KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	2017/70/93072/E
Site Address:	53, Far Bank, Shelley, Huddersfield, HD8 8HS
Description:	Variation condition 2 (plans) on previous permission 2016/93244 for erection of detached dwelling
Recommending Officer:	Nia Thomas

DECISION – APPROVE VARIATION OF CONDITION

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 16-Jan-2018

Officer Report

Site Description

The application site is an open area of land to the rear (east) of No.53 Far Bank at Shelley. The site is bound by residential properties off Bark Close to the north, open land to the east, and the rear garden areas of properties off Far Bank to the west. Planning permission has recently been granted for two dwellings on an adjacent site to the southern boundary however this permission has not yet been implemented. The site is accessed via an existing access between No. 51 and No.55 Far Bank. The site slopes downwards from north to south and from west to east. Along the boundaries of the site are a number of mature trees.

The site is allocated as provisional open land on the Kirklees Unitary Development Plan and is unallocated on the Kirklees Publication Draft Local Plan.

Description of Proposal

Planning permission is sought for the variation of condition 2 of planning permission 2016/93244 which states:

"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 D2, BE1, BE2 and BE12 of the Kirklees Unitary Development Plan as well as the aims of the National Planning Policy Framework".

The proposed change to the plans relates to a change to the roofing materials. The proposed change is from a zinc roof to a tiled roof.

History of negotiations/amendments received

The case officer has not been in contact with the applicant as the proposal is acceptable in its current form. No amendments are required.

Relevant Planning History

2014/91428 – Part demolition of no. 53 Far Bank and outline application for erection of detached dwelling CONDITIONAL OUTLINE PERMISSION (plot to the rear of no. 53)

2014/93349 – Reserved matters application for erection of one dwelling pursuant to applicant 2014/91428 APPROVAL OF RESERVED MATTERS (plot to rear of no. 53)

2016/93244 – Erection of detached dwelling APPROVED (no. 53 Far Bank).

2017/93069 – discharge of conditions 7 (foul, surface and land drainage), 8 (drainage infrastructure), 9 (piped or culverted watercourses) on previous permission for erection of a detached dwelling GRANTED

2017/91689 – discharge conditions 3 (materials) and 10 (ecological design strategy) on previous permission 2016/93244 for the erection of a detached dwelling

Representations

Final publicity date Expires: 19.10.2017

No representations have been received.

Denby Dale Parish Council – "no comment"

Consultation Responses

Given that the proposed change relates to materials, no further consultation responses are required, other than those from 2016/93244.

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 allocated as provisional open land on the UDP Proposals Map and unallocated on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- **D5** – Provisional Open Land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **T10** – Highway Safety
- **T19** – Parking Provision
- **D2** – Unallocated Land
- **EP11** – Ecological landscaping
- **NE9** – Retention of mature trees

Kirklees Publication Draft Local Plan (PDLP):

- **PLP1 –** Presumption of favour of sustainable development
- **PLP2 –** Place shaping
- **PLP3 –** Location of new development
- **PLP22** – Parking
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP33** – Trees
- **PLP30** – Biodiversity and geodiversity
- **PLP35** – Historic environment
- **PLP28** – Drainage

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 8 – Promoting healthy communities
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11 - Conserving and enhancing the natural environment
Chapter 12 – Conserving and enhancing the historic environment

Assessment

1- Principle of development (assessment of 2016/93244)

The principle of residential development has been established at this site under previous applications and, indeed, there are several permissions on this site for residential development, the most recent is 2016/93244.

In terms of more detailed issues within the site, NPPF paragraph 58 sets out the requirement for developments to "*optimise the potential of the site to accommodate development*". As this proposal only covers part of the POL site, consideration has been given to the need to demonstrate that it does not prevent the remainder of the POL site being developed. The POL allocation includes land to the south of the site with three possible access points off Far Bank. The Council have previously agreed there are potential access points off Far Bank, and as the area within the red line boundary is a private garden space physically separated from the wider POL allocation, it is considered that the development of this small section of the POL would not prejudice the longer term development of the wider site.

The site is unallocated on the Kirklees Publication Draft Local Plan.

2- Visual amenity (assessment of 2016/93244 – with reference to the change to roofing materials)

Given the limited visibility of the development it has been concluded that a refusal could not be substantiated on the basis that the scale of the building is out of character with the other properties in the area. It is noted that there are a range of property types adjacent to the site including two storey terrace properties on Far Bank and two storey detached properties on Bark Close. The location of the site behind the properties which face onto Far Bank would ensure that the scale of the dwelling would not be readily visible from the surrounding area to the west. The site is well screened by mature trees to east and south boundaries, which would serve to obscure long range views of the building from the open countryside beyond. The closest public footpath is well removed from the development, at approximately 225m to the east of the application site.

The footprint of the structure could be adequately accommodated within the site area with space being retained to the boundaries for tree retention and soft landscaping. The combination of materials being proposed is considered to be acceptable in this location and would complement the contemporary design of the dwelling. The orientation of the main elevation towards the south boundary of the site would present a rational site layout as this elevation would not be read within the street scene of Far Bank, with only limited views being afforded to the east side elevation of the property which includes the entrance door. A condition is recommended to prevent any further enlargement

of the property under permitted development rights due to the scale of the structure being proposed.

The setting of Shelley Methodist Church which is a listed building would not be affected by the proposal given that it is located approximately 118m to the south of the site.

As noted above, the layout of the site would provide for space at the boundaries of the site for soft landscaping. The application is supported by a landscaping plan and a condition is recommended to ensure that this is implemented.

The change to the roofing materials is considered acceptable. The roof tiles that are proposed will harmonise with the surrounding dwellings and will not detract from the character of the dwelling itself. This proposed change will have a minor impact on the appearance of the dwelling and will be sympathetic to the character of the area. This is because there are other dwellings in the near vicinity with similar roofing materials.

Overall the proposal is deemed to be consistent with policies BE1 and BE2 of the UDP as well as chapters 6 and 7 of the NPPF as well as PLP policy 24.

3- Impact on residential amenity (assessment of 2016/93244)

The layout and siting of the dwelling has not changed since the previous approval 2016/93244 and therefore the below assessment is relevant.

The site is bounded by residential properties to the north and west, and two properties have been granted planning permission on the adjacent site to the south boundary. The revised proposals are considered to have overcome officers' concerns.

The reduction in the height of the ridgeline of the dwelling and the massing of the first floor element has created an acceptable arrangement in terms of the residential amenity of occupiers to the north of the site. The site sections submitted in support of the application identify that the dwelling would be set into the slope of the site and at a lower level than the adjacent properties which would serve to reduce the impact of the development. The proposed dwelling would be located approximately 23.8m from these properties which would ensure that the level of inter-visibility would not unduly impact on the level of privacy enjoyed by these occupiers.

The reduction in the scale of the dwelling has also improved the relationship to the south boundary and it is noted that the approved dwellings on the adjacent site would be set a lower level than the proposed development. The original proposal included Juliette

balconies on the north elevation which would have created a sense of overlooking and surveillance which would not have been acceptable, albeit that the separation distances recommended under policy BE12 of the UDP would have been achieved. A condition is recommended to ensure that Juliette balconies are not introduced to the property once constructed.

Lastly, the detached garage has been redesigned to reduce the impact on the properties to east of the site. The garage is located close to this boundary however the change in the roof pitch would ensure that bulk of the building onto the boundary has been limited to eaves level. The outlook from the side elevation of the dwelling would be at an angle to the properties on Far Bank and acceptable separation distances would be achieved.

The proposals are therefore considered acceptable from a residential amenity perspective and would comply with the aims of policy BE12 of the UDP.

Highway issues (assessment of 2016/93244 – no change to siting of dwelling)

The new dwelling is proposed to be served by and existing vehicular access onto Far Bank. The Council's Highway Engineer has been consulted and raises no objection to the proposals on the basis of highway safety. The Highways Engineer has noted that the proposed access road is to remain unchanged from a previous planning permission and that the level of off-street parking would meet the standards set out in the UDP. The extant planning permission included a condition to require improvements to the access, in particular, the visibility onto Far Bank which have now been completed and therefore this condition is no longer necessary. A condition is recommended however ensure that parking area is properly surfaced and retained thereafter.

Subject to conditions, the proposal is not considered to materially add to any undue highway safety implications and would accord with the aims of policy T10 of the UDP and PLP policies 21 and 22 of the Kirklees Publication Draft Local Plan.

Ecological Issues (assessed under app ref 2016/93244)

A condition relating to a report of Ecological enhancement measures for the site has been discharged under app ref 2017/91689. This report is acceptable and a condition has been recommended to ensure that the development is carried out in accordance with this.

The proposal complies with the aims of chapter 11 of the NPPF and PLP policy 30 of the Kirklees Publication Draft Local Plan.

Other Matters

Air Quality

The NPPF requires the planning system to contribute to and enhance the natural and local environment by among other things preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. It also encourages the promotion of sustainable transport.

The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point within the parking areas associated with the proposed dwelling. This in turn can impact on air quality in the longer term. A condition can be imposed to secure the charging point for the proposal to comply with the NPPF Chapter 11 and PLP policy 51 of the Kirklees Publication Draft Local Plan.

Discharge of conditions – drainage

Conditions 7, 8 and 9 of the original approval have been discharged under application ref: 2017/93069. For this reason, conditions relating to drainage do not form part of the decision notice as this information has been assessed and found to be acceptable by the drainage team. This proposal complies with NPPF Chapter 10 and PLP policy 28 of the Kirklees Publication Draft Local Plan.

Discharge of conditions – Materials and Ecology Design Strategy

Conditions 3 and 10 of the original approval have been discharged under application ref: 2017/91689. For this reason, conditions relating to the materials and ecology design strategy do not form part of the decision notice. This information has been assessed and found to be acceptable. The proposal complies with NPPF Chapter 7 and Chapter 11 as well as PLP policies 24 and 33 of the Kirklees Publication Draft Local Plan.

6 - Representations

No representations have been 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.

Recommendation – Variation of condition

Decision Authorisation - Delegated Powers

Application Number: 2017/93072

Officer Recommendation: **Variation of condition**

Conditions and Reasons:

1. The development hereby permitted shall be begun by 27th February 2020.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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 D2, BE13, BE14, and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22, PLP24, PLP30 and PLP33, PLP28 and PLP35 of the Kirklees Publication Draft Local Plan, as well as chapters 7, 11 and 12 of the National Planning Policy Framework.

3. The external walling materials of the dwelling hereby approved shall be sandal buff sandstone and retained as such.
Reason: In the interests of visual amenity and to accord with Policy D2 of the Kirklees Unitary Development Plan, Chapter 7 of the NPPF and policy PLP24 of the Kirklees Publication Draft Local Plan.

4. The external roofing materials of the dwelling hereby approved shall be 'Sandtoft Calderdale Dark Grey' and retained as such.
Reason: In the interests of visual amenity and to accord with Policy D2 of the Kirklees Unitary Development Plan, Chapter 7 of the NPPF and policy PLP24 of the Kirklees Publication Draft Local Plan.

5. All soft landscape works shown on plan ref: 2051 P2 shall be carried out in accordance with the approved details in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the occupation of the dwelling or in accordance with the timetable approved by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan as well as the aims of chapters 7 and 11 of the National Planning Policy Framework and PLP policy 33.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no buildings or extensions other than those expressly authorised by this permission shall be erected within the red line boundary of the application site shown on the approved plans at any time.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy BE14 of the Kirklees Unitary Development Plan as well as Policy PLP24 of the Kirklees Publication Draft Local Plan.

7. The development shall not be brought into use until all areas indicated to be used for parking and turning on the submitted/listed plan(s) have been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. 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) these areas shall be so retained, free of obstructions and available for the use(s) specified on the submitted/listed plan(s).
Reason: In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements and parking, and in accordance with Policy T10 of the Kirklees Unitary Development Plan as well as the aims of chapter 10 of the National Planning Policy Framework and PLP policy 21 of the Kirklees Publication Draft Local Plan.

8. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved dwelling before it 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 the guidance contained in Chapter 4 and Chapter 11 of the National Planning Policy Framework and PLP policy 51 of the Kirklees Publication Draft Local Plan.

9. The development shall be constructed in accordance with the Ecological Design Strategy (dated May 2017).
Reason: To secure the ecological protection and enhancement measures outlined in the submitted ecological report in accordance with Chapter 11 of the National Planning Policy Framework and PLP policy 30 of the Kirklees Publication Draft Local Plan.

NOTE: With regard to condition 6, the link to Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens' published 13th May 2009 (ISBN 9781409804864) is:
www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens

NOTE: No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

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: 0800 7318765) 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed elevations	2200	P5	05.09.2017
proposed site sections (submitted under 2016/93244)	2300	P3	13.01.2017
proposed first floor plans (submitted under 2016/93244)	2101	P3	13.01.2017
proposed second floor plan (submitted under 2016/93244)	2102	P4	22.2.2017
proposed ground floor plan(submitted under 2016/93244)	2100	P4	22.2.2017
proposed site plan(submitted under 2016/93244)	2050	P3	13.01.2017
Design and access statement (submitted under 2016/93244)	-	-	28.09.2017
Proposed landscaping layout (submitted under 2016/93244)	2051	P2	28.09.2017
Existing site/block layout (submitted under 2016/93244)	2001	P1	28.09.2017
Location plan (submitted under 2016/93244)	2000	-	28.09.2017

Plan Type	Reference	Version	Date Received
Existing site sections (submitted under 2016/93244)	1004	-	28.09.2017
Ecological Design Strategy (submitted under 2017/91689)	May 2017	-	25.05.2017

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 Planning 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 has not been in contact with the applicant as the proposal is acceptable in its current form. No amendments are required.

Report Dated: 16.01.2018