

**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:** 2019/62/90887/W

**Site Address:** Plots 15 and 17, Moorland View, Meltham, Holmfirth,  
HD9 5QJ

**Description:** Erection of two dwellings (modified proposal)

**Recommending Officer:** Adam Walker

**DECISION – S106 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.**

Adam Walker

***AUTHORISED OFFICER***

**Date: 26-Jun-2019**

## **Officer Report**

### **Site Description**

The application relates to plots 15 and 17 that form part of a planning permission for 28 dwellings. Plots 15 and 17 form the end terrace dwellings in a row of three. The site is currently being built out and some of the plots are occupied. Construction work on plots 15-17 has commenced.

### **Description of Proposal**

The applicant is seeking to make some minor changes to plots 15 and 17.

It is proposed to add two secondary windows in each of the gable ends. The windows are at ground floor level and serve a dining-kitchen and a living room.

The reason for the change is because the developer considers that these rooms require more natural light.

### **History of negotiations/amendments received**

A deed of variation to the original S106 agreement on planning application 2015/93861 has been secured.

### **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

2018/94101 Variation condition 12 (ground levels) on previous permission 2015/93861 for erection of 28 dwellings and engineering operations – Approved

2018/92441 Erection of two dwellings (modified proposal) – Plots 18 and 19 – Approved

### **Representations**

No representations received.

Meltham Town Council comments – The council supports the application.

## **Consultation Responses**

None

## **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 27<sup>th</sup> February 2019).

The site is allocated for housing on the Kirklees Local Plan.

### **Kirklees Local Plan (LP):**

LP21 – Highway safety  
LP22 – Parking Standards  
LP24 – Design

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 4 – Decision-making  
Chapter 12 – Achieving well-designed places

## **Assessment**

The application seeks a minor modification to two approved dwellings that are part of a larger residential scheme for 28 houses. The application has been submitted as a full application for the erection of 2 dwellings.

The modification is the addition of 2 ground floor windows in the gable ends of plots 15 and 17 which form end terrace dwellings. The windows are secondary openings to main habitable rooms and are intended to provide additional light. There are no other changes to the dwellings as already approved.

The main issue is whether the windows would result in any unacceptable overlooking and harm the amenity of neighbouring occupiers.

The gable end of plot 17 faces onto the bottom part of the main private garden belonging to 84 Mill Moor Road, separated by a distance of approximately 3m.

There is a difference in levels between the neighbouring garden and the ground floor of plot 17, with the garden being higher than the ground floor level of the new dwelling. There is a high wall along the site boundary which I estimate to be at least 2m high. The top of the wall is roughly the same height as the top of the proposed windows. Within the neighbour's garden are a number of trees and shrubs running parallel to the boundary wall.

The outlook from the proposed windows would be directly onto the boundary wall and the height of the wall means that views into the neighbour's garden are very restricted. Views are further restricted by the existing planting along the boundary and whilst the planting is not within the control of the applicant and therefore cannot be relied upon as providing a permanent and effective screen it is probable that the neighbour would seek to retain some form of soft landscaping to form an attractive boundary to their garden. Even without the landscaping I do not consider these secondary windows would unduly harm the amenity of 84 Mill Moor Road.

The gable end of plot 15 faces towards the rear elevation of plots 13 and 14 and so this is an internal relationship within the development site. The separation distance is just over 8m and plots 13 and 14 are set up slightly from plot 15. Boundary treatment is to be provided as part of the development that would serve as a screen. Given the nature of the relationship I do not consider that the amenity of future occupiers of the aforementioned plots would be prejudiced by the addition of these secondary windows.

As this is a full application it is necessary to ensure that appropriate conditions are imposed that are consistent with the original planning permission, including the details that have already been approved by conditions. This includes facing materials, the surfacing of parking spaces, landscaping and electric vehicle charging points.

Land contamination was the subject of conditions on the original permission and a remediation strategy has been approved under discharge of condition application 2017/91566. Condition 21 of the original permission also requires a validation report to be submitted. It is to be noted that plots 18 and 19 lie within the area where contamination has been identified. It is considered prudent to impose a condition requiring the development to be carried out in accordance with the approved remediation strategy and it remains necessary for a condition to be imposed requiring a validation report to be submitted for approval prior to the occupation of these plots.

The access and drainage for the plots are to be provided as part of the overall development for 28 houses (a number of which are already built and occupied). Bat and bird boxes have not previously been sought on plots 15 and 17 and it remains the case that they are not deemed necessary.

A deed of variation has been secured to the original S106 because the construction of these two dwellings under a stand-alone planning permission would affect the triggers within the S106.

## **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:** 2019/90887

**Officer Recommendation:** Approve

### Conditions and Reasons

1. 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 and PLP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The walls of the dwellings hereby approved shall be faced in regular coursed natural stone and the roofs shall be faced in artificial slate tiles. The materials shall be the same as the facing materials approved pursuant to planning permission 2015/62/93861/W.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

3. The development shall be carried out in accordance with the Contamination Remediation Method Statement prepared by ARP Geotechnical Ltd (ref HEY/03, dated September 2015) and the supplementary remediation information contained within the email from John Race of ARP Associates to Kevin Moore of Kirklees Council dated 5<sup>th</sup> January 2017

**Reason:** To remove unacceptable risks to human health and the environment and to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

4. Following completion of the remediation measures pursuant to condition 3 a Validation Report shall be submitted to the Local Planning Authority. Neither of the dwellings shall be brought into use until such time as the approved remediation measures relating to the application site have been completed and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

**Reason:** To address unacceptable risks to human health and the environment and to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

5. The dwellings shall be provided in accordance with the landscaping details as shown on drawing number 0607-1 Rev K (Landscape Proposals) and retained as such.

**Reason:** In the interests of visual amenity and biodiversity and to accord with Policies LP24 and PLP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

6. An electric vehicle charging point shall be provided within/adjacent to the dedicated parking area of each dwelling before the dwelling to which the charging point relates is first occupied. The charging points shall thereafter be retained. 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 accord with LP24 of the Kirklees Local Plan, guidance contained in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

7. The 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 LP21 and LP28 of the Kirklees Local Plan and the National Planning Policy Framework.

Plans and specifications schedule:-

| Plan Type                             | Reference                                                                                              | Version | Date Received |
|---------------------------------------|--------------------------------------------------------------------------------------------------------|---------|---------------|
| Location Plan                         | Overall Site Deed Plan                                                                                 | -       | 18/3/19       |
| Proposed Floor Plans                  | 1601 / 39 Rev B                                                                                        | -       | 18/3/19       |
| Proposed Elevations                   | 1601 / 41 Rev B                                                                                        | -       | 18/3/19       |
| Design and Access Statement           | March 2019                                                                                             | -       | 18/3/19       |
| Landscape Proposals                   | 0607-1 Rev K                                                                                           | -       | 7/7/17        |
| Remediation Method Statement          | Prepared by ARP Geotechnical Ltd<br>Ref HEY/03<br>Dated September 2015                                 | -       | 9/5/17        |
| Supplementary Remediation Information | From John Race of ARP Associates to Kevin Moore of Kirklees Council dated 5 <sup>th</sup> January 2017 | -       | 5/1/17        |

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. A S106 agreement was secured in order to tie the development to the original planning permission.

**Report Dated:**

26/6/19