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: 2017/62/91945/W

Site Address: 162, Ashbrow Road, Fartown, Huddersfield, HD2 1DU

Description: Erection of dwelling

Recommending Officer: Adam Walker

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 10-Aug-2018

Officer Report

Site Description

The application relates to the garden area of 162 Ashbrow Road. The existing property is a detached dwelling that lies along an unadopted road that serves around ten dwellings. The access carries a public footpath (HUD/381/10). The garden is set up from the property and extends along the boundary with 164 Ashbrow Road which is also at a lower level. There are some garages to the southern site boundary adjacent to no.164. To the north is some undeveloped land that is allocated for housing and this land is raised up from the site. There is an area of trees to the west of the site.

Description of Proposal

The application is for the erection of one dwelling. The dwelling is single storey.

A detached garage is to be demolished to the rear of no.162 to enable a new access and driveway to be created that would lead up to the proposed dwelling.

An area of garden is to be retained for the existing property.

History of negotiations/amendments received

The application has been amended from a pair of three storey semi-detached dwellings to a two bedroom bungalow. The bungalow has been positioned further to the west within the site.

Relevant Planning History

2015/91255 - Outline application for erection of 5 no. 3 bedroomed dwellings – Withdrawn

Land to the north:

2018/90586 - Erection of 160 residential units, including a 50 unit extra care facility (C3), provision of public open space and engineering operations – Approved

Representations

The plans as originally submitted (2 dwelling scheme) were advertised by site notice, press advert and neighbour letters. In response two representations were received. These are summarised as follows:

- Object on grounds of accessibility
- Already limited parking facilities and the provision of two spaces for two houses is unrealistic

- 120 houses may soon be built on land to the rear and another 2 houses would be 2 too many
- Increase in traffic
- Access to the properties is already narrow and congested at times; further properties will make it worse.
- Parking is at a premium on the roadside next to the terraces, but there is no more room should the proposed property owners have more vehicles than the plans accommodate, visitors etc
- Danger from construction traffic
- Disruption caused including from construction
- Isn't the space to accommodate two dwellings
- Loss of privacy/overlooking
- Overshadowing
- The properties in the area are on a slope. How will drainage be affected?
- Potential impact of heavy building work on land movement and subsidence
- Potential impact on land stability because development is set up from existing properties

The amended plans (single dwelling scheme) were advertised by letters to the interested parties/neighbours. No representations were received in response.

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 – No objections to the scheme as amended

KC PROW Team – No objections

KC Environmental Services – No objections subject to conditions (reporting of unexpected contamination, noise report and mitigation and electric vehicle charging point)

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 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 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 48 of the National Planning Policy Framework (2018). 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 (2018), 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 unallocated on Kirklees Publication Draft Local Plan.

- Access considerations

The development is for a bungalow and so would provide accessible accommodation.

Kirklees Unitary Development Plan:

BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway safety
T19 – Parking standards
EP6 – Noise
G6 – Contamination

Kirklees Publication Draft Local Plan (PDLP):

PLP21 – Highway safety
PLP22 – Parking standards
PLP24 – Design
PLP53 – Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 12 – Achieving well-designed places

Assessment

General principle:

The NPPF establishes a presumption in favour of sustainable development (paragraph 11). For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The council is currently unable to demonstrate a five year supply of deliverable housing sites and as such in accordance with NPPF paragraph 11 policies for the supply of housing are out-of-date. Consequently planning applications for housing are required to be determined on the basis of the guidance at paragraph 11 of the NPPF.

The site does not include any areas or assets of particular importance as defined within the NPPF (footnote 6).

Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should… support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

The development site forms residential garden located within a built-up area. The NPPF classifies such land as greenfield however it does not seek to restrict development on such sites.

The development will make a modest contribution to the supply of housing in the district at a time of shortage and this weighs in favour of the development proposed.

The site is unallocated and Policy D2 of the UDP states that planning permission will normally be granted on such sites subject to a specific set of considerations. These considerations are addressed later in this assessment (where relevant to this application).

Urban Design Issues:

The dwelling would be set up from the land to the south although as it is only single storey it would not be particularly prominent. Any views of the building from the south would be against the backdrop of the approved residential development to the north and it would be screened by trees to the west and obscured by existing development from the east. The addition of a dwelling in

this location would not result in any significant harm to the character of the area in my opinion. I do however consider that permitted development rights should be withdrawn to prevent overdevelopment.

The existing properties in the vicinity of the site predominantly have a traditional cottage type appearance. Modern development is planned to the north. The relatively simple form and design of the proposal would harmonise with the character of the area in my view.

The application form indicates reconstituted course stone and antique brick with artificial blue slates. This relates to the original 2 dwelling scheme though. Natural stone predominates in the area and I consider a good quality artificial stone to be acceptable. An artificial slate is also acceptable for the roof. Materials to be conditioned.

Soft landscaping is limited but some trees are shown to be retained in the western part of the site.

The application accords with BE1 and BE2 of the UDP, PLP24 of the emerging plan and guidance in the NPPF.

Residential amenity:

The nearest adjacent property is 164 Ashbrow Road. This neighbouring dwelling is on the same level as Ashbrow Road but its rear garden is elevated and is above the first floor level of the dwellinghouse. Both the dwellinghouse and garden are set down from the site. The garden extends along much of the application site boundary. There are a number of rooflights at the rear of no.164 and an opening in the rear wall that mainly sits below the level of the garden.

One of the main concerns with the original submission was the impact on 164 Ashbrow Road. The proposal is now a much reduced scheme; it has gone from a pair of 3 storey dwellings to a bungalow. The bungalow is also set further to the west so that it is not directly behind no.164.

No.164 Ashbrow Road has limited outlook from its rear elevation and so the proposal would principally be perceptible from the rear garden, and in particular the western part of the garden. The scale of the building is however such that it would not result in any unacceptable overbearing impacts in my opinion.

The bungalow would have main habitable windows facing towards the garden of 164 Ashbrow Road at close quarters. However, these can be screened to avoid direct overlooking. The screening will need to be sympathetic to no.164 so that it is not unduly imposing given the difference in levels. A condition requiring details of the boundary treatment is therefore necessary. The removal of permitted development rights will prevent dormer windows being added that may otherwise result in unacceptable overlooking.

It is noted that no objections from this neighbour have been received to the plans as amended.

The proposal was taken into account as part of the assessment of application 2018/90586 for the erection of 160 residential units and care facility on the land to the north. This has approved 2 pairs of semi-detached houses adjacent to the site and separated by rear gardens; the approved dwellings are set up from the site. The site plan for that application indicated the proposal; the closest dwellings are approx. 9.5m away from the proposal. It was accepted that the impact would be minimised due to the difference in levels. The outlook from these approved dwellings would be across the roof and over the top of the proposed bungalow and the proximity of the bungalow to the boundary combined with boundary treatment would also prevent any potential for direct overlooking.

It is recognised that the outlook to north and south of the proposed dwelling would be constrained by the boundary screening necessary to the south and the land to the north which raises up, especially given the proximity of the dwelling to these boundaries. The proposed dwelling does however include substantial openings in the side elevations and so overall I am satisfied that acceptable living conditions would be provided for future occupiers with respect to natural light and outlook.

The windows in the eastern elevation are at an oblique angle to 162 Ashbrow Road and can be screened from the area that is to be retained as garden for the host property.

Windows in the western elevation face towards an area of trees.

Environmental Services have recommended that a report specifying the measures to be taken to protect the development from noise from nearby industrial units and road traffic (Bradford Road) be secured by condition. This is considered necessary.

I am satisfied that the amenities of adjacent property would be preserved and an acceptable standard of amenity would be provided for occupiers of the proposal. The application accords with Policies BE1, BE12 and D2 of the UDP, PLP24 of the emerging Local Plan and guidance in the NPPF.

Highway safety:

Access is from an unadopted service road off Ashbrow Road. Bus stops are located at this junction and therefore within 100m of the proposed site.

Highways Development Management have assessed the amended plans. Acceptable parking facilities are provided for the new and existing dwellings.

Whilst the distance that drivers will have to reverse down the new driveway is less than ideal, they are still able to turn before accessing the public highway and so no objections are raised in this regard.

Given this spur off Ashbrow Road already serves a number of dwellings, and therefore arrangements must be in place for emergency and refuse access, no objections are raised in terms of servicing the new dwelling.

No objections were raised by the PROW team in response to the 2 dwelling scheme originally proposed.

The application accords with Policy T10 of the UDP and PLP21 of the emerging Local Plan.

Other matters:

The site is domestic garden and is considered to have limited ecological value.

This site has been identified on the council's mapping system as potentially contaminated land due to its proximity to a former quarry; condition therefore recommended requiring the reporting of unexpected contamination.

To mitigate the impact of the development on air quality a condition requiring an electric vehicle charging point for the new dwelling is recommended. This is in line with PLP24 of the emerging Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy.

Representations:

The plans as originally submitted (2 dwelling scheme) received two representations which are summarised as follows along with a response to the points raised:

- Object on grounds of accessibility
- Already limited parking facilities and the provision of two spaces for two houses is unrealistic
- Increase in traffic
- Access to the properties is already narrow and congested at times; further properties will make it worse.
- Parking is at a premium on the roadside next to the terraces, but there is no more room should the proposed property owners have more vehicles than the plans accommodate, visitors etc

Response: It is considered that adequate access to the site and parking is achieved for the scheme as amended providing a single 2 bedroom property.

- 120 houses may soon be built on land to the rear and another 2 houses would be 2 too many

Response: Each application needs to be assessed on its own individual merits and the provision of a single 2 bedroom property as amended is not considered to represent an overdevelopment in the local area.

- Danger from construction traffic
- Disruption caused including from construction

Response: Any disruption caused through construction is considered to be limited and would not be sufficiently detrimental to residential amenity. A note regarding appropriate hours is attached to the decision notice.

- Isn't the space to accommodate two dwellings

Response: Noted the reduced scheme is considered to overcome this concern.

- Loss of privacy/overlooking
- Overshadowing

Response: The scheme as amended is considered to overcome this concern as the dwelling would be a single storey bungalow.

- The properties in the area are on a slope. How will drainage be affected?

Response: Matters regarding drainage are an issue which would be dealt with through building control for a development of a single dwelling.

- Potential impact of heavy building work on land movement and subsidence
- Potential impact on land stability because development is set up from existing properties

Response: Paragraphs 179 and 180 of the NPPF clearly state that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location.

The effects (including cumulative effects) of pollution on health, the natural environment or general amenity……should be taken into account. Where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Furthermore, these issues could form part of a building regulations application, in particular if any retaining walls would be supporting land and form part of the dwelling. The developer/ applicant would be responsible for ensuring that adequate site investigation information was obtained, prepared by a competent person, to demonstrate that the site can be developed without unacceptable risks to the future occupiers of the proposed dwelling or the existing occupiers of neighbouring properties from land stability, in accordance with the NPPF.

- The amended plans (single dwelling scheme) were advertised by letters to the interested parties/neighbours. No representations were received in response.

Response: It is noted that no further comments have been made to the amended plans.

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.

Recommendation – Approve

Decision Authorisation - Delegated Powers

Application Number: 17/91945

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule 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 BE1, BE2, D2 and T10 of the Kirklees Unitary Development Plan, PLP21 and PLP24 of the emerging Local Plan and guidance in the National Planning Policy Framework.

3. Notwithstanding the submitted information, details of the facing materials for the development shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the building commences. The building shall be faced in the approved materials and thereafter retained as such.
Reason: In the interests of visual amenity to accord with Policies BE1, BE2 and D2 of the Kirklees Unitary Development Plan, PLP24 of the emerging Local Plan and guidance in the National Planning Policy Framework.

4. A report specifying the measures to be taken to protect the development from noise from nearby industrial units and road traffic (Bradford Road) shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. The report shall:
(i) Determine the existing noise climate;
(ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development;
(iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).
The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.
Reason: To protect future occupiers of the development from noise and to accord with Policies BE1, D2 and EP6 of the Kirklees Unitary Development Plan, PLP24 of the emerging Local Plan and guidance in the National Planning Policy Framework.

5. Details of the boundary treatment of the site, including measures to prevent close overlooking of 164 Ashbrow Road, shall be submitted to and approved in writing by the Local Planning Authority before the dwelling is first occupied. The approved boundary treatment shall be provided before the dwelling is first occupied and thereafter retained as such.
Reason: In the interests of visual and residential amenity and to accord with Policies BE1, BE12 and D2 of the Kirklees Unitary Development Plan, PLP24 of the emerging Local Plan and guidance in the National Planning Policy Framework.

6. 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. 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. 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 address unacceptable risks to human health and the environment that may be encountered during construction and to accord with Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the emerging Local Plan and guidance given in the National Planning Policy Framework.

7. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies ‘Guidance on the permeable surfacing of front gardens (parking areas)’ published 13th May 2009 (ISBN9781409804864) as amended or superseded; and thereafter retained.
Reason: In the interests of highway safety and to accord with Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the emerging Local Plan.

8. The maximum gradient of the new private driveway serving the development shall not exceed 1 in 8.
Reason: In the interests of highway safety and to achieve a satisfactory layout. This is to accord with Policy T10 of the Kirklees Unitary Development Plan, PLP21 of the emerging Local Plan and guidance in the National Planning Policy Framework.

9. An electric vehicle recharging point shall be installed within the dedicated parking area or on the exterior of the approved dwelling before the dwelling is first occupied. 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 PLP24 of the emerging Local Plan, guidance in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, B, C and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
Reason: To prevent overdevelopment of the site and to protect the amenities of adjacent property and to accord with Policies BE1, BE12 and D2 of the Kirklees Unitary Development Plan, PLP24 of the emerging Local Plan and guidance given in the National Planning Policy Framework.

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.

Note: Public footpath Huddersfield 381 is the access to the development site and must not be interfered with or obstructed, prior to, during or after development works.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	PL-001	-	26/6/17
Existing Site Plan	PL-002	-	26/6/17
Proposed Site Plan	2015-101-a-SK001	-	22/5/18
Proposed Floor Plan	2015-101-a-SK002	-	22/5/18
Proposed Elevations 1	2015-101-a-SK003	-	22/5/18

Plan Type	Reference	Version	Date Received
& 2			
Proposed Elevations 3 & 4	2015-101-a-SK004	-	21/6/18
Design & Access Statement	June 2016	Original	26/6/17

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. Amendments were negotiated to reduce the quantum and scale of development in order to address concerns with the residential and visual amenity impacts of the development.

Report Dated: 10/8/18