

**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: 2018/62/92489/E

Site Address: adj, 118, Drub Lane, Cleckheaton, BD19 4BU

Description: Erection detached dwelling

Recommending Officer: Nia Thomas

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.

Julia Steadman

AUTHORISED OFFICER

Date: 26-Sep-2018

Officer Report

Site Description

The site relates to an area of land to the side of no. 118 Drub Lane, Cleckheaton which has a garage and an area of grassed land. To the rear of the site is a timber fence, the boundaries of the site are well defined and the area is in use as amenity space for no. 118.

Surrounding the site is residential to the east and west with a variety of dwelling types. To the north of the site is the recreation park and to the south of the site is open land allocated as Green Belt.

The site is allocated as Green Belt on the Kirklees Unitary Development Plan and allocated as Green Belt on the Kirklees Publication Draft Local Plan.

Description of Proposal

Planning permission is sought for the erection of a detached dwelling located in between no. 118 Drub Lane and no. 120 Drub Lane as seen on the submitted block plan.

The dwelling would be 8.8 metres in height, it would be 11.6 metres in length and would be 7.5 metres in height. The dwelling would have openings in all elevations and would have small rooflights in the roofslopes. There is a small front projection.

The dwelling will be constructed from stone and render for the external walls, marley modern tiles for the roof and upvc for the openings.

There would be an area of hardstanding to the front of the site to accommodate parking.

History of negotiations/amendments received

The case officer has requested amendments to the scheme in order to overcome concerns relating to the impact on residential amenity. The dwelling has been reduced slightly in height and its projection from the rear of no.118 Drub Lane has been reduced by relocating the dwelling within the site.

Relevant Planning History

2017/90104 – Erection of first floor extension APPROVED (no. 120)

Representations

Final publicity date Expires: 7.9.2018

3 representations have been received raising the following points:

- Take light and privacy away from property if it is built to reach back garden of no. 118.
- No consultation, plans or communication about this
- Dwelling would overlook house and garden
- Overdevelopment of the area
- Altered kerb stone and pavement to provide a space outside no. 118 – not large enough
- Lead to extra on street parking – inadequate vehicle provision
- Bats around property and impact on wildlife – bats appear to inhabit trees
- No indication given on plans about height of building in relation to neighbouring property or distance between these sites
- No planning notices been displayed in this area

Officer comments will be made in section 6 of this report.

No parish/town council comments are required.

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 Development Management (informal) – no objection.

The Coal Authority – no objection subject to condition.

K.C Ecology – no objection.

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 allocated as green belt on the UDP Proposals Map and green belt 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 Provision
- **G6** – Contaminated land

Kirklees Publication Draft Local Plan (PDLP):

- **PLP1** – Achieving sustainable development
- **PLP2** – Place shaping
- **PLP11** – Housing mix and affordable housing
- **PLP30** – Biodiversity and geodiversity
- **PLP27** – Flood Risk
- **PLP21** – Highway Safety
- **PLP22** – Parking Provision
- **PLP24** – Design
- **PLP27** – Flood Risk
- **PLP59** – Infilling and redevelopment of brownfield sites
- **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 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, coastal change and flooding
- **Chapter 15** – Conserving and enhancing the natural environment

Assessment

- 1) Principle of development

The site is located within the Green Belt where development is severely restricted in order to preserve the openness of the surrounding area. Green Belt serves five purposes:

- *To check the unrestricted sprawl of large built-up areas*
- *To prevent neighbouring towns margining into one another*
- *To assist in safeguarding the countryside from encroachment*
- *To preserve the setting and special character of historic towns: and*
- *To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF goes on to state that the construction of new buildings is classed as inappropriate development though there are certain exceptions. One of these exceptions is –

“Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development””.

In this case, it is considered that the land is classed as previously developed as it is occupied by a permanent garage structure. This existing garage and land is currently associated with the residential dwelling at no. 118 Drub Lane. Taking this into account, the redevelopment of this previously developed site is acceptable subject to the development not having a greater impact on the openness of the green belt than the existing development.

It is acknowledged that the dwelling itself is larger than the garage that is to be demolished. However, considering that this is to be demolished and the on-site circumstances, the impact on openness as a result of the proposed dwelling is not considered to be greater than the existing situation. The site is surrounded by existing development which is very closely spaced and the views into the green belt are obscured by the existing garage – therefore, the proposed dwelling would not obscure areas of fully open land. The land to the rear has already been altered as it is occupied by domestic paraphernalia and is therefore not open in its character.

The proposed dwelling would also be located in an established frontage and views of the area would not be changed significantly as a result of an additional dwelling on this small piece of land. The existing boundaries of the site are well defined and therefore the location of the dwelling would not change in character as it is already in domestic use and the site is largely surrounded by development.

On the basis of the above, it is considered that the dwelling would not have a greater impact on openness than the existing garage given the site circumstances and therefore the principle of development is considered to be acceptable by virtue of satisfying one of the exceptions in Paragraph 145. The

proposal would accord with Chapter 13 of the National Planning Policy Framework and Policy PLP59 of the Kirklees Publication Draft Local Plan.

2) Impact on visual amenity including an assessment of the impact on openness

The impact on visual amenity is considered to be acceptable by virtue of the character/design of the dwelling and its impact on the openness of the green belt.

The proposed dwelling would appear to be in keeping with the character of the existing form of development. The dwelling would be situated within the existing built up frontage and would be positioned in close proximity to two storey dwellings on either side. The use of natural stone would tie the development to the context of the site, with there being a dwelling of stone construction on the opposite side of the road and dwellings constructed of render also in close proximity.

The combination of the design and materials in this location which is visible from the streetscene would be acceptable and would not be overly prominent from any views of the site given that the dwelling would be slightly set back from the highway. It would not detract from the wider character of the area and it would not be classed as overdevelopment of the site given the areas of amenity space to the front and rear of the site.

The applicant has referred to Yorkshire stone for external walling materials. Given that this has been referenced on the plans, it is considered that condition 2 would potentially secure this and therefore a condition requesting materials to be submitted is not required however, for clarity, a condition shall still be included specifying the use of this material. A condition specifying off white/cream render has also been recommended to avoid a stark appearance to the dwelling.

It is acknowledged that the existing garage building would be demolished as part of the proposals which is considered to improve the overall appearance and character of the site and the visual impact of the dwelling on the openness of the green belt has been discussed in the principle of development section of this report.

Overall

Overall, the proposal is in accordance with UDP policies BE1 and BE2 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP59 of the Kirklees Publication Draft Local Plan and Chapters 12 and 13 of the National Planning Policy Framework.

3) Impact on residential amenity

Following the receipt of amended plans, the impact on residential amenity is, on balance, considered to be acceptable. Policy BE12 of the UDP provides

suggested distances between elevations of new dwellings with non-habitable rooms and that of neighbouring dwellings with non-habitable rooms. Consideration has been given to the relationship between the sites below.

Impact on no. 118 Drub Lane

This site is within the red line boundary of the application site and is therefore within the applicant's ownership. Although it is acknowledged that the dwelling will project beyond the rear elevation of no. 118 Drub Lane which has habitable room windows in its rear elevation, the amended projection is considered to be, on balance, acceptable despite there only being approximately 0.7-0.8 metres between the sites. The dwelling has been located 2 metres closer to the front of the site as a result of the amended plans and its height has been reduced slightly – meaning that the main bulk/height is not the element that projects significantly beyond the rear. Considering this, as well as the orientation of the dwellings in which the proposed is splayed away slightly, the impact on future occupiers of no. 118 is, on balance, acceptable. Finally, there is also a single storey element to the proposed dwelling, again reducing the bulk close to the boundary with this dwelling.

The fact that the site is within the applicant's ownership at the moment means that any future occupiers of the dwelling will be aware of the dwelling next door and the relationship that the dwellings have. This has been given weight in the planning balance.

In terms of overlooking/loss of privacy, there are openings serving non habitable rooms in the side elevation facing this site at ground and first floor. Any future first floor side openings will be controlled by the Town & Country Planning (General Permitted Development) Order, the 'GPDO'. There are no ground floor openings in the side elevation facing this site. If openings are proposed at ground floor, there is a timber fence on the boundary that will mitigate any views into the neighbouring property.

Impact on no. 120 Drub Lane

No. 120 Drub Lane has a side opening in the elevation facing the application site – this is at a high level and from research into application ref. 2017/90104, this does not serve a habitable room. From the plans of this 2017 application, it is noted that there is also a projection from the rear at ground floor. Considering this, albeit the dwellings will be closely spaced, there will be no harmful overbearing or loss of light impact on the occupiers of this dwelling given the lack of habitable room windows and the reduction in height and length of the dwelling which reduces the overall bulk of the building – there will be not be a projection beyond the rear elevation of this neighbouring house at all.

In terms of overlooking/loss of privacy, there are openings serving landing areas at first and second floor. Any future first floor side openings will be controlled by the GPDO. There are no ground floor openings in the side elevation facing this site. If openings were inserted at ground floor, the

relationship of the dwellings means that any views would be onto the blank (apart from the side opening mentioned above) wall and therefore there will be no overlooking/loss of privacy to the neighbouring property or its amenity space.

Impact on surrounding properties

There are no dwellings directly to the front of the proposed new dwelling. From aerial photographs, it is noted that to the rear of this site there is an area of domesticated land which is associated with dwellings on Drub Lane – this land has a range of domestic features such as outbuildings. Although it is acknowledged that there are habitable room openings in closer proximity to this area of amenity space than existing, there will still be a distance of approx. 13 metres to the boundary. Given this distance and the fact that the dwellings next to the site also have habitable room windows in the rear elevation, it is not considered that the dwelling would lead to overlooking/loss of privacy over and above the existing situation.

Overall

In conclusion, for the reasons given above, the impact of the proposal is acceptable in terms of residential amenity and is not in accordance with UDP policies BE1 and BE12, policy PLP24 of the PDLP and the core planning principles of the National Planning Policy Framework.

4) Impact on Highway Safety

The impact on highway safety is acceptable. Following an informal consultation with Highways DM, there is no objection to the proposal. The amended plans that have been received show an area to the front of the dwelling that can accommodate 2 car parking spaces whilst retaining the existing parking for the dwelling at no. 118. The occupiers of this dwelling can turn within the site and even if this was not the case, given the existing situation in which several of the neighbouring dwellings (including no. 118) reverse onto the highway and do not have on site turning, the proposal will not cause highway safety issues over and above the existing situation.

A condition has been recommended to ensure that all surfacing materials used for the construction of any additional hardstanding at the front of the site are permeable to ensure that the site will not lead to additional flood risk, complying with Policies PLP27 of the Kirklees Publication Draft Local Plan and Chapter 14 of the National Planning Policy Framework.

In all, the proposal is considered acceptable from a highway safety and efficiency perspective, complying with UDP policies T10 and T19 and Policies PLP21 and PLP22 of the Kirklees Publication Draft Local Plan.

5) Other matters

Ecology – The site is in the bat alert layer and therefore consideration has to be given to the impact that the proposed development may have on bats and bat roosts. In this case, the garage is to be demolished and therefore consideration has been given in this regard by the K.C Ecology Officer.

An inspection of the garage was conducted on site and the photographs were reviewed by the K.C Ecology Officer. In this case, given that there are no large areas of woodland nearby and the building does not appear to have much potential for bat roosts, it is not considered that the demolition of this building will have a detrimental ecological impact. There is therefore no objection to it being removed.

The proposal is not considered to result in any ecological implications and complies with Policy PLP33 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework.

Publicity – The amended plans have not been re-advertised. However, the dwelling's position has been located differently to reduce the impact on the neighbouring dwellings and its scale (height and length) have also been reduced. Considering the above, members of the public have not been prejudiced by not being given time to comment on the revised plans. The statutory publicity was carried out in the first instance.

Coal Mining – The site is in a high coal mining risk assessment and the applicant has submitted a coal mining risk assessment. The Coal Authority have commented and advised that a pre-commencement condition for site investigations is required to ensure that the site is safe and stable for development. The condition is pre-commencement to ensure that appropriate measures are incorporated into the development at the relevant stage. With the inclusion of condition(s), the proposal complies with Policy G6 of the Kirklees Unitary Development Plan, Policy PLP53 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework.

6) Representations

Three representations have been received which are summarised below and addressed as follows:

- Take light and privacy away from property if it built to reach back garden of no. 118.
Officer comment: see residential amenity section of this report.
Amended plans have been sought and are considered to now result in an acceptable relationship with the neighbouring property.
- No consultation, plans or communication about this
Officer comment: statutory publicity has been undertaken by the council following receipt of the application – neighbour letters have been sent and a site notice has been erected. The developer not

advising the neighbours of a planning application is not a material planning consideration.

- Dwelling would overlook house and garden
Officer comment: see residential amenity section of this report. Following receipt of amended plans, the proposals are considered acceptable.
- Overdevelopment of the area
Officer comment: a dwelling in this plot is not considered to be overdevelopment of the site. There are spaces to the front and rear of the site. Furthermore, following receipt of amended plans, the footprint of the dwelling has been slightly reduced and as such, sits more comfortably within the site.
- Altered kerb stone and pavement to provide a space outside no. 118 – not large enough for vehicle/ this will result in extra on street parking
Officer comment: see highway section of this report. The proposals have been reviewed by the Council's Highways officer and concluded to be acceptable. The proposals are not considered to result in any undue highway safety or efficiency implications.
- Bats around property and impact on wildlife – bats appear to inhabit trees
Officer comment: Following an informal consultation with K.C Ecology, there is no concern relating to bats or bat roosts at this site. See other matters section of this report.
- No indication given on plans about height of building in relation to neighbouring property or distance between these sites
Officer comment: the plan is drawn to scale and a site visit has been conducted to enable the case officer to make a thorough assessment of the site and the relationship between neighbouring properties.
- No planning notices been displayed in this area
Officer comment: the site notice was erected close to the site on 17th August. The location of the site notice has been indicated on the site location plan and there is also a photograph of the notice on the planning application file which confirms that it has been displayed at the site.

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: 2018/92489

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 BE1, BE2, BE12, G6, T10 and T19 of the Kirklees Unitary Development Plan, Policies PLP1, PLP2, PLP24, PLP21, PLP22, PLP27, PLP53, PLP30 and PLP24 of the Kirklees Publication Draft Local Plan and Chapters 5, 13, 14 and 15 of the National Planning Policy Framework.

3. 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 development as part of Classes A, B, D and E shall be erected within the red line boundary of the application site shown on the approved plans at any time.

Reason: To ensure that unsatisfactory extensions do not detract from the visual

appearance of the surrounding area and the openness of the Green Belt and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP59 of the Kirklees Publication Draft Local Plan and Chapters 12 and 13 of the National Planning Policy Framework.

4. Prior to the occupation of the dwelling hereby approved, an electric vehicle recharging point shall be installed. 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.

Reason: To promote the use of ultra-low emission forms of transport in the interests of achieving sustainable development and to accord with guidance in the National Planning Policy Framework.

5. Prior to the commencement of development, a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity, the submission of a report of findings arising from the intrusive site

investigations, the results of any gas monitoring and a scheme of proposed remedial works for approval; and the implementation of those remedial works shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment

with regard to historic coal mining legacy and in accordance with guidance contained within Policy G6 of the Kirklees Unitary Development Plan, Policy PLP53 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework. This is a precommencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.

6. The render shown on the approved plans shall be an off white/cream colour and shall be retained as such.

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, to comply with Policies BE1 and BE2 of the Kirklees Unitary Development, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

7. The dwelling hereby approved shall be faced in coursed natural stone in the areas shown on the approved plans and the roofing material shall be Marley Modern Graphite Tiles, as specified on the approved plans.

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, to comply with Policies BE1 and BE2 of the Kirklees Unitary Development, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

8. Prior to the development being brought into use, any areas of hardstanding that are created 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.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policies T10 and T19 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22 and PLP27 of the Kirklees Publication Draft Local Plan and Chapter 14 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed elevations	8001-005	A	25.09.2018
Proposed floor plans	8001-004	A	25.09.2018
Proposed site plan	8001-003	B	25.09.2018
Coal Mining Risk Assessment	-	-	31.7.2018

Plan Type	Reference	Version	Date Received
Design and Access Statement	-	-	37.7.2018
Existing site/block layout	8001-002	0	02.08.2018
Location plan	8001-001	0	02.08.2018

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 amendments to the scheme in order to overcome concerns relating to the impact on residential amenity. The dwelling has been reduced slightly in height and its projection from the rear of no.118 Drub Lane has been reduced.

Report Dated:

25.09.2018
