

**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: 2017/60/92956/E

Site Address: Land at, Ossett Lane, Earlsheaton, Dewsbury, WF12
8LY

Description: Outline application for erection of 10 dwellings

Recommending Officer: Louise Bearcroft

DECISION – Conditional Outline 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.

David Wordsworth

AUTHORISED OFFICER

Date: 03-May-2018

Site Description

The application site comprises a group of brick constructed industrial and office buildings located at the junction of Ossett Lane and Town Street within the local centre of Earlsheaton. The current occupiers use the site for the manufacture, storage and distribution of paint stuffs. To the front of the buildings is an area of hardstanding in use for off-street parking and to the rear of one of the industrial buildings is an external yard area. The surrounding area is of mixed use with residential and retail uses and the site is unallocated on the Kirklees Unitary Development Plan.

Description of Proposal

The application seeks permission to demolish the existing buildings and outline planning permission for the erection of 10 dwellings, to approve details of access. The matters of appearance, landscaping, layout and scale are reserved for future approval.

An indicative layout plan has been submitted showing a pair of semi-detached dwellings fronting onto Town Street, two detached properties fronting onto Ossett Lane and six dwellings in the remainder of the site which would front onto the internal access road.

Vehicular access to serve all properties is proposed off Ossett Lane via a ramped crossing. Plots 1-2 would also have separate pedestrian access to Town Street and plots 3-4 to Ossett Lane.

History of negotiations/amendments received

Officers negotiated with the applicant to secure

- Additional supporting information regarding the loss of the site for business and industry
- An indicative drainage plan

Relevant Planning History

96/91937 – Alterations to increase roof height of existing single storey extension – Conditional Full Permission

95/93331 – Erection of factory extension to previously approved extension – Conditional Full Permission

90/06042 – Erection of extension to factory – conditional full permission

89/01844 – Erection of extension to factory – refused

86/01387 – Erection of office block – Granted conditionally

88/02817 – Rear extension to factory premises to form covered storage area – Granted conditionally

90/01364 – Erection of first floor extension to form store and offices – conditional full permission

91/01650 – Change of use from garage to warehouse – Conditional Full Permission

92/05141 – Erection of single storey extension – Conditional Full Permission

96/90046 – Erection of extension to form store – Conditional Full Permission

Representations

The application was advertised by neighbour letter, site notice and press notice with the final publicity expiring 6th October 2017. As a result of this publicity two representations have been received.

A summary of the comments received is set out below:

- Query the details of the fencing/walling to the west of Plot 10 bordering land to the south of 88/90 Town Street.
- Request for fencing / screening to preserve privacy of both plot 10 and adjoining land at rear of 88/90 Town Street

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** – No objections
- **K.C Environmental Services** – No objections
- **Flood Management** – No objections
- **K.C Ecology** – No objections
- **Yorkshire Water** – No observations required

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 unallocated on the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- D2 – Unallocated Land
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- T10 – Highway safety
- G6 – Land contamination
- B4 – Change of use of land and buildings last used for business or industry
- EP11 – Ecological landscaping

Kirklees Publication Draft Local Plan (PDLP):

- PLP8 – Safeguarding employment land and premises
- PLP 21 – Highway Safety and Access
- PLP 22 – Parking
- PLP 24 – Design
- PLP 28 – Drainage
- PLP30 – Biodiversity and geodiversity

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.

- Chapter 6 – Delivering a wide choice of high quality homes
- Chapter 7 – Requiring Good Design
- Chapter 10 – Meeting the challenge of climate change, flooding and coastal

- change
- Chapter 11 – Conserving and enhancing the Natural Environment

Assessment

Principle of Development:

The site is a brownfield site which has no specific allocation on the Unitary Development Plan Proposals Map. Policy D2 of the Unitary Development Plan (UDP) states “planning permission for the development (including change of use) of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. The relevant considerations are addressed later in this assessment. Subject to these not being prejudiced the proposal would be acceptable in principle in relation to policy D2.

The site is in an existing business use and the proposal to redevelop the site for housing would result in the loss of a site for business and industry. It is therefore assessed against policy B4 of the UDP which states that proposals involving the change of use of premises and sites with established uses, or last used, for business and industry will be considered having regard to:

- i) The suitability of the land and premises for continued business and industrial use;
- ii) The availability of business and industrial premises of equivalent quality
- iii) The number of jobs likely to be created or maintained
- iv) The compatibility of the proposed use with surrounding uses
- v) The effect on the future operational flexibility of any neighbouring businesses;
- vi) The effect on any buildings of architectural or historic interest
- vii) The effect on local amenity
- viii) The effect on the local highway network; and
- ix) The potential for the site to be served by rail or water for the transport of freight

Policy PLP 8 of the Kirklees Publication Draft Local Plan Policy PLP 8 states that within Priority Employment Areas, proposals for redevelopment resulting in a non-employment end use, or for the conversion or change of use of sites and premises in use or last used for employment will only be supported where it can be demonstrated that the site or premises are no longer capable of employment use; and the proposed use is compatible with neighbouring uses and where applicable, would not prejudice the continued use of neighbouring land for employment. In this case however the site is not within a Priority Employment Area.

In the supporting planning statement it states: *“The site has a longstanding commercial use and has been used as satellite premises to the site owners for the last year and currently employs four full-time staff. Owing to changes in the working practices of the company and to rationalise production and*

distribution, these satellite premises are no longer suitable for the functioning of the business and it has been determined to rationalise the business by relocating the jobs to the company headquarters. It will be noted that no jobs will be lost. Furthermore, it is also considered that in the redevelopment of this site it will raise finance for further investment in the company headquarters.

- 1. The site is highly constrained by its location adjacent to residential properties and such use is incompatible with the adjacent land uses;*
- 2. There will be no loss of jobs*
- 3. The proposed use is wholly appropriate to adjacent uses*
- 4. The changes form part of a rationalisation of the existing business to the benefit of that business; and*
- 5. It will be of major benefit to highway safety”*

The applicant was asked to clarify if the site has ever been marketed by the company for continued business use. Clarification was also sought on where the jobs were to be-located and whether the headquarters of the company was within the Kirklees district. The agent provided the following information: *“As outlined in the submission, this proposal relates to the efficient working practices of the business. No jobs will be lost and these will be relocated to the company’s headquarters at Walkley Mills, Spen Vale Street, Heckmondwike. In terms of the monies raised from the sale of the site, these will be reinvested into the business ensuring the ongoing viability of the business and securing jobs in the long term. An initial approach was made to local agents who considered that owing to the constraints of the site (access), the size of the site and its close proximity with residential development it would not be an attractive site for business use. The option of renting the premises was considered, however, the rental levels were low and would not provide the aim to reinvest capital into the business”.*

No marketing of the site has occurred however, and on the basis of the information provided above there was no evidence to suggest that the site would not be attractive to other business uses. The applicant was therefore asked to submit a further marketing report.

The report, undertaken by Bramleys, states that the site is not yet surplus to requirements and has not been subject to any marketing. It does however highlight constraints associated with the existing building. In respect of the suitability of the premises for continued business and industrial use the author of the report states that the accommodation comprises a total of 8 structures which are separated by structural features which significantly restrict internal product movement. The site slopes from north to south with stepped access across the buildings. The structures in the centre of the site have limited eaves height (2.5m) which restrict product movement and do not conform to modern specifications, they also have a poor EPC rating. The author of the report goes on to say that the location may also be a deterrent to attracting new businesses to the site as an industrial use is increasingly incongruous with surrounding land use. The adjoining land uses to the northwest of Town Street and southeast of Ossett Lane are residential. The author of the report goes on to say that the site is remote from the motorway network and principle arterial routes, and there are other modern industrial units which

form part of the Shawcross and Grange Road Industrial Estates to the north, as well as to the northeast around Dewsbury Road, Milner Way and The Sandbeds trading Estate at Ossett. The report identifies that there are 31 industrial properties available for sale within a 7 mile radius and the current demand is for larger industrial units.

Turning to the principle of developing the site for housing, any future application will be determined on the basis of the guidance in NPPF paragraph 14. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies the dimensions of sustainable development as economic, social and environmental roles. It is considered a proposal for ten dwellings provides economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be social gain through the provision of new housing at a time of general shortage and national policy encourages the use of brownfield land for development.

In weighing up the loss of the employment site, it is noted that the site has not been marketed for continued business use. However, the constraints of an industrial use in close proximity to residential uses are noted. The benefits of housing development in proximity to existing residential development and within a sustainable location are given weight and on balance the principle of residential development is considered to be acceptable.

Highway Safety:

UDP Policy T10 sets out the matters against which new development will be assessed in terms of highway safety, as does policy PLP of the PDLP. Access is a matter sought for approval and a Highways Statement has been submitted with the application.

Highway Services consider the trip rates utilised within the highways statement are slightly on the low side, however, they do not consider that the proposal will have any adverse impact upon the safety and efficiency of the local highway network and consider the development is acceptable in this regard.

Access to the site is proposed via a simple priority junction onto Ossett Lane serving a shared surface mews court. The access proposal and geometric characteristics are considered acceptable. Although the internal layout is not for determination, the level of parking as currently proposed is considered acceptable and in accordance with the adopted standards as prescribed within the UDP. There would be no detrimental impact on highway safety and the proposal would accord with policy T10 of the UDP.

Visual Amenity:

A full assessment of the layout, scale and appearance of the dwellings would be made upon the receipt of reserved matters. The indicative layout plan shows the development would comprise of a pair of semi-detached dwellings fronting onto Town Street, two detached properties fronting onto Ossett Lane and six dwellings in the remainder of the site which would front onto the internal access road. The indicative scale of the dwellings is two storeys.

From the indicative information supplied it is considered a scheme of 10 dwellings could be accommodated without amounting to a detrimental over-development of the site. Neighbouring properties predominate comprise two storey semi-detached properties of brick construction. Careful consideration will have to be given to Plot 5 to ensure that it satisfactorily addresses the street scene and to how its scale will relate to neighbouring residential property 'Hillcrest'.

It is considered that there is scope to secure details which would not harm the character of the surroundings.

Residential Amenity:

UDP policy BE12 recommends that new dwellings should be designed to provide privacy and open space for their future occupants and physical separation from adjacent property and land. UDP policy BE12 recommends minimum acceptable distances.

The site is flanked by residential development to the south and east. The nearest neighbouring properties which would be affected by the development include No.96 -88 Town Street to the north and north-east, Hillcrest to the South, and properties off Chatsworth Court to the south and east. Opposite the site to the west are No's 31-32 Greenwood Avenue and 100-102 Town Street.

Careful consideration will need to be given to the relationship of the proposed dwellings with neighbouring properties, taking into account the level changes on the site. Sectional drawings will be required to demonstrate the impact, and the positioning of windows will need to meet the requirements of policy BE12 of the UDP. This will be considered as part of any reserved matters application.

At this stage it is considered that an acceptable scheme could be brought forward which would meet the requirements of policy BE12 and would ensure that there would not be material harm to the amenity of neighbouring properties; their habitable room windows or private amenity spaces.

Drainage Issues:

The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach.

The Lead Local Flood Authority raise no objections to the principle of development but initially noted the applicants need to upsize the storage to include the climate change scenario or demonstrate how this will be safely retained onsite. They also requested an outline drainage plan indicating how and where drainage will be located.

In response the applicant has submitted a drainage plan and the Lead Local Flood Authority raise no further objections subject to the inclusion of appropriate conditions.

Yorkshire Water has no observations to make

Ecological Issues:

UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The site is located within the bat alert layer and is supported by a Bat Survey Report.

The Bat Survey report indicates that roosting bats are not present within the site, and no foraging bats were detected during the activity survey. The Council's ecologist has no objections to the proposals subject to a condition to secure ecological enhancement. The issue of landscaping would be addressed as a reserved matter.

Contamination Issues:

Environmental Services have reviewed the Phase I report by ARP Geotechnical Ltd (VFM/01) and broadly agree with its methods and conclusions. They recommend conditions for the submission of a phase II report and associated remediation and validation reports.

Representations:

Two representations have been received. The concern raised is detailed below with a response;

Query the details of the fencing/walling to the west of Plot 10 bordering land to the south of 88/90 Town Street /

Request for fencing / screening to preserve privacy of both plot 10 and adjoining land at rear of 88/90 Town Street

Response: The layout plan submitted is indicative only, however careful consideration will have to be given to the boundary treatment to ensure the privacy and amenity of these neighbouring properties is retained.

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.

The loss of the employment site has been weighed up against the constraints of the site which closely flanks neighbouring residential properties, as well as the benefits of housing development within a sustainable location. The proposed redevelopment of the site for housing is considered to be acceptable in principle.

It is considered the proposed redevelopment of the site would not have any adverse impact upon the safety and efficiency of the local highway network and the proposed access arrangements are considered to be acceptable. It is also considered that there is scope to secure details of the layout, scale and appearance of the dwellings at reserved matters stage which would not have a detrimental impact on visual or residential amenity. The indicative drainage scheme is considered to be acceptable, although this may be subject to revision as a reserved matters scheme is progressed. Overall it is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation - Conditional Outline Approval

Decision Authorisation - Delegated Powers

Application Number: 2017/60/92956/E

Officer Recommendation: Conditional Outline Approval

Conditions and Reasons

1. Approval of the details of the appearance, layout, scale, and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the appearance, layout, scale, and landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

5. Development shall not take place until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the site is fit to receive new development and in accordance with Chapter 11 of the National Planning Policy Framework. This is a pre-commencement condition so that all appropriate remediation works are carried out before development commences on site.

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 5 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the site is fit to receive new development and in accordance with Chapter 11 of the National Planning Policy Framework. This is a pre-commencement condition so that all appropriate remediation works are carried out before development commences on site.

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 6. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered (in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report) is identified or encountered on site, 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 shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the site is fit to receive new development and in accordance with Chapter 11 of the National Planning Policy Framework.

8. Following completion of any measures identified in the approved Remediation Strategy or any approved revised 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 remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure the site is fit to receive new development and in accordance with Chapter 11 of the National Planning Policy Framework.

9. An ecological design strategy (EDS) shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwellings commence. The EDS shall include the following:

a) Location (shown on appropriate scale plans) of specific make and model, or design, of bat and/or bird boxes to be installed integral to the new dwellings.

b) Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area. Thereafter the EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To secure biodiversity enhancement and to accord with Policy EP11 of the Kirklees Unitary Development Plan, Policy PLP30 of the Kirklees Publication Draft Local Plan and Chapter 11 of the National Planning Policy Framework.

10. A scheme to dispose of surface water from the development shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwellings commence. The scheme shall:

- i. Restrict discharge from the development to 5.4l/s for all rainfall events up to and including the 1 in 100 year event
- ii. Adhere to the principles as set out in the drainage strategy from ARP Associates reference 800/540/SK.03;
- iii. Provide attenuation on site for the 1 in 100 year plus climate change event;
- iv. Incorporate vegetated sustainable drainage techniques throughout the development wherever possible and practicable. Justification for alternatives should be by means of a viability assessment;
- v. Provide details of the adoption and maintenance of all surface water features on site.

Thereafter the development shall be undertaken in accordance with the approved details.

Reason: To ensure the effective disposal of surface water from the development and to accord with Policy PLP 28 of the Kirklees Publication Draft Local Plan and Chapter 10 of the National Planning Policy Framework.

11. No development shall take place until details of the disposal of surface water and silt from the development through the construction phase has been submitted to and approved in writing with the Local Planning Authority. Thereafter the disposal of surface water and silt from the development through the construction phase shall be undertaken in accordance with the approved details.

Reason: To ensure the risk of flooding does not increase during the construction phase and to limit the siltation of any on site surface water features and to accord with Policy PLP 28 of the Kirklees Publication Draft Local Plan and Chapter 10 of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those documents.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Site location and Existing Site Layout	1649/100	A	29.08.17
Topographical Survey	2035/001		29.08.17
Proposed Site Layout	1649/SK110	A	29.08.17
Proposed Site Footprint	1649/111	A	29.08.17
Plots 1, 2, 8 & 9 Indicative Details	1649/112	A	29.08.17
Plot 3 Indicative Details	1649/113	A	29.08.17
Plot 4 Indicative Details	1649/116		29.08.17
Plot 5 Indicative Details	1649/114		29.08.17
Plots 6 & 7 Indicative	1649/115	A	29.08.17

Plan Type	Reference	Version	Date Received
Details			
Plot 10 Indicative Details	1649/117		29.08.17
Planning Statement			29.08.17
Highway Statement	1262		29.08.17
Marketing Report	GEH/JS/VYU0586		05.04.18
Indicative Drainage Strategy	800/540/SK.03		14.11.17
Flood Risk Assessment	800/540r1		29.08.17
Bat Survey	MEC/BAT/2017/15/1		29.08.17
Phase 1 Contaminated Land Report	VFM/01		29.08.17

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 additional supporting information regarding the loss of the site for business and industry and an indicative drainage plan.

Report Dated: 3rd May 2018