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:	2018/60/91884/E
Site Address:	rear of, 1, Park Side, Flockton, Huddersfield, WF4 4AD
Description:	Outline application for erection of detached dwelling
Recommending Officer:	Emma Thompson

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.

Julia Steadman

AUTHORISED OFFICER

Date: 02-Aug-2018

Officer Report

Site Description

Rear of 1 Park Side, Flockton

The application site relates to the garden of number 1 Park Side in Flockton. The site has been subdivided from the existing dwelling which is a 2 storey semi-detached dwelling constructed of red brick to the front elevation with render the side and rear elevations. The existing dwelling is designed with a gable roof with tile finish.

The dwelling sits at the front of a long plot with the garden extending to the rear. There are currently no outbuildings located within the plot. A vehicular access exists to the south of the dwelling providing off street parking for the host dwelling. Further to the south is an existing driveway access which runs alongside the rear of the dwellings.

To the west of the site is residential development currently under construction by David Wilson Homes. To the north of the site are existing residential garden areas. A large garage is located in the garden of number 5 Park Side.

The site is located within a residential area being bound by gardens and existing residential development.

Description of Proposal

Outline application for 1 dwelling

The applications is in outline with access being included for consideration at this stage.

History of negotiations/amendments received

The agent has been advised that the scale indicated in the supporting statement will not be acceptable and should be reduced. It is considered that, for the avoidance of doubt, a condition shall be included restricting this.

Relevant Planning History

2017/90710 – Outline application for a pair of semi-detached dwellings - Withdrawn

Representations

Final publicity date Expires: 26th July 2018; Neighbour Notifications expired 7th July 2018

1 objection – access

- Kirkburton Parish Council – Objects due to over development and access

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 DM: No objections
- KC Environmental Health: No objections
- Coal Authority – No objections

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.

Kirklees Unitary Development Plan:

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **T10** – Highway safety
- **T19** – Parking standards
- **G6** – Land contamination
- **EP11** – Ecological landscaping
- **H1** – Housing needs of the district

Kirklees Publication Draft Local Plan (PDLP):

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping

- **PLP21** – Highway safety and access
- **PLP22** – Parking
- **PLP24** – Design
- **PLP30** – Biodiversity and geodiversity
- **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 5** – Delivering a sufficient supply of homes
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the Natural Environment

Assessment

Principle of development

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states "planning permission for the development … 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]".

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, unless material considerations indicate otherwise, this means:

- *'approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *Specific policies in this Framework indicate development should be restricted; or*
- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*

The site comprises of land that is greenfield (previously undeveloped). As such, consideration needs to be given to any harm which would result from

the loss of this open land. Officers note that adjoining land to the west is under development with 2 storey dwellings being constructed close to the boundary with the site. Furthermore, land to the north accommodates a relatively large detached garage with a large cattery building having been approved in the garden of number 9 Park Side. Where the principle of the erection of some form of residential development may be questionable significant weight should be afforded to the aforementioned buildings, particularly as the cattery approved under application 2015/91750 forms a large footprint within the garden. It is of a size that could accommodate a dwelling. As such, officers have conclude that the principle is, on balance, acceptable.

The development would contribute to the aims of Policy H1 of the UDP in that it would provide additional housing in a sustainable location.

The specific impacts of the development, for example the visual and ecological impacts, are addressed later in this assessment but, in principle, it is considered by officers that there is no overriding reason why development on this land would be inappropriate subject to consideration of the UDP policies listed above.

Visual Amenity

The application site is currently a long area of garden space surrounded by existing residential development. As the land is considered to be greenfield, an assessment has been made as to whether the loss of the site, in terms of visual amenity, would be detrimental to the character of the area and whether the benefit of the erection of residential development would outweigh the loss of the greenfield site.

Paragraph 127 of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history (point c). In addition UDP Policies BE1, BE2 and BE11 are considerations in relation to design, materials and layout, as is policy PLP24 of the PDLP.

The land is bound by residential development and is therefore enclosed to wider public view. Whilst the established pattern of development may appear to be compromised through the introduction of development to the rear garden, Officers have noted that there is a large detached garage to the north in addition to a cattery building which has approval. Taking into account the weight that can be afforded to these it is considered that, subject to restricting any development to single storey, it would not further disrupt the existing pattern of development nor would it compromise the character of the area. Furthermore, bearing in mind the space available, it is considered that the erection of a single storey dwelling could be acceptable maintaining space adjacent to it.

The land itself has very limited value in terms of ecology. It appears to have been an area of lawn for some time. As such it is considered that the loss of

the land is acceptable and would not result in significant harm to the ecological network in accordance with Paragraph 175 of the NPPF.

Landscaping is not included for consideration and is retained as a reserved matter. As previously set out, any future landscaping scheme would be beneficial in terms of providing mitigation and enhancement where possible.

UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The ecological report indicates that the habitats present within the site are generally of limited ecological value. Any reserved matters application will need to include measures to avoid impacts to nesting birds and details to demonstrate how ecological impacts will be mitigated and ecological enhancement provided thereby fulfilling the objectives of the National Planning Policy Framework.

It is considered that matters of visual amenity can be satisfactorily dealt with by means of conditions at this stage. As such, it is the view of officers that development could be appropriately designed without detriment to the character of the area, in accordance with Policies D2, BE1, and BE2 of the Kirklees UDP, policy PLP24 of the PDLP as well as the NPPF.

Residential Amenity

The site is currently located within a residential area and is bound by residential properties to the north, south, east and west. As such it is considered that a residential use could be designed to an appropriate scale so as to avoid any detrimental impact on existing nearby occupants.

At present the application includes access for consideration only and therefore the proposed layout is not being considered or approved at this stage. However, it is considered that a satisfactory layout can be achieved on this site which would protect the privacy and residential amenity of both existing and future occupants in accordance with Policies D2 and BE12 of the UDP and Kirklees Publication Draft Local Plan Policy PLP24.

Highway issues:

The application has been assessed by Kirklees Highway DM.

With the inclusion of appropriate conditions relating to the surfacing of parking areas in addition to the storage of waste, the proposals are not considered to materially add to any undue highway safety implications, complying with the aims of Policies T10 and T19 of the UDP as well as policies PLP21 and PLP22 of the PDLP.

Representations

In so far as the representations have not been addressed above:

Highways (unsuitable access)

Response: The highway implications of this proposal have been fully assessed by the Highways DM officers. There are no objections raised to the development in relation to the point of access. Subject to the inclusion of appropriate conditions, as referred to above, the proposals are considered acceptable from a highway safety and efficiency perspective.

Overdevelopment of the site

Response: A full assessment in relation to the impact on the visual amenity has been set out in the main assessment above. It is concluded that, provided that the new dwelling is conditioned to be single storey, it would not result in the overdevelopment of the site. Furthermore, the layout shown on the submitted plans if for indicative purposes only and not approved as part of this outline application. Layout and scale are reserved for future approval.

Other matters:

Air quality

This development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size of the development is less than that of prescribed values set out in this document, which is why it is regarded as a minor development.

Sustainable transport, in paragraph 108 of the National Planning Policy Framework, states that in assessing applications for developments, it should be ensured that opportunities to promote sustainable transport modes can be taken up. Paragraph 110 continues by stating that developments should be designed to enable charging of plug in and other ultra-low emission vehicles in safe, accessible and convenient locations. As such a condition is imposed to ensure the development is in accordance with these aims.

Coal Mining Legacy:

A Coal Mining Risk Assessment has been submitted with the application and comments received from the Coal Authority. There are no objections to the proposals providing conditions are imposed to ensure there is no risk as a consequence of development. The inclusion of such conditions would ensure that the proposals comply with the aims of chapter 15 of the NPPF.

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: 2018/91884

Officer Recommendation: Approve

Conditions and Reasons:

1. Approval of the details of the scale, appearance, layout and the 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 scale, appearance, layout and the 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 reserved matters 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 or 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. 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, BE12 and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22, and PLP24 of the Kirklees Publication Draft Local Plan as well as the aims of the National Planning Policy Framework.

6. Notwithstanding the submitted details, the scale (which is a 'reserved matter) of development shall be restricted to single storey.

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 T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22, and PLP24 of the Kirklees Publication Draft Local Plan as well as the aims of the National Planning Policy Framework.

7. Any reserved matters application should be supported by:

i) a scheme of intrusive site investigations for the recorded mine entry and shallow coal mine workings;
ii) the submission of a report of findings arising from the schemes of intrusive site investigations, including the results of any gas monitoring
iii) the submission of a layout plan which identifies the location of the mine entry and an appropriate 'no build' zone around this feature; and
iv) the submission of a scheme of remedial treatment works for the mine entry and the shallow coal workings for approval.
v) The development shall be carried out in accordance with the remedial works required.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance with Policy G6 of the Kirklees Unitary Development Plan, Policy PLP53 of the Kirklees Publication Draft Local Plan as well as the aims of chapter 15 of the National Planning Policy Framework. This condition is to ensure that appropriate investigations are carried out before development commences on site and that, should any mitigation measures be required, they are carried out at the appropriate stage.

8. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the local planning authority.
Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance with Policy G6 of the Kirklees Unitary Development Plan, Policy

PLP53 of the Kirklees Publication Draft Local Plan as well as the aims of chapter 15 of the National Planning Policy Framework. This condition is to ensure that appropriate investigations are carried out before development commences on site and that, should any mitigation measures be required, they are carried out at the appropriate stage.

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:
As the original 1985 Transfer of the property did not contain any rights of access over the Council owned land to the side of the property, the applicant/developer is advised that the granting of this planning permission cannot be facilitated unless agreement can be reached between the Council and the applicant/developer for a permanent easement over the land to the side. Furthermore, under the conditions of the original Transfer, the owner of the property is unable to "construct or place any garage carport shed greenhouse or any other building whether moveable or immoveable or any erection whatsoever on the property except with the consent of the officer" (Fourth Schedule, Clause E).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Design & Access Statement			7th June 2018
Location Plan	18/374/01		7th June 2018
Existing block plan	18/374/02		7th June 2018
Proposed block plan (indicative)	18/374/03		7th June 2018
Coal Mining Risk Assessment	RGS		7th June 2018
Coal Mining Letter	The Coal Authority		7th June 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 agent was advised that the scale of development should not exceed single storey as part of any subsequent 'reserved matters' application.

Report Dated: 2nd August 2018