

**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: 2018/62/93390/E

Site Address: former, Village Hall, Briestfield Road, Briestfield,
Dewsbury, WF12 0NX

Description: Erection of detached dwelling

Recommending Officer: Rebecca Drake

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: 11-Jul-2019

Officer Report

Site Description

The application site is a roughly rectangular plot of land adjacent to the southern side of Briestfield Road and the eastern side of Rakes House. It is fenced off and partially cleared in preparation for development. Part of the land is level with the roadside, and the rest is quite uneven and slopes down and away from the roadside, towards quite steep and wooded valley side which is protected by a tree preservation order.

The area is in the Green Belt and there is a public right of way adjacent to the western boundary.

Description of Proposal

Planning permission is sought for erection of detached dwelling.

- Rectangular footprint 9.5m wide x 7.3m
- Dual pitched roof 4.0m to eaves level and 6.2m to ridge level. Providing 1 ½ storey accommodation.
- Main windows in the front and rear elevations only and one small wc window in the west facing side elevation.
- Walls in stone and roof in artificial stone slates
- Small porch to the front elevation.
- Off street parking provision for 2 or 3 cars to the western side of the proposed house and main garden space on the opposite side.

History of negotiations/amendments received

Negotiations took place to reduce the impact of the proposal upon trees subject to a tree preservation order by relocating the parking provision to western side of the house in position previously approved. This is shown on dwg nos. 1629/200 rev D and 1629/202 rev A.

Relevant Planning History

2015/90150 – Outline application for erection of one dwelling. Granted condition outline approval

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F90150>

2015/93628 – Reserved matters application for erection of one dwelling. Granted conditional approval.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F93628>

2017/92491 – discharge of conditions 8, 9, 10 and 13 of 15/90150

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F92491>

Representations

Final publicity date Expires: 23rd November 2019. No representations received during the course of this application

Parish/Town Council comments – Not applicable

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: No objections subject to ensuring sightlines are achieved and surfacing.
- K C Arboricultural officer: no objections to the amended plans.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- PL1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP7 – Efficient & effective use of land and buildings
- LP21 – Highway safety
- LP22 – Parking
- LP23 – core walking & cycling network
- LP24 – design
- LP30 – biodiversity & geodiversity
- LP33 – Trees
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP59 – Brownfield sites in the Green Belt

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt Land
- Chapter 15 - Conserving and enhancing the natural environment

Assessment

Principle of development:

The application site is in the Green Belt on the Kirklees Local Plan and the proposal is to erect a detached dwelling.

The site formerly contained a single storey building used as a village hall and planning permission has recently been granted to replace it with a bungalow (ref: 2015/90150 and 2015/93628). When the previously approved applications were assessed the application site was considered to be 'brownfield' in nature, using the definition set out in the NPPF and this remains the case now. Therefore the proposed development could be considered to constitute a redevelopment of a previously developed site.

Within chapter 13 of the NPPF it states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, which by definition is harmful to the openness and character of the Green and should not be approved except in very special circumstances.

It goes on to list exceptions to this including, 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;

Policy LP59 of the KLP is also relevant and reflects the NPPF to some degree saying that in proposals for infilling within existing brownfield sites or for their partial or complete redevelopment will normally be acceptable, provided that: The extent of the existing footprint is not exceeded, or result in the loss of land that is of high environmental value which cannot be mitigated or compensated.

In the policy justification it goes on to say that the redevelopment of the site, either in the same use or for a new use, may be acceptable provided that the redevelopment is designed so as not to have any more impact on the openness of the Green Belt than the existing built form. The extent of the existing footprint should not normally be exceeded, although it may be possible to redistribute built form on the site provided that the resulting impact is no more than that of the existing development.

In this instance the original building was a detached single storey pre-fabricated building in a state of disrepair with a rectangular footprint of

approximately 7.0m deep by 19.5m long. There was associated off street parking area to the eastern side around 11m wide x 8.0m deep.

The extant permissions ref: 2015/90150 & 2015/93628 were granted for a bungalow on the same footprint but with length reduced by approximately 4.0m.

With regards to the NPPF, whilst both the original building and that approved with the 2015 application referred to above, were single storey buildings, and the current proposal is a 1 ½ storey high house, the footprint of the current proposal is approximately half the original footprint. Furthermore, although the proposed building is taller, when comparing their respective volumes they are virtually the same.

The extra height is likely to make the proposed building more noticeable than the original or previously approved buildings, but it would have more space around it and the design is thought to be more in keeping with the neighbouring residential properties. As such it is considered that it would comply with the NPPF.

In terms of policy LP59 of the KLP, as mentioned above the footprint of the current proposal is roughly half that of the original footprint which fulfils the requirement of point b of the policy.

Turning to loss of land that it of high environmental value, an ecological report has been submitted which found that the site is only of local importance, and the proposed development will not result in any foreseeable impacts upon designated sites. However to ensure the scheme minimises all ecological impacts and achieves some benefit to ecology where possible, it advises that all proposed mitigation and enhancement measures are adopted in full. These include re-planting a section of hedgerow, protecting woodland edge, in-situ cavity bat boxes, bird nest boxes, boundaries which will not affect hedgehogs.

In summary, as the previous building on the site has been demolished, any development of the site would have a greater impact on openness thus being inappropriate development. However, the very special circumstances in this instance is the fallback position of the extant planning permission on the site. As demonstrated above, the proposed development is not considered to result in a greater impact on the openness of the Green Belt than that already approved. As such it is considered that the proposal would comply with the requirements of policy LP59 of the KLP and the aims of Chapter 13 of the NPPF.

Amenity issues:

Policy LP24 of the KLP states that proposals should promote good design by ensuring (amongst other things) that the form, scale, layout and details of all development respects and enhances the character of the landscape, and provides a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

In terms of visual amenity, the site is adjacent to Briestfield Road; it is partly level and partly slopes down and away from the carriage way. It has a woodland backdrop, with further woodland to the eastern side and a small cluster of houses to the western side, whilst on the opposite side of the road are open fields.

The neighbouring properties to the west are fairly modest 2-storey detached and semi-detached houses, close to the roadside with predominantly natural stone walls and stone slate dual pitched roofs.

The proposed dwelling would be 1 ½ storeys high and designed with a pitched roof. The walls would also be of stone and it is recommended that natural stone is used and controlled by condition. The window openings are relatively small but reflect those on neighbouring properties at the front, whilst those at the back are more contemporary in style, but do not have as much impact upon the character of the street-scene.

The proposal also includes a parking and turning area to one side of the house and garden space to the opposite side, these are thought to be of an appropriate scale in relation to the proposed house.

Overall it is thought that the proposal would promote good design and respect the character of the surrounding area and comply with policy LP24 of the KLP.

In terms of residential amenity, the nearest neighbouring property is Rakes House, which is a 2-storey house located to the west of the application site and its gable end faces onto the side of the proposed building.

The proposed site layout indicates that there would be a separation distance of approximately 25m between the facing side elevations. Given this gap, there would be no significant overshadowing or overlooking impact. It is also noted that all habitable room windows are located within the front and rear elevations.

There are no further residential properties in the area that would be affected by the proposal.

As such it is considered that the proposal would provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings, and is compliant with policy LP24 of the KLP.

Highway safety issues:

Policy LP21 of the KLP seeks to ensure that planning proposals achieve safe and efficient flow of traffic within the development and on to the surrounding highway network.

In this instance, during the course of the application and following concerns about the impact of achieving acceptable sight lines on adjacent TPO'd trees, the parking and turning area was re-located from the eastern side to the western side of the proposed building using access which was approved with outline consent ref: 2015/90150.

This would enable sight lines of 2.4m x 43m to be achieved onto Briestfield Road, in addition to parking and turning area and was accepted by highways development management when 2015/90150 was assessed and has been verbally accepted for the current proposal.

The site is located adjacent to Public Footpath Dewsbury 73, and the proposed access to the site would be located in close proximity to this. Given the proposed low intensity use of the site for one residential unit, it is not considered that the proposals would result in detriment to users of the PROW, however it would be considered reasonable in this instance to impose a condition requiring the applicant to submit a scheme demonstrating how the footpath will be protected through the course of the development, in order to ensure that the development accords with Policy LP23 of the KLP.

The proposals are considered to be acceptable from a Highways perspective, in accordance with Policies LP21 and LP23 of the KLP, subject to the imposition of conditions with respect to visibility, the surfacing and drainage of parking areas and scheme for protection of the PROW.

Other material planning matters:

Ecology:

Policies LP24 and LP30 of the KLP seek to ensure that proposals protect, enhance and support biodiversity of Kirklees.

In this instance, during the course of the application, an ecology report was requested and received. It identifies likely sources of significant ecological effects and outlines measures to mitigate and compensate for these, together with means to provide ecological enhancement.

The report has been assessed by the Council's ecologist who requested further details in the form of an ecological design strategy to be controlled by a pre-commencement condition. This has been agreed by the agent on the application and would ensure that the proposal complies with the aims of chapter 15 of the NPPF.

Trees:

Policies LP24 and LP33 of the KLP seek to ensure the retention of valuable or important trees and where appropriate the planting of new trees and other landscaping to maximise visual amenity and environmental benefits.

In this instance, there were concerns about the impact of achieving sight lines from the initially suggested access to the site on woodland trees subject to a TPO that are adjacent to the southern and eastern side of the application site.

During the course of the application the access has been re-located to the opposite side of the building where it has been approved previously. This would mean the sight lines no longer impact on the TPO'd trees.

With regards to trees along the southern boundary, it is recommended that a condition requiring protective fencing in accordance with BS 5837 shall be erected and retained around all protected trees at the site, in order to protect visual amenity and long term viability of the trees. This would accord with policy LP33 of the KLP.

Drainage:

Following discussions with the agent, they have requested that the drainage details are conditioned. As such, a condition will be imposed requiring a scheme for the disposal of foul and surface water to be submitted. It is expected that this would be designed in accordance with the hierarchy of drainage, with the most sustainable drainage techniques for surface water explored first.

This would accord with the aims of Policy LP28 of the Kirklees Local Plan and the aims of Chapter 14 of the NPPF.

Coal Mining Legacy:

The Coal Authority has reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past and historic unrecorded underground coal mining is likely to have taken place beneath the site at shallow depth.

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site; including a Report on Rotary Probing (May 2017, prepared by Rogers Geotechnical Services Ltd) which accompanies the planning application.

The Coal Authority considers that the content and conclusions of the Report on Rotary Probing are sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

As such, the application is considered acceptable in relation to coal mining risk and is considered to comply with the aims of Policy LP53 of the Kirklees Local Plan and the aims of Chapter 15 of the National Planning Policy Framework.

Representations:

No representations were received during the course of this application.

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: 2018/93390

Officer Recommendation: Approval

Conditions and Reasons

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.

Reason: Pursuant to Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004.

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 LP21, LP22, LP24 LP30, LP33 and LP59 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

3. Samples of all facing and roofing materials shall be inspected by and approved in writing by the Local Planning Authority before the superstructure of the dwelling is commenced. Thereafter the dwelling shall be constructed of the approved materials.

Reason: In the interests of visual amenity and to protect the character of the Green Belt in accordance with Policies PLP24 and PLP59 of the Kirklees Local Plan, as well as the aims of Chapters 12 and 13 of the National Planning Policy Framework.

4. 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 included within Classes A, B, C, E, F of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To protect the openness of the Green Belt in accordance with Policy LP59 of the Kirklees Local Plan and government guidance contained within Chapter 13 of the National Planning Policy Framework.

5. Prior to the development being brought into use, the approved vehicle parking areas 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 sustainable urban drainage and to accord with aims of Policies LP21 and LP22 and the aims of the National Planning Policy Framework.

6. Sightlines of 2.4m x 43m as identified on the submitted plans shall be cleared of all obstructions to visibility exceeding 1.0m in height before the development is occupied, and shall thereafter be retained free of any such obstruction.

Reason: To ensure adequate visibility in the interests of highway safety, in accordance with Policy LP21 of the Kirklees Local Plan.

7. A scheme for the protection of the adjacent public right of way (Dewsbury 73) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved scheme shall be implemented and retained thereafter.

Reason: These details are fundamental in order to ensure that the public footpath is protected throughout the course of the development, and thereafter retained for the enjoyment of users of the public right of way, in accordance with Policy LP23 Kirklees Local Plan.

8. No development shall take place until an Ecological Design Strategy (EDS) addressing the outline mitigation, compensation and enhancement measures of the submitted ecological information has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: in the interests of biodiversity and to accord with the aims of Policy LP30 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

9. Notwithstanding the submitted plans, a boundary treatment plan for the whole site shall be submitted and approved by the Local Planning Authority. The approved scheme shall then be provided on the site before the dwelling is first occupied. The boundary treatment shall be thereafter retained.

Reason: In the interests of visual amenity and the character of the Green Belt, residential amenity and highway safety and to accord with the aims of Policies LP21, LP24 and LP59 and of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

10. A scheme detailing foul, surface water and land drainage shall be submitted to and approved in writing by the Local Planning Authority before development commences. Where soakaways are proposed, the submitted scheme shall demonstrate an adequately designed soakaway that is an effective means of drainage of surface water on the site. The dwellings shall not be occupied until such approved drainage scheme has been provided on the site to serve the development. The development shall be thereafter retained in accordance with the approved details.

Reason: In the interests of satisfactory and sustainable drainage to accord with Policy LP28 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that an adequate drainage scheme is implemented at an appropriate stage within the course of the development.

11. Prior to development commencing, protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees and trees to be retained on the site. This fencing shall be thereafter retained throughout the course of the construction phase.

Reason: In order to protect visual amenity and the long term viability of the trees and to accord with Policy LP33 of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	1629/100	-	19 th October 2018
Proposed Block Plan	1629/200	E	5 th July 2019
Proposed Plans and Elevations	1629/201	C	5 th July 2019
Proposed Streetscene Plan	1629/202	B	5 th July 2019
Ecological Appraisal undertaken by Middleton Bell Ecology	MBE/ECO/2018/27/01		19 th October 2018
Phase I Desk Study Report prepared by Dementer Environmental Ltd	14-12-03	0	19 th October 2018
Rotary Probing Report undertaken by RGS	J3833/17/E	-	19 th October 2018
Planning Statement	-	-	19 th October 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. Amendments have been sought to improve the highway arrangements on the site and avoid impacts on the

adjacent trees. The decision is based on the amended plans and the conditions listed above.

Report Dated:

9 th July 2019
