

**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: 2019/62/90619/W

Site Address: land adj, Hillside, Cold Hill Lane, New Mill, Holmfirth,
HD9 7JX

Description: Erection of two detached dwellings

Recommending Officer: Farzana Tabasum

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 22-Jul-2019

Officer Report

Site Description

The application relates to a triangular area of land situated between Huddersfield Road and Cold Hill Lane. The land within the site slopes up from the south to the north where there is detached bungalow beyond the application site. The site is overgrown and bound by a small dry stone wall to the east and west with the highway enclosing the site.

Description of Proposal

The application is for the erection of two detached dwellings with individual vehicular access points onto Cold Hill Lane. The dwellings would be providing accommodation over two floors with principle openings in the east and west elevations. The submitted plans are identical to those previously approved under application reference no. 2009/91452.

History of negotiations/amendments received

The agent sought further clarity from the applicant as to whether he wishes to provide further technical information (AIP) in relation to the retaining walls to avoid the imposition of the suggested condition by Highway Officers. As a consequence, an extension of time to 10/06/19 was agreed.

Subsequently, the agent confirmed his client does not want to proceed with the AIP at this stage, and as such the suggested pre commencement condition by Highway Officers be imposed.

The applicant/agent have been informed this would require a formal discharge of condition application with relevant fee, prior to consideration of any details.

Relevant Planning History

2015/91370 - Discharge condition 11 (finished levels) on previous permission 2012/91403 for extension to time limit to previous permission 2009/91452 for erection of 2 detached dwellings – withdrawn

2012/91404 – Discharge of conditions 11 (construction management plan), 12, 15 on previous permission 2009/91452 for erection of two detached dwellings –

Decision issued stating:

condition 11 (construction management plan sufficient), 12 (only the finished floor levels, as shown on drawing no. 02/733/3 were approved not structural details for walls) and in relation to condition no. 15 the submitted scheme, Nu-Aire Drimaster system was considered sufficient. Provided this scheme was to be installed into both dwellings together with the acoustic trickle vents such as DN vents, in all habitable room openings facing Huddersfield Road, prior to the occupation of both plots, the condition would be satisfied.

2012/91403 – extension of time limit to previous permission 2009/91452 for erection 2 detached dwellings with vehicular accesses onto Cold Hill Lane – granted 3rd July 2012

2009/91452 – erection of two detached dwellings - granted July 2009

2003/93590 erection of two detached dwellings with garage and associated access – Conditional Full Permission - January 2004.

2003/91089 – erection of two detached dwellings – refused June 2003

2000/92090 – outline for erection of detached dwelling – Granted August 2000

Representations

Final publicity date expired 12th April 2019. Two representations are received. A summary of the comments received is set out below:

- Two properties on this small site not in keeping with locality
- Too close to junction with Huddersfield Road
- Limited garden space
- Highway safety concerns with addition of two drives close to Huddersfield Road

Response: addressed in assessment below

- Development would increase surface water run off causing localised flooding and damage to nearby properties

Response: The output to drainage channels will be considered by relevant authorities under building regulations. There are no known drainage issues in the area.

Holme Valley Parish Council objects to the proposals on grounds of “over intensification and highway safety issues due to proximity of the development to the junction”

Consultation Responses

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

DM Highways no objection subject to conditions
Biodiversity/ecology Officer – 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 21 – Highway safety and access

LP 22 – Parking
LP 24 – Design
LP30 - biodiversity
LP51 – Protection and improvement of local air quality
LP52 – protection and improvement of environmental quality

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 15 – Conserving and enhancing the natural environment

Assessment

Principle of development:

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Chapter 2 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations) which are interdependent and need to be pursued in mutually supportive ways.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Amongst other things, residential or visual amenity, highway safety or the character of the area are all considerations are addressed later in this assessment.

Turning to housing land supply, in the recently adopted Kirklees Local Plan the council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1st April 2013).

Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 68 of the NPPF recognises that "small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions

– giving great weight to the benefits of using suitable sites within existing settlements for homes”. The development site forms a small plot within a predominantly residential area. Although the Local Planning Authority can demonstrate a five year land supply the development of this windfall site, which has longstanding historical permissions for residential development is considered acceptable in principle and would contribute to the social aspect by housing delivery With regards to the economic benefits the proposals would contribute to employment through the construction phase. The assessment below will establish whether the proposals achieve environmental benefits.

Impact on visual amenity:

Policy LP24 of the Local Plan is a key material consideration when assessing such proposals, which relates to good design amongst other matters. It states good design should be at the core of all proposals in the district and should be considered at the outset of the development process. In turn proposals should ensure the form, scale and details of all development respects and enhances the character of the townscape, landscape and heritage assets. Also of relevance are Chapters 12 and 15 of the NPPF which strongly emphasises the importance of good design and how this can contribute to the overall quality of the area not just for the short term but over the lifetime of the development. Whilst the principle of two dwellings has long been established on this site the assessment below will take into account all relevant considerations with regards to design principles and the impact on the surrounding development/area.

Extensive excavation and engineering operations would be required to accommodate the two proposed dwellings. From the submitted plans, it is indicated the west elevations (rear) would be two stories and fairly well exposed onto Huddersfield Road. The east elevation fronting onto Cold Hill Lane, would see the proposed dwellings in a stepped approach, with plot no 1 being at a higher level.

In terms of design the proposed dwellings are identical in scale, mass, siting, design and materials (natural stone & slate flat roof tile) to the previously approved scheme under application nos. 2003/93590, 2009/91452 and the most recent under application reference no. 2012/91403. At the time the proposals were considered to be harmonious to this steep topographically constrained site. There has been no change in circumstances to the immediate surroundings as such the proposal would continue to integrate sympathetically and not detract from the visual amenity of the surrounding development, in accordance with Policy LP24 of the Local Plan and guidance in the NPPF.

I am satisfied due to the proposed scale and design, the proposed dwellings would sit comfortably within the street scene and surrounding land levels with the immediately neighbouring sites. In addition the proposals are to be completed in accordance with the both the soft and hard landscape details as shown on drawing no. 02.7333/3 rev A, which will also in my opinion

contribute, protect and enhance the environment and integrate with the surrounding area. The landscape proposals will be conditioned.

Impact on residential amenity:

Openings in both dwellings would be on the east and west elevations with secondary and non habitable room openings in the side elevations. A distance of 1m is to be retained between the two plots, this is identical to the previously approved schemes.

In the siting and position of openings and balconies proposed, I am satisfied there would not be any direct overlooking or loss of privacy caused to amenities of the future occupants of the dwellings nor existing neighbouring sites.

Due to concerns of elevated noise from traffic along Huddersfield Road, on the 2009 permission a condition was imposed requiring details of a ventilation scheme to be submitted to and approved. The details of such a scheme were submitted and approved through a discharge of condition no. 11 on application no. 2012/91404. The same details accompany the current application. In light of this, I did not consider it necessary to consult Environmental Services. In the interest of achieving a good standard of amenity for the future occupants of the dwellings, a condition will be imposed requiring the approved ventilation scheme to be incorporated into the dwellings during the construction period and thereafter retained in accordance with these details, to accord with Chapter 12 of the NPPF and Policies LP24 LP52 of the KLP.

In summary the proposal are considered to have an acceptable impact on amenity subject to conditions. To retain an appropriate level of amenity for future residents of the dwellings and to ensure over development does not occur of the two plots, it is considered necessary to remove permitted development rights for extensions and outbuildings. This would also accord with Policy LP24 of the KLP.

Highway issues:

Policy LP21 of the Local Plan requires development proposals to be accessed effectively and safely by all users, and states that new development will not be permitted if it adds to highway safety problems.

Highway officers on assessment of the proposals state:

The application is a resubmission of information previously submitted and approved application numbers 2009/91452 and 2012/91403.

In their Design and Access Statement the applicants claim that certain condition were satisfied via the submission of additional information and that a copy of this information is included as part of this submission to avoid resubmitting. This included condition 11 (Parking, loading and unloading of

contractors` plant and equipment and the parking of vehicles of the workforce) and condition 12 (Sectional details of the finished levels of the site and buildings, together with structural details of any changes in support or loading to Cold Hill Lane or Huddersfield Road).

Condition 11 was discharged but no details are submitted with this application.

Condition 12 was not fully discharged.

The plans submitted with this application are identical to the plans submitted with the previous approved applications and show two detached dwelling with access from Cold Hill Lane. Sight lines of 2.0m x the full site frontage onto Cold Hill Lane are shown on the plans.

Given the previous approvals Highways Development Management have no objection to these proposals subject to the imposition of their suggested conditions.

One of which is a pre commencement condition requiring details of retaining walls, as referred to in the 'History of negotiations/amendments received' section of the report above. This is because the details submitted under the previous discharge of condition application were considered not sufficient for the proposed retaining walls adjacent to the highways.

With regards to the parking, loading and unloading of contractors` plant and equipment and the parking of vehicles of the workforce, the submitted details indicate:

that the proposal is to create a service plateau on plot no. 2 to facilitate storage, parking and turning of vehicles. On completion of plot no.1, the intention is that deliveries and turning will be facilitated on the driveway and the garage will be used for storage, enabling plot 2 to be developed.

Highway Officers have also recommended a condition to restrict any pedestrian or vehicular access from the plots onto Huddersfield Road. It is also necessary to include conditions to prevent any barriers/gates and to withdraw permitted development rights for the conversion of integral garages, in the interests of highway safety, to ensure adequate parking on site remains and to avoid vehicles being parked on Huddersfield Road.

To summarise, it is considered the proposed layout would provide sufficient off street parking for both proposed dwellings (subject to condition ensuring that integral garages are retained for parking) and officers are of the opinion the proposals can be adequately accommodated on site without giving rise to highway safety concerns, in accordance with Policies LP21 & LP22 of the Kirklees Local Plan.

Other issues:

Electric vehicle charging points:

In line with local and national policy any approval for new dwellings will include a condition for electric vehicle charging points, to accord with guidance set out in the NPPF (paragraph nos. 105, 110 & 170) and Policy LP24 of the Local Plan and thus contributing to protecting and enhancing the natural environment.

Biodiversity:

The site lies in an area identified as a Bat Alert area on the Council's geographical information system. No concerns are raised by the Biodiversity Officer. Nevertheless, to accord with guidance in the NPPF, Policy LP30 of the Local Plan it would be reasonable to condition enhancement measures in the form of a bat box integral to each dwelling to be installed during the construction phase.

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:2019/90619

Officer Recommendation: C.F.P

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 51 of the Planning and Compulsory Purchase Act 2004.

2. 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 LP1 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

3. The dwellings hereby approved shall be faced in materials specified on the application form (natural stone & slate flat roof tile) and thereafter retained in accordance with these details.

Reason: In the interests of visual amenity and to preserve the character and appearance of the surrounding area and street scene in accordance with

Policy , LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, B, C, and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity to avoid over development of the site, so as not to prejudice the amenities neighbouring residents from overlooking and loss of privacy and to accord with the requirements of Policy LP24 of the Kirklees Local Plan

5. Notwithstanding the provisions of section 55(2)(a)(i) of the Town and Country Planning Act 1990 (or any statute or order revoking or re-enacting that Act with or without modification) the integral garages shall be used for the garaging of private motor vehicles and shall not be converted to habitable accommodation.

Reason: To ensure that there are adequate off street parking facilities to serve both plots, in the interests of safe and free use of the highway and to accord with Policy LP21 of the Kirklees Local Plan.

6. The dwellings hereby approved shall be installed with the Nu Aire Drimaster ventilation system and all habitable room openings facing Huddersfield Road shall be fitted with acoustic trickle vents such as the DN Vents, (in accordance with details accompanying this application) during the construction phase and be made operational before either dwelling is first occupied. Thereafter the ventilation scheme shall be retained in accordance with the approved details and maintained in accordance with the manufacturer's instructions.

Reason: To protect the amenities of the future residents of the approved dwellings and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

7. The proposed ground and finished floor levels of the dwellings hereby approved shall be completed in accordance with details shown on drawing no. 02.733/3 Rev A, B submitted as part of the statement on finished floor levels.

Reason: In the interests of visual amenity and to ensure the residential amenities of neighbouring sites is not compromised and to accord with Policy LP24 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

8. The parking, loading and unloading of contractors` plant and equipment and the parking of vehicles of the workforce shall at all times be carried out in accordance with the approved construction management plan.

Reason: In the interests of highway safety and to ensure the surrounding highways are not obstructed during the course of the construction period and to accord with Policy LP21 of the Kirklees Local Plan.

9. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction for all new retaining walls/ building walls adjacent to the existing highway including any proposed modification to the existing retaining walls on Cold Hill Lane and the A616 Huddersfield Road shall be submitted to and approved by the Highway Authority in writing. Thereafter the approved scheme shall be implemented prior to the construction of the hereby approved dwellings commences and retained as such thereafter.

Reason: This is a pre commencement condition to ensure that new structures do not compromise the stability of the highway, in the interest of highway and pedestrian safety and to accord with the Policies LP21 and LP24 of the Kirklees Local Plan and guidance within the National Planning Policy.

10. The approved hereby approved dwellings shall not be occupied until the sight lines shown on drawing no. 02.733/3 Rev A, have been cleared of all obstructions to visibility exceeding 600mm in height above the adjacent carriageway and thereafter retained as such.

Reason: To ensure adequate visibility in the interests of highway safety and to comply with Policy LP21 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.

11. No vehicular/pedestrian access shall be taken to the site from Huddersfield Road.

Reason: In the interests of the free and safe use of the highway and to accord with Policy LP21 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.

12. The development shall not be brought into use until all areas indicated to be used for vehicular access and parking on drawing no. 02.733/3 Rev A, have been laid out with a hardened and drained surface 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 any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) this shall be so retained, free of obstructions and available for the uses specified.

Reason: In the interests of visual amenity and to ensure adequate space within the site for vehicle movements and parking, in the interest of adequate drainage of the site, and in accordance with Policies LP21, LP22 and LP24 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) Schedule 2, Part 2 Class A any gates or barriers over the approved vehicular access shall be set back 5m from the back of Cold Hill Lane. So long as such gates or barriers are in position they shall be retained to only open inwards in to the site.

Reason: In the interests of highway safety and to avoid the need for vehicles to wait and to comply with Policy LP21 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.

14. Prior to occupation of the approved dwellings an electric vehicle recharging point, shall be installed within the integral garage or drives to serve each plot. 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 vehicles charging points so installed shall thereafter be retained.

Reason: To accord with the guidance contained in Part 9 of the National Planning Policy Framework "Promoting sustainable transport", guidance in the West Yorkshire Low Emissions Strategy and to encourage low carbon forms of transport in accordance with guidance in the National Planning Policy Framework as well as Policy LP24 of the Kirklees Local Plan.

15. Notwithstanding the submitted plans, one bat box, in the form of a Schweglar type 1FR/2FR or similar shall be incorporated integral to each of the approved dwellings during the construction phase. This shall be located away from external windows and lighting, at least 5 metres above ground level on the east elevation, before the hereby approved development is first occupied and retained thereafter.

Reason: To enhance ecological interest within the site, in accordance with the guidance contained within the National Planning Policy Framework and Policy LP30 of the Kirklees Local Plan.

16. The proposed soft landscape details as shown on drawing no. 02.733/14 Rev A shall be undertaken in the first planting season following the completion of the superstructure of the hereby approved dwellings and completed prior to the occupation of the hereby approved dwellings.

Reason: For the avoidance of doubt and to ensure that there is a well laid out scheme of landscaping in the interests of amenity and enhancing biodiversity of the site in accordance with Policies LP24 and LP30 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

17. Any planting, seeding or tree management works forming part of the soft landscaping scheme referred to in Condition 16 shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced with like for like species.

Reason: In the interests of visual amenity and to ensure biodiversity of the site is retained and maintained to accord with Policies LP24 and LP30 of the Kirklees Local Plan.

FOOTNOTE:

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be

major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

FOOTNOTE:

Link to Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens' published 13th May 2009 (ISBN 9781409804864):
www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens

FOOTNOTE:

It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter

FOOTNOTE:

The responsibility for securing a safe development rests with the developer and/or landowner. It is advised where a site could be affected by land stability issues this be taken into account and dealt with appropriately by the developer and/or landowner

FOOTNOTE:

The granting of planning permission does not override any private ownership rights or legal covenants that apply to the land forming part of this planning application.

FOOTNOTE:

To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays

08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
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Plan Type	Reference	Version	Date Received
Location plan			26/02/19
Landscape details	02.733/14	A	26/02/19
Grouped plans and sections	02.733/3	A	26/02/19
Site sections (plot 1)	02.733/12		26/02/19
Proposed retaining wall & foundation general arrangement (sheet 1)	01		26/02/19
Proposed retaining wall & foundation general arrangement (sheet 2)	02		26/02/19
Proposed site sections	03		26/02/19
Ventilation details e Nu Ahe Dimoslor sysiem	5 pages		26/02/19
Statement - Construction management plan	2 pages		26/02/19
Statement – Design – ventilation system			26/02/2019
Statement – Finished Floor Levels			26/02/2019
Design & Access statement			26/02/19
Foundation Calculations	04/D/153 eml	-	26/2/2019

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. As the submissions with the application are considered acceptable, no negotiations were considered necessary.

Report Dated:

11/07/19
