roof which is intended to be faced natural stone and roof tiles with a dark appearance would be in keeping with the immediate context of this site and the development surrounding it and . The proposals as such would retain a

sense of local identity and accord with Policies D2, BE1, BE2 and BE11 of the UDP, guidance in the NPPF as well as DPLP Policy PLP24.

Impact on residential amenity:
South of the site lies established working industrial mill buildings known as 'Wooltex'.
The siting of the dwelling would be approximately 3m from the rear boundary of the site which directly faces the mill buildings.

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. Policy PLP24 of the DPLP also set out that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers. Also of relevance is Policy PLP 52 of the PDLP which states

"where environmentally sensitive development would be subject to significant levels of pollution, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment." This reflects requirements of UDP Policy EP4 and guidance in the NPPF.

In terms of physical separation the proposals would on the whole achieve the distance specified within Policy BE12 of the UDP and not result in any harm to the amenities of the existing and proposed occupants of these dwellings.

With regards to noise and air quality, at the time of considering the outline application, concerns were raised for the future residents from existing noise levels from the adjacent mill buildings. A noise report was submitted during the course of the application, which the Council's Environmental Health Officer advised at the time was not adequate and any future applications should be accompanied with an adequate noise report which shall have informed the layout and design/appearance of the proposed dwelling.

A noise report was submitted during the course of the current application which on review, the Environmental Health Officers advice has taken into account previous concerns regarding the location of habitable rooms as far as possible away from the Mill building to the rear (Wooltex Ltd). However, in view of this it would be necessary to impose conditions requiring mechanical ventilation systems to ensure all habitable rooms to the rear (bedrooms 1 and 2) have sufficient ventilation/air changes all year round without the need to open windows, as suggested by the Environmental Health Officers.

Subject to conditions I am satisfied the amenities of the future occupants would not be significantly compromised and would accord with Policies D2 and EP4 of the UDP as well as guidance in the NPPF and Policies PLP24 and

52. Furthermore, it is noted residents of the proposed dwelling would be aware of the surroundings/conditions attached to the permission. The proposed conditions seek also to ensure the operations of this established mill building are not compromised.

Highway considerations:
Policy T10 of the UDP states that new development should not materially add to any highway safety implications. Policy R13 of the UDP highlights the importance of safeguarding users of public right of way and public access areas. 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”

The drawings submitted with the outline application sought to formalise the closure of the public right of way which runs through the application site. However the applicant/agent were both made aware following a joint site visit with the PROW officer being present, that this could not be done through the planning application and were advised this would need be done through a formal legal process separate from the planning application.

This matter was concluded with the agent agreeing to clearly mark out the definitive route of the public right of way on site and lowering and the existing wall to ground level on the eastern boundary and opening up the fence on the western boundary following the line of the "footpath" on any future submissions if the definitive route of the PROW had not been formally diverted. A condition was imposed on the outline permission to address this issue.

In addition to this, the applicant and agent were advised any future submissions would need to demonstrate the parking of vehicles do not impinge on the PROW (no. HUD/308/10) and the physical and permanent demarcation of the PROW from the domestic curtilage should be clearly shown on the site block plan. Alternatively, a formal diversion of the PROW can be applied for prior to the submission of reserved matters application.

No formal diversion of the public right of way has been applied for and the current proposals clearly indicate include the definitive route of the PROW. The proposals indicate the existing boundary treatment to be retained albeit with removal of sections of the existing fence and boundary wall on the east and west boundary to provide egress through the site to follow the route of the public right of way. The parking areas as proposed would not impinge on the formal route of the PROW.

On assessment of the proposals both DM Highway and PROW officers raise no objections subject to the PROW not being obstructed and interfered at any time during, or post construction. In light of this it is considered necessary to condition the physical and permanent demarcation of the PROW from the domestic curtilage as shown on the submitted site block plan to ensure the users of the PROW are not inconvenienced in accordance with Policy R13 of the UDP and to include an advisory note to prevent obstruction of the PROW.

This can be removed only if a formal diversion order is applied for, which the applicant has been made aware of and chose to retain it within the site due to costs related to the diversion order.

With regards to the proposed parking and on site manoeuvrability for vehicles, DM Highway officers advise this is accepted and sufficient to accommodate the proposed dwelling. To summarise, the proposals are considered on balance acceptable from a highway perspective, and would accord with Policies D2, T10, and R13 of the UDP, guidance in the NPPF and PDLP Policies PLP21 and PLP22.

Other matters:
Given there is no significant flood risk issues for this development it is considered that for a development of this scale drainage matters can be adequately dealt with through an allied Building Regulations regime.

In the interests of air quality, and to comply with West Yorkshire Low Emissions Strategy, Policy PLP24 of the emerging local plan and Chapter 11 of the NPPF, it is recommended that a planning condition be included for the provision of 1 electric vehicle charging point.

Finally, whilst the site is not recorded as potentially contaminated, the site is on the edge of a historic/current industrial area and has previously been developed. In view of this as a precautionary measure a standard condition relating to any unidentified contamination being found during the construction phase shall be included on the decision notice.

Representations:
None received

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 would constitute sustainable development and is therefore recommended for approval.

There would be no materially harmful effect on highway safety, visual or residential amenity. The proposed layout, design and scale of the dwelling is considered to integrate and respond well with the character of the surrounding development and maintain the definitive route of the PROW through the site.

In such circumstances it is considered that there are no adverse impacts of granting permission which 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. In such circumstances the application is recommended for approval.

Recommendation – Approve

Decision Authorisation - Delegated Powers
Application Number:2017/91531
Officer Recommendation: Approve
Conditions and Reasons

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
Reason: Pursuant to Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1, BE2, BE11 and T10 and T19 of the Unitary Development Plan as well as the aims of the National Planning Policy Framework and Publication Draft Local Plan Policy PLP24.

3. The dwelling hereby approved shall be faced in natural stone and roof tiles of a dark colour profile.
Reason: In the interests of visual amenity and to accord with Policies BE1(i & ii), BE2(i) and BE11(i) of the Kirklees Unitary Development Plan, Publication Draft Local Plan Policies PLP24 as well as the aims of chapter 7 of the National Planning Policy Framework.

4. The development shall be completed providing a physical and permanent demarcation of the definitive public right of way no. HUD/308/10 to measure 1.20m wide and removal of the section of fence and wall in accordance with the approved site block plan no. JW01. The dwelling hereby approved shall only be occupied after written verification has been submitted to the Local Planning Authority to confirm the works are complete in accordance these details and the Local Planning Authority has confirmed in writing this to be the case.
Reason: To ensure the users of the public right of way are not inconvenienced by the proposed development in accordance with Policy R13 of the Kirklees Unitary Development Plan.

5. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being and to accord with Policy BE1(iv) of the Kirklees Unitary Development Plan and the National Planning Policy Framework

6. One electric vehicle recharging point shall be provided within the garage during the construction phase of the development. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.
Reason: To accord with the guidance contained in Chapter 4 and Chapter 11 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and guidance contained within PLP 24 and PLP21 of the Kirklees Publication Draft Local Plan

7. Before first occupation the developer shall provide written evidence to the Local Planning Authority to demonstrate that all the works which form part of the sound attenuation scheme as specified in the Noise Report dated 22-06-17 produced by DRUK Ltd, have been completed.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise
Report have been achieved then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels.

All works comprised within those further measures shall be completed and written evidence to demonstrate that the required noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use
Reason: So as to protect the residential amenity of the future occupants of the approved residential accommodation from noise from the adjacent mill buildings and to ensure the operations of this established mill building are not compromised in accordance with Policies D2 and EP4 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP52 of the Publication Draft Local Plan, Chapter 11 and the fourth core planning principle of the National Planning Policy Framework.

8. The superstructure of the hereby approved dwelling shall not commence until details of a full ventilation scheme for all habitable rooms on the first and second floor, to the south (rear) of the building has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved system shall be installed before completion and occupation of the hereby approved dwelling and thereafter maintained and serviced in line with the manufacturers/installers guidelines.
Reason: In the interests of the amenity of future residents as mechanical ventilation is required for these windows due to the proximity of the industrial building to the south of the site and to accord with Policy EP4 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework, Chapter 11, as well as PDLP policy PLP52.

9. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease

immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a
Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy G6 of the Kirklees Unitary Development Plan, Policy PLP52 of the Publication Draft Local Plan and the guidance contained within the National Planning Policy Framework.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the south 'rear' elevation or southern roofslope of the dwelling hereby approved.
Reason: So as to retain the residential amenity of the future occupants of the approved residential accommodation from noise from the adjacent mill buildings and to ensure the operations of this established mill building are not compromised in accordance with Policies D2 and EP4 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP52 of the Publication Draft Local Plan, Chapter 11 and the fourth core planning principle of the National Planning Policy Framework.

NOTE: The public footpath no. HUD/308/10 which runs through the site shall not, at any time, prior to, during or after construction of the dwelling, be unofficially obstructed or closed without prior written consent of the Local Planning Authority.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference

with the highway without such permission is an offence which could lead to prosecution.

NOTE: It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter

NOTE: The responsibility for securing a safe development rests with the developer and/or landowner. It is advised where a site could be affected by land stability issues this be taken into account and dealt with appropriately by the developer and/or landowner

NOTE: The granting of planning permission does not override any private ownership rights or legal covenants that apply to the land forming part of this planning application.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays
In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location, existing and proposed site block plan	JW01		04/05/17
Proposed floor plans and elevations	JW02		04/05/17
Noise report dated 22-06-17 produced by DRUK Ltd	DRUK/ACC/RS/JWBLLH/2576.1		27/06/17

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 applicant to secure an adequate noise report to ensure existing noise levels from neighbouring sites is considered and mitigation measures are proposed into the scheme for the future residents of the dwelling. The decision is based on the additional information.

Report Dated: 22/12/17