

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

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

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

Reference No: 2018/70/94101/W

Site Address: land off, Mill Moor Road, Meltham, Holmfirth, HD9
5LW

Description: Variation condition 12 (ground levels) on previous
permission 2015/93861 for erection of 28 dwellings
and engineering operations

Recommending Officer: Adam Walker

DECISION – S106 Variation of Conditions

**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.**

David Wordsworth

AUTHORISED OFFICER

Date: 20-Mar-2019

Officer Report

Site Description

Development site at Mill Moor Road, Meltham. The land is being developed for the erection of 28 dwellings.

Description of Proposal

Variation of condition 12 (ground levels) on previous permission 2015/93861 for erection of 28 dwellings.

History of negotiations/amendments received

Clarification was sought in relation to any potential implications for the finished floor levels of the dwellings as originally approved.

A deed of variation to the original S106 was secured during the course of the application.

Relevant Planning History

2015/93861 Erection of 28 dwellings and engineering operations – Approved

2016/93475 Discharge conditions 3, 4, 6-12, 14, 15, 17, 22, 23, 30 on previous permission 2015/93861 for erection of 28 dwellings and engineering operations – Split decision

2017/91566 Discharge conditions 18 (Remediation Strategy) and 19 (Remediation Strategy) on previous permission 2015/93861 for erection of 28 dwellings and engineering operations – Approved

2018/92441 Erection of two dwellings (modified proposal) – Approved (relates to plots 18 and 19).

Representations

Application advertised by site notices, press advert and neighbour letters. Two representations have been received. Both sets of comments are from the same neighbour and were submitted in January and March 2019.

A summary of the comments received is set out below:

- The site slopes steeply towards the neighbour's mill pond and land. At an earlier stage of the construction phase water was discharging from the site into this pond and causing flooding. Want to ensure that the revised ground levels do not compromise the pond and adjacent land.
- A drain is to be formed across the land at the back of the site; query where this will drain to and whether any additional engineering works/drains are proposed for the land above the mill pond.

- Neighbour has raised concerns to both the LPA and developer that surface water is discharging from the development site into his mill pond and causing contamination.

Meltham Town Council comments – The council notes the application.

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 LLFA – No objections

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

The site is a housing allocation on the Kirklees Local Plan.

Kirklees Local Plan (LP):

PLP24 – Design

PLP28 – Drainage

PLP30 – Biodiversity and geodiversity

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 5 – Delivering a sufficient supply of homes

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

It is proposed to alter the ground levels at the rear of plots 23-28. The land at the back of these plots forms an undeveloped part of the site that forms a

wildflower meadow with some drainage infrastructure below it. The works to achieve the proposed ground levels have already been carried out.

Condition 12 of the permission states:

12. Details of the finished ground levels of the wildflower meadow following the installation of the approved drainage infrastructure shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the first dwelling commence. The land shall be reinstated in accordance with the approved details before the first dwelling is occupied and thereafter retained as such.

Reason: *The approved plans indicate that the existing ground levels are to be reinstated to match the existing. This is in the interests of the visual amenity of the area and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan.*

Details of the finished levels of the meadow area were approved under discharge of condition application 2016/93475. The details confirmed that the ground levels of the meadow were to be restored to the same levels as they existed at the time of the original application.

The applicant has stated that during construction it has become apparent that it is necessary to alter the ground levels at the back of plots 23-28 because “it seems the potential slope of the gardens and/or the heights of the retaining walls required were not taken into account with the original design”.

To retain the approved levels of the meadow the applicant has stated that they would either have to have some very sloped and unusable back gardens or install a substantial retaining wall at the back of the site.

The applicant has therefore decided to raise the ground levels of the upper part of the meadow in order to address this issue.

The applicant has advised that the finished floor levels of plots 23-28 remain as approved and it is only the relationship between the rear boundary of these plots and the adjoining meadow which requires attention.

The works have been carried out and I have viewed the site from across the valley. I do not consider that the changes to the ground levels in the upper part of the meadow would have any significant detrimental impact on the visual amenity or character of the area. The ground has been graded and the land is to be seeded/planted and once completed the works would blend in with the landscape.

In my opinion altering the ground levels is much less visually intrusive than having a retaining wall and is also preferable to compromising some of the new gardens at the back of the development.

The submitted plans indicate that the overland drainage route (depression) as previously approved is to be retained as part of the revised proposals for the

meadow. The LLFA raises no objection to the proposal. This should address the concerns that have been raised by an adjacent land owner. The developer has also stated that they will investigate an issue raised very recently by the adjacent land owner in relation to water discharging into the neighbour's mill pond.

Acceptable details of the landscaping for the wildflower meadow have previously been submitted as part of discharge of condition application 2016/93475 and the planting scheme would not change as a result of the proposals. The Ecology Unit raises no objection.

The approval of the application would result in a new stand-alone planning permission being issued. As such a deed of variation to the original s106 has been secured. It is also necessary to review all of the conditions imposed on the original permission, including having regard to discharge of conditions applications 2016/93475 and 2017/91566.

A number of properties are built and occupied and the applicant has confirmed that the permanent drainage for the site has been installed.

It is to be noted that a Deed of Dedication has been signed by the developer in connection with the original planning permission. This Deed secures an undertaking from the land owner (the applicant) to dedicate part of the wildflower meadow at the rear of the site for the purpose of securing land for future development by the Council of a Core Walking and Cycling Network alongside Meltham Dike. The Deed of Dedication forms a stand-alone agreement and remains in place regardless of the fact that the current application would result in a new planning permission. For completeness the decision notice can make reference to this Deed. The proposed changes to the ground levels do not affect the land that is the subject of the Deed of Dedication, which is much lower down towards Meltham Dike.

In conclusion the proposal is relatively minor in nature and does not give rise to any unacceptable impacts.

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: 2018/94101

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications 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 PLP21 and PLP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The dwellings hereby approved shall be faced in regular coursed natural stone. The stone shall be honey/buff coloured sandstone sourced from Blaxter (as per the stone approved under discharge of condition application 2016/93475). The dwellings shall thereafter be retained as such.

Reason: To ensure that the development harmonises with the character of the surrounding area in the interests of visual amenity. This is to accord with Policy PLP24 of the Kirklees Local Plan.

3. The roofs of the dwellings hereby approved shall be faced in Welsh Blue / Grey artificial slate tiles supplied by Greys Artstone (as per the roof material approved under discharge of condition application 2016/93475). The dwellings shall thereafter be retained as such.

Reason: To ensure that the development harmonises with the character of the surrounding area in the interests of visual amenity. This is to accord with Policy PLP24 of the Kirklees Local Plan.

4. The drainage for the development shall be provided in accordance with the following plans and information and shall be retained as such:

- J4314/EX11 Rev J (main drainage layout sheet 1 of 2)
- J4314/EX12 Rev H (main drainage layout sheet 2 of 2)
- J4314/HW01 Rev H (proposed levels)
- J4314/EX104 (Simplified levels plan showing overland flow routes)
- Micro Drainage calculations (31/3/17)
- AquaCell Prime storage crate specification

The overland flow route (depression) as shown on drawing number J4314/EX104 shall be provided by 31st July 2019 and shall thereafter be retained.

Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with PLP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

5. The wildflower meadow to the rear of plots 23-28 shall be provided in accordance with the simplified levels plan (drawing number J4314/EX104) and retained as such.

Reason: In the interests of the visual amenity of the area and to accord with PLP24 of the emerging Local Plan.

6. A visibility splay of 2.4m x 43m shall be retained on both sides of the approved access with no obstruction to visibility greater than 600mm above the level of the adjacent footway.

Reason: To provide an adequate vehicle visibility splay in the interest of highway safety and to accord with Policy PLP21 of the Kirklees Local Plan.

7. The access arrangements for the development shall be provided in accordance with the following plans and information:

- J4314 HW01 REV H - Proposed Levels
- J4314 HW03 REV H - Adoptable Highway layout
- J4314 HW04 REV D - Highway Details
- J4314 HW08 REV B - Proposed long sections
- J4314 HW10 REV A - General Arrangement
- J4314 HW11 REV A - Junction and Road Markings
- 6481 - 1A - Street Lighting Proposals

The access shall be provided in full before the occupation of the 20th dwelling and shall thereafter be retained as such.

Reason: To ensure that suitable access is available for the development in the interests of highway safety and to accord with Policy PLP21 of the Kirklees Local Plan.

8. The approved external 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 before the dwelling to which the parking spaces relate is first occupied; the parking spaces shall thereafter be retained as such and available for parking.

Reason: In the interest of highway safety and to ensure adequate space within the site for vehicle parking, and in the interests of sustainable drainage. This is to accord with PLP21 and PLP28 of the Kirklees Local Plan.

9. Remediation of the site shall be carried out in accordance with the Contamination Remediation Method Statement prepared by ARP Geotechnical Ltd (ref HEY/03, dated September 2015) and within the email from John Race of ARP Associates to Kevin Moore of Kirklees Council dated 5th January 2017.

Reason: To remove unacceptable risks to human health and the environment and to accord with Policy PLP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

10. Following completion of the remediation measures approved pursuant to condition 9, a Validation Report shall be submitted to the Local Planning Authority. None of plots 15-28 shall be occupied until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and to accord with Policy PLP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

11. The landscaped area to the rear of plots 23-28 and to the side of plot 23 shall be provided in accordance with drawing number 0607-1 Rev K (Landscape Proposals) and the planting and management schedule (reference Landcare/06/17/0607). The planting shall be completed within 6 months of the date of this permission and shall be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with PLP24 and PLP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

12. The ecological mitigation and enhancement measures for plots 22-28, as detailed in document reference Landcare/06/17/0607, shall be provided before any plot to which the ecological measures relate is first occupied. The ecological mitigation and enhancement measures shall thereafter be retained as such.

Reason: In the interests of the biodiversity of the site and to accord with PLP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

13. The drystone walling to the front of plots 1-14 and adjacent to the new access road, as indicated on approved drawing number 0607-1 Rev K (Landscaping Proposals), shall reuse the original drystone wall material that formed the southern boundary of the site (adjacent Mill Moor Road). Any supplementary stone used shall in all respects match the appearance of the existing drystone wall. All other areas of drystone walling within the site as indicated on the approved Landscaping Proposals plan shall also match the appearance of the existing drystone wall to the southern boundary. The boundary treatment shall be provided before any of the plots to which the boundary treatment relates are first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)) the drystone wall boundary treatment shall thereafter be retained.

Reason: In the interests of the visual amenity and character of the surrounding area and to accord with PLP24 of the Kirklees Local Plan.

14. A 1.8m timber fence shall be retained along the site boundary with 78d Mill Moor Road and 3 Albion Court throughout the construction of the development. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)) a 1.8m high timber fence shall thereafter be retained along this boundary **Reason:** The applicant agreed to provide (and has provided) a timber fence along this boundary prior to commencement of main works on site at the request of the adjacent residential properties. The retention of the fencing post construction is necessary in the interests of the residential and visual amenity of the area and to accord with PLP24 of the Kirklees Local Plan.

15. The extent of the residential curtilage for plots 23-28 shall be limited to that indicated on the approved site layout plan (1601/01 /Rev B) and approved drawing number 0607-1 Rev K (Landscaping Proposals). **Reason:** To restrict encroachment into the adjacent Urban Greenspace in the interests of maintaining the value of this land as open space and to preserve the amenity of nearby occupiers. This is to accord with PLP61 and PLP24 of the Kirklees Local Plan.

16. The first floor landing window in the side elevation of plot 1 shall be first installed with obscure glazing that achieves a minimum privacy level 4. 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 as amended (or any Order revoking or re-enacting that Order (with or without modification)) the glazing shall be so retained thereafter. **Reason:** In the interests of preserving the privacy of the adjacent property and to accord with PLP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)), no extensions permitted by virtue of Class A of Schedule 2 to that Order shall be carried out to the rear of plot 1 without the prior written consent of the Local Planning Authority. **Reason:** In the interests of preserving the amenity of 78d Mill Moor Road and to accord with PLP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

18. The hatched area identified as 'additional Urban Greenspace' adjoining plot 23 and shown on approved drawing number 1601/01 Rev B shall be provided as open land and shall not form part of any residential curtilage. The hatched area shall be provided as a wildflower meadow before plot 23 is first occupied and shall remain free from obstruction at all times with the exception of the lockable gate as indicated on the site plan. **Reason:** To allow access to the site's surface water drainage infrastructure within the wildflower meadow for maintenance purposes and to ensure that

the alternative Urban Greenspace provided is of equivalent value to that lost. This is to accord with PLP61 and PLP24 of the Kirklees Local Plan.

19. The lockable gate adjacent to plot 23 within the 'additional Urban Greenspace' as indicated on approved drawing number 1601/01 Rev B shall be provided in accordance with the indicative photograph indicating a galvanised "farm" type gate at approximately 1.5m high. The gate shall be installed in accordance with the approved details prior to the first occupation of plot 23 and thereafter retained as such.

Reason: In the interests of visual amenity and to accord with Policy PLP24 of the Kirklees Local Plan.

20. An electric vehicle recharging point shall be installed within the dedicated parking area/garage of 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: To encourage low carbon forms of transport in accordance with PLP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Design & Access Statement	-	-	22/12/15
Location Plan & Existing Site Plan/Topographical Survey	OLD_01_Meltham Sheet No. 3	-	22/7/16
Site Layout	1601 / 26	-	1/4/16
Site Layout	1601 / 01	Rev B	20/7/16
Site Sections	1601 / 16	-	1/4/16
Street Scene Elevation Sketch	-	-	4/4/16
Plots 1- 3 Elevations	1601 / 29	Rev A	20/7/16
Plots 1- 3 Floor Plans	1601 / 27	Rev A	8/7/16
Plots 4-6 Floor Plans & Elevations	1601 / 03	Rev B	1/4/16
Plots 7-10 Floor Plans & Elevations	1601 / 04	-	1/4/16
Plots 11- 14 Floor Plans & Elevations	1601 / 05	-	1/4/16
Plots 15- 17 Floor Plans & Elevations	1601 / 06	Rev A	1/3/16
Plots 18-21 Floor Plans & Elevations	1601 / 07	Rev A	1/3/16
Plot 22 Floor Plans & Elevations	1601 / 08	Rev A	1/3/16

Plot 23 Floor Plans & Elevations	1601 / 09	-	22/12/15
Plot 24 Floor Plans & Elevations	1601 / 10	-	22/12/15
Plot 25 Floor Plans & Elevations	1601 / 11	-	22/12/15
Plot 26 Floor Plans & Elevations	1601 / 12	-	22/12/15
Plot 27 Floor Plans & Elevations	1601 / 13	-	22/12/15
Plot 28 Floor Plans & Elevations	1601 / 14	Rev A	1/3/16
Landscaping Plan	1607-1	Rev K	7/7/17
Main Drainage Layout (sheet 1 of 2)	J4314/EX11	Rev J	10/4/17
Main Drainage Layout (sheet 2 of 2)	J4314/EX12	Rev H	10/4/17
Proposed Levels	J4314/HW01	Rev H	10/4/17
Simplified levels plan showing overland flow routes	J4314/EX104	-	13/12/18
Topographical survey of meadow	7765/1	-	13/12/18
Micro Drainage calculations	Dated 31/3/17	-	10/4/17
Crate storage specification	AquaCell Prime storage crate specification	-	10/4/17
Surface Water Outfall Details	J4314/EX102	-	17/10/16
Adoptable Highway layout	J4314 HW03	Rev H	10/4/17
Highway Details	J4314 HW04	Rev D	10/4/17
Proposed long sections	J4314 HW08	Rev B	10/4/17
General Arrangement (highways)	J4314 HW10	Rev A	10/4/17
Junction and Road Markings	J4314 HW11	Rev A	10/4/17
Street Lighting Proposals	6481 - 1A	-	28/10/17
Transport Statement	Dated Dec 2014	-	22/12/15
Addendum to Transport Statement	1066 / October 2015	-	22/12/15
Supporting Statement	-	-	22/12/15
Planting and management plan and biodiversity mitigation/enhancement measures	Landcare/06/17/0607	-	7/7/17
Roof material (Welsh Blue / Grey)	Greys Artstone Technical Data Sheet	-	15/11/16

Walling material (coursed natural stone)	Photo of sample wall panel	-	28/4/17
Remediation Method Statement	Prepared by ARP Geotechnical Ltd Ref HEY/03 Dated September 2015	-	9/5/17
Supplementary Remediation Information	From John Race of ARP Associates to Kevin Moore of Kirklees Council dated 5th January 2017	-	5/1/17
Gate detail	Mill Moor Road Discharge of Conditions Application prepared by AK Planning	-	17/10/16
Bat and swift box specification	Forticrete data sheet	-	17/10/16

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. Clarification was sought in relation to any potential implications for the finished floor levels of the dwellings as originally approved. A deed of variation to the original S106 was secured during the course of the application.

Report Dated: 19/3/19