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:	2017/62/94072/W
Site Address:	Store adj, 5, Fernside Avenue, Almondbury, Huddersfield, HD5 8NR
Description:	Demolition of existing builders store/depot and erection of 2 terraced dwellings
Recommending Officer:	William Simcock

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: 31-May-2018

Officer Report

Site Description

The site consists of a former barn, until recently used as a builders' store, and associated land.

The barn is built on to the end of a row of 3 dwellings, of which the nearest, 5 Fernside Avenue, is two-storey and un-Listed, the other two, 1-3 Fernside Avenue, are Listed and three-storey. The row fronts on to Fernside Avenue to south-east and Almondbury Bank to the south-west.

The site includes a strip of land between 1-3 Fernside Avenue and the highway, and also some land to the side and rear, part of which is surfaced in gravel and used informally for parking. The site is near-level with only gentle gradients. The buildings are built in stone and stone slates and elevated about 1m or more above the highway.

Description of Proposal

The proposal is a full application for the demolition of the existing builders' store / depot and erection of two terraced dwellings.

Access is to be taken using the track along the frontage that joins the adopted highway near the junction with Almondbury Bank.

The two dwellings would continue the roofline of the existing dwelling to which they would be attached, with a matching double-pitched roof, and would have a frontage length of 11.2m, extending some 3.3m beyond the original side wall. Each would have two bedrooms. All windows would face north and south. It is proposed they would be stone with a Grey's Artstone slate roof.

History of negotiations/amendments received

Case officer directed for further information: More details of access arrangements (received 12-Mar-2018) and bat survey (received 20-Feb-2018).

Further amendments to proposed access arrangements 30-Apr-2018.

Relevant Planning History

2001/90799 – Reuse of former barn and new extension to form dwelling, and erection of detached double garage. Approved, not implemented.

Representations

Final publicity date Expires: 11-May-2018

One letter of objection received from occupant of 1 Fernside Avenue. Grounds of objection:

- The plans do not show the land we own in front of the property and suggest that all our land is incorporated into the access way. The existing lane is narrower than shown.

- Vehicular access is unsafe for anything above 3.5 tonnes and there is a drainage hole.

- Access would be dangerous because of being so close to a heavily used junction.

- Visual impact of two new dwellings attached to an old dwelling especially if done in new stone.

- Water supply is inadequate.

- Asbestos panels have been smashed on the land.

- Security risk because of the encapsulation of our land.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Highways Development Management – No objections subject to conditions.
- Environmental Health – No objections
- Ecology Officer – No objections subject to conditions
- Conservation & Design (informal response) – No objections

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 land on the UDP Proposals Map and without designation on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about building
- **T10** – Highway safety
- **T19** – Parking standards

Kirklees Publication Draft Local Plan (PDLP):

- **PLP 21:** Highway safety and access
- **PLP 22:** Parking
- **PLP 24**: Design
- **PLP 30**: Biodiversity and geodiversity
- **PLP 35**: Historic environment

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.

- Core Planning Principles
- Chapter 7 – Requiring good design
- Chapter 11 – Conserving and enhancing the natural environment
- Chapter 12 – Conserving and enhancing the historic environment.

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conclusion

1 – Principle of development: Unless material considerations indicate otherwise development proposals that accord with the development plan should be approved without delay (NPPF paragraph 14). Housing proposals which are contrary to the UDP (subject to the NPPF paragraph 215 test) will also however potentially prejudice the NPPF "plan-led" core principle set out in paragraph 17.1.

In this instance the land is unallocated in the UDP. The site is in a sustainable location and furthermore the proposal would make use of land that has been previously development. It is therefore considered acceptable in principle subject to an assessment of amenity, environmental and highway issues, to be assessed in detail below.

NPPF guidance contained within chapter 11 (relating to potential pollution impacts and the conservation and enhancement of biodiversity) and 12 (the conservation of heritage assets) are of some relevance here, in addition to the Core Planning Principles.

New dwellings (including those formed by conversion) should adhere to the minimum distance standards in Policy BE12 unless other considerations such as changes in level indicate that these can be relaxed. Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity), T10 and T19 (development should not create or materially add to highway safety problems and provide adequate parking to serve the development).

Policies PLP21, 22, 24, 30 and 35 are relevant and may in principle be granted considerable weight but they cover generally similar concerns to the UDP policies already listed.

2 –Impact on visual amenity: Traditional barns may sometimes be classed as non-designated heritage assets, in which case, under NPPF paragraph 135, a balanced judgement will be required having regard to the scale of any harm or loss of significance.

In this instance the largely blank front elevation has retained its traditional appearance but the rear of the barn has already been altered by the infilling of the main openings. It is considered that whilst the barn may have some limited value as a heritage asset, it is not a very good example of its type, and

its demolition would not be a serious loss when considered against the wider benefits of providing two additional dwellings. It is therefore considered that the redevelopment of the site is acceptable in principle.

It is considered that the size of the plot is big enough to accommodate two dwellings without it giving rise to the appearance of overdevelopment. The two new dwellings are of simple design and their scale and proportions would respect the appearance and character of the immediate neighbouring dwelling and their surroundings. It is therefore considered that the development would conserve visual amenity and accord with the aims of Policies BE1-2 of the UDP and PLP24 of the PDLP.

Approval should be subject to a condition requiring a sample of stone as is a general requirement for new dwellings, so as to ensure that it respects the character of its surroundings.

2A Setting of the listed building: The proposed dwelling would be located 8m from a grade II listed building. When making decisions on planning applications for development that affects the setting of a listed building there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that Local Planning Authorities must have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Consultation has taken place with the Conservation Officer and it is considered that the development would not have an adverse impact on the setting of the listed building. The application would, in these circumstances, accord with Chapter 12 of the NPPF.

3 – Impact on residential amenity: The windows would face front and rear. These would be, respectively, well over 21m from the facing windows in 2 Fernside Avenue and 16m from the rear site boundary. The layout of the plots would result in no. 5 being left with only limited curtilage space but this is not in itself considered sufficient reason to refuse.

1.8m screen fences are shown on the drawings where necessary to prevent overlooking. There is already one in place between the new Plot 1 and no. 5. It can be conditioned that this fence is retained or replaced in order to ensure that privacy is maintained.

In conclusion, it is considered that the proposed dwellings would leave satisfactory space about buildings and would conserve the residential amenity of existing properties and land, and would accord with the aims of Policies BE12 and D2.

4 – Impact on highway safety: The arrangements would mean taking access to the adopted highway very close to the junction via a track which already serves 3 dwellings. The access point is quite wide and there is a footway between it and the adopted highway, and the junction itself has good alignment and visibility. Given the likely traffic volumes and speeds, it is considered the arrangements are satisfactory. The amended vehicle tracking plan demonstrates that cars would be able to gain access to and egress from the site without crossing land that does not form part of the existing access track, and would be able to turn within the site.

A total of four parking spaces are provided, in addition to internal turning space. Two spaces per dwelling is considered sufficient for houses of this size. The development might have the effect of displacing cars on to the highway that currently park on the site, but as it is only used for parking on an informal basis and since no objections have been made on this issue in particular, it is not considered to be a significant concern from a planning point of view. The scheme does not include allocated visitor parking, but the UDP appendix 2 standard would only be 1 per 4 dwellings, or half a space in this instance. In this case it is considered unlikely that all 4 spaces would ever be in use at any given time, and it would be possible for visitors to park on the public highway without obstructing the flow of traffic.

It is considered that subject to a suitable condition on the surfacing of the parking spaces the development is acceptable

5 – Other matters:

Drainage:
The site is to be drained by a soakaway. This is in principle to be encouraged as being one of the more sustainable options, but if soakaways are to be used, evidence is required that they will work. The architect has agreed to have percolation tests imposed as a pre-condition, however given the scale of the development it is considered reasonable for this matter to be resolved by any allied application for Building Regulations approval rather planning condition.

Refuse collection:
The refuse collection arrangements should, if possible, ensure that refuse containers do not have to be carried more that the recommended distance either by householders or refuse collection workers. The siting of refuse storage containers is at this stage undecided but there is sufficient room to provide them within the site. This can be decided at the post-decision stage by means of a condition, which the architect has agreed to in principle.

Biodiversity:
The site is in the bat alert layer. A bat scoping survey has been submitted which concluded there was low bat roost potential. The Ecology Officer has confirmed that it is acceptable at this stage, but that further survey work will

be required to investigate the potential of the building for bats. It can be conditioned that this is done before the commencement of development.

Contaminated land:
The site is adjacent to an area of potentially contaminated land (a substation) but is not itself believed to be contaminated. The standard condition on reporting of unexpected contamination will be added as a precaution.

Air Quality:
In accordance with standard practice, to encourage low-impact methods of transport, and in accordance with the West Yorkshire Low Emissions Strategy a single electrical charging point shall be installed for each dwelling.

Withdrawal of permitted development rights:
Approval should however be conditional on permitted development rights being withdrawn for extensions and outbuildings, as, on account of the very limited curtilage space, these could lead to the appearance of overdevelopment and have an overbearing impact on established dwellings.

6 – Representations: Comments relating to highway safety have been examined in the main part of the report but are highlighted here together with case officers' responses.

- The plans do not show the land we own in front of the property and suggest that all our land is incorporated into the access way. The existing lane is narrower than shown.

Response: The earlier version of the vehicle tracking plan would have crossed privately owned land over which there is no right of access. This has now been remedied. The amended version of the plan has been re-advertised and no further objections received.

- Vehicular access is unsafe for anything above 3.5 tonnes and there is a drainage hole.

Response: It should not be necessary for large vehicles such as fire engines or refuse collection wagons to enter the site. It would be possible to tackle a house fire from the public highway. Details of refuse storage and collection arrangements can be reserved as a condition.

- Access would be dangerous because of being so close to a heavily used junction.

Response: This issue has been examined in part (4) of the Assessment and it is considered that safe and satisfactory access can be achieved.

- Visual impact of two new dwellings attached to an old dwelling especially if done in new stone.

Response: A stone sample will be required by condition. It is noted that the new houses would not be attached to a Listed Building but to an old, but non-Listed dwelling. The requirement to use second-hand stone is not standard

and in the circumstances it would not be reasonable or proportionate to apply it here.

- Water supply is inadequate.

Response: This is not considered to be a material planning consideration, in the absence of evidence of problems with the water supply and given that this is minor development.

- Asbestos panels have been smashed on the land.

Response: In general, land contamination is only treated as a material planning issue if a piece of land is known to have had an historic use that would have generated contamination. Asbestos is covered by other regulations. If unsafe disposal of asbestos on the land is known to have occurred this could in principle be a material planning consideration but the objector's claim is not supported by any evidence.

- Security risk because of the encapsulation of our land.

Response: It is not clear why this aspect of the development would create a security risk and in any case the owner could choose to fence the land off without seeking planning permission.

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 – CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2017/94072

Officer Recommendation: CONDITIONAL FULL PERMISSION

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.

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, BE1 and BE2 of the Unitary Development Plan and Policy PLP24 of the Publication Draft Local Plan.

3. Samples of the stone to be used for external walling shall be submitted to or inspected on site by, and approved in writing by, the Local Planning Authority, before work on the superstructure of the new build commences and the development shall be implemented using the approved materials.
Reason: In the interests of visual amenity and to accord with Policies BE1 and BE2 of the Unitary Development Plan and PLP24 of the Publication Draft Local Plan.

4. Prior to any new dwelling being occupied, the areas shown to be used for the parking and turning of vehicles within the site, as shown on the submitted vehicle tracking plan, shall be surfaced and drained 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 superseded; and thereafter retained and kept free of all obstructions to their use for the parking and turning of vehicles.
Reason: To achieve a satisfactory layout in the interests of highway safety, to minimise the contribution to flood risk arising from increased water run-off, and to accord with the aims of Policies T10 and T19 of the Unitary Development Plan, PLP21-22 of the Publication Draft Local Plan and Chapter 10 of the National Planning Policy Framework.

5. Before either of the proposed dwellings is first occupied, details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved arrangements shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety and to accord with the aims of Policies D2 and T10 of the Unitary Development Plan and PLP21 and 24 of the Publication Draft Local Plan.

6. One electric vehicle recharging point shall be installed within the dedicated parking area for each of the approved dwellings before the dwelling to which the recharging point relates 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 points so installed shall thereafter be retained.
Reason: In accordance with government guidance on air quality mitigation, outlined within the Planning Practice Guidance, Policy PLP24 of the Publication Draft Local Plan and Chapter 10 of the National Planning Policy Framework, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

7. Before either of the new dwellings are first occupied, a 1.8m high screen fence shall be erected on the boundary between Plot 1 and the rear garden of no. 5 Fernside Avenue, and this shall thereafter be retained.
Reason: To ensure that the development safeguards the privacy of the adjacent dwelling and to accord with the aims of Policy D2 of the Unitary Development Plan and PLP24 of the Publication Draft Local Plan.

8. No development shall take place (including any demolition, or internal or external works to existing structures) until further ecological surveys sufficient to investigate a building of 'low' suitability for bats (i.e. one survey visit) has been undertaken and used to prepare an Ecological Impact Assessment focusing on bats, which shall be submitted to and approved in writing by the local planning authority. All survey and reporting shall be undertaken following national good practice guidelines.

Reason: This is a pre-commencement condition to ensure that the presence or likely absence of roosting bats is determined prior to any activities that could impact bats or their roosts, in accordance with Circular 06/2005, Policy PLP30 of the Publication Draft Local Plan and to accord with the aims of the Chapter 11 of the National Planning Policy Framework.

9. Where the survey required under condition (8) confirms the presence of a bat roost(s), no development shall take place until a method statement for suitable replacement bat roost(s) has been submitted to and approved in writing by the local planning authority. The method statement shall be informed by survey information sufficient to fully characterise the roost(s) present, as described in national good practice guidelines. The content of the method statement shall include the:

a) purpose and objectives for the proposed works;

a) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);

b) extent and location of proposed works shown on appropriate scale maps and plans;

c) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;

d) persons responsible for implementing the works;

e) initial aftercare and long-term maintenance (where relevant);

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: this is a pre-commencement condition, to be triggered where the presence of roosting bats is identified, to ensure that mitigation proposals are sufficient to ensure the favourable conservation status of the bat species present will be maintained, prior to any damaging works being undertaken. Securing appropriate mitigation is a requirement of policy PLP 30 of the Publication Draft Local Plan and a prerequisite in order to obtain the appropriate protected species licence.

10. Where the survey required under condition (9) confirms the presence of a bat roost(s), no development shall take place in any circumstances unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead;

a) written confirmation of Site Registration under the Low Impact Bat Class Licence;

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: This is a pre-commencement condition to ensure demolition worksare undertaken in accordance with Circular 06/2005, Policy PLP30 of the Publication Draft Local Plan and to accord with the aims of the Chapter 11 of the National Planning Policy Framework.

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11. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification including

paragraph A.1(ea)), no development falling within Classes A or E of Part 1, Schedule 2 of the General Permitted Development Order shall be undertaken within the land edged in red on the approved location plan without full planning permission having been first obtained from the Local Planning Authority.

Reason: So as to retain adequate planning control over the site in the interests of preventing inappropriate extensions or outbuildings leading to a loss of visual or residential amenity arising from overdevelopment or overbearing impact, and to accord with the aims of Policies D2, BE1 and BE2 of the Unitary Development Plan and Policy PLP24 of the Publication Draft Local Plan.

12. 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.

Reason: To ensure that the development does not lead to pollution of the environment or harm to human health, and to accord with the aims of Policy BE1(iv) of the Unitary Development Plan, PLP53 of the Publication Draft Local Plan, and Chapter 11 of the National Planning Policy Framework.

13. 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 ensure that the development does not lead to pollution of the environment or harm to human health, and to accord with the aims of Policy BE1(iv) of the Unitary Development Plan, PLP53 of the Publication Draft Local Plan, and Chapter 11 of the National Planning Policy Framework.

NOTE: Construction noise. 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
Application form			04-Dec-2017
Highways and access statement			04-Dec-2017
Existing site / block plan	EX(01)	A	04-Dec-2017
Existing elevations	EX(02)		04-Dec-2017
Proposed site / block plan	AL(01)	A	04-Dec-2017
Proposed ground floor plan	AL(02)		04-Dec-2017
Proposed first floor plan	AL(03)		04-Dec-2017
Proposed elevations	AL(04)		04-Dec-2017
Contextual elevations as proposed	AL(04)	A	04-Dec-2017
Vehicle tracking plan	1438-01	A	30-Apr-2018
Bat survey			20-Feb-2018

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 requested the applicant submit a bat survey to ensure the scheme minimised the impact on biodiversity, and a vehicle tracking plan to show that safe vehicular access could be gained.

Report Dated: 30-May-2018