

**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: 2019/60/91080/E

Site Address: land at, Spencer Street, Skelmanthorpe, Huddersfield,
HD8 9BE

Description: Outline application for erection of residential
development and demolition of existing buildings.

Recommending Officer: Anthony Monaghan

DECISION – Conditional Outline 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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 08-Jul-2019

SITE DESCRIPTION

The application relates to a pieces of land at Spencer Street, Skelmanthorpe. The site is located at the rear of no. 12 spencer Street on a separate parcel of land which is also adjacent to no. 14 Spencer Street.

There are two existing, single storey buildings on the site which are currently being used as storage for the applicant's construction company.

The external area of the site is also used for storage and is in a poor visible state with building materials and waste being stored across the site.

Around the south and west perimeter of the site are small trees, to the north and east are narrow access lanes serving other properties.

The site is within a wholly residential area within Skelmanthorpe village and is unallocated on the Kirklees Local Plan.

DESCRIPTION OF PROPOSAL

The proposal is an outline application for the erection of residential development with all matters reserved. The application form states that the two buildings would be demolished and two dwellings would be constructed with parking places and bin storage areas.

The site is within a Coal Mining High Risk area and the submission includes a Coal Mining Risk Assessment.

History of negotiations/amendments received

None required

RELEVANT HISTORY

96/93027 - Erection of detached double garage - Approved

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 3** - Location of new development
- **LP 11** - Housing mix and affordable housing
- **LP 21** - Highway safety and access
- **LP 24** - Design
- **LP 52** - Protection and improvement of environmental quality
- **LP 53** - Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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.

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 Highways Development Management - No objection subject to conditions regarding the layout and parking and details of storage and collection of waste to be submitted.

KC Environmental Health - I have reviewed the information submitted by the applicant. The site is potentially contaminated due to its proximity to a landfill site, conditions recommended regarding the submission of phase 1 and phase 2 contaminated land reports and the installation of an electric vehicle charge point.

Coal Authority - The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; the coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Conditions therefore required regarding the undertaking of intrusive site investigations and remedial work if required.

PUBLIC/MEMBERS RESPONSE

Final date of publicity 31/05/19

3 letters of representation received. A summary of the issues raised are as follows:

- Covenant on the land

- Access being blocked
- Site is a mess and should be cleared up
- Believe land was shared between a number of dwellings
- Too close to other nearby houses
- Parking a big problem

ASSESSMENT

Principle of Development.

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development

When considering development proposals, there is a presumption in favour of sustainable development contained in the NPPF. Policy LP 1 of the Kirklees Local Plan is applicable and suggests that proposals that accord with the policies in the KLP (and where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Policy LP 24 of the KLP suggests that proposals should promote good design by ensuring (among others) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.

Policy in Chapter 12 of the NPPF, Achieving well designed places, suggests that local planning authorities should ensure that the issue of Design and the way a development will function are fully considered during the assessment of an application.

Policy LP 3 suggests that development will be permitted where it supports the delivery of housing and employment growth in a sustainable way by (among others) providing access to a range of transport choices and access to local services.

The proposals are an outline application for the erection of residential development with all matters reserved.

The site is unallocated on the Kirklees Local Plan and within a mainly residential area within the village of Skelmanthorpe; it is considered a sustainable location and given the previous use as small haulage yard and more recently a builder's yard, the land is also considered as being brown field. The proposed residential use of the site would be more compatible with the immediate surrounding uses than this previous use. As such there are no relevant material factors which would in principle prevent the development of this site for residential development.

Providing the other relevant issues, as raised in the policies above, are considered or can be made acceptable, the principle of the development is considered acceptable.

Visual Amenity

As the application is outline only and as such any details regarding the design, appearance and layout are for the reserved matters stage. It is still possible however to make comments on the nature of the site and how a proposal for residential development would relate to the existing, surrounding development.

The site as noted in the introduction is surrounded by existing residential development, to the north are 3 pairs of semi-detached dwellings which are stone fronted on the north elevation and of brick facing to the sides and rear elevations, the roofs are of natural slate.

To the east of the site is no. 14 to no 38 Spencer Street which consists of 3 sets of terrace properties, all of red brick construction again with slate roofs.

Policy LP 7 of the KLP is designed to ensure that development proposals make the most efficient use of land and buildings and suggests that a minimum net density of 35 dwellings per hectare is achieved; on this site, with an area of approximately 260 sq m, this would equate to 1 dwelling.

The number of dwellings for the site is indicated on the application form as being a pair of semi-detached properties with 4 parking places, however no indicative layout plan has been received to show how this would be achieved and it may be that the 2 dwellings may not provide sufficient amenity space, however this would be for the applicant to demonstrate at the reserved matters stage.

It should be noted that two dwellings would be an absolute maximum on this site without compromising the relationship with other properties and the general character of the area.

In terms of the scale and appearance is also envisaged that these would be two storey dwellings which would relate to the adjacent dwellings on Spencer Street. It is unlikely that large 2/3 storey properties would be acceptable as these would overdominate the surrounding development, being such a small site.

Subject to appropriate conditions the proposals are considered to be in accordance with Policies LP 7 and LP 24 of the KLP and Chapter 12 of the NPPF.

Residential Amenity

As noted above the site is relatively enclosed and measuring approximately 260 square metres in area. It is most closely associated with no. 14 Spencer Street and is to the rear of the gardens of nos. 10 and 12 Spencer Street.

With regard to no. 14, this dwelling is an end terrace and the side elevation faces onto the site, there are no windows in this elevation which is also separated by an access track from the site.

The rear elevations of nos. 10 and 12 are approximately 20m from the site with habitable room windows facing not the site; no. 12 also has a rear extension although this property is also within the ownership of the applicant.

To the west and south of the site are garden areas belonging to dwellings on Spencer Street and Gib Lane, however the actual dwellings are sited well away from the site.

Given the above it is considered that, subject to appropriate details of layout and appearance being submitted at the reserved matters stage, there is sufficient space within and around the site to allow the development of up to 2 small dwellings without adversely affecting the residential amenity of the occupiers of surrounding dwellings and that of the occupiers of the proposed dwellings.

The proposals are considered in accordance with policy LP 24 of the KLP and Chapter 12 of the NPPF.

Highway Safety

The proposals are to demolish the existing two building on the site, one of which is located close to the access to the site. The demolition of this building would allow for the possibility of a reasonable vehicular access and parking areas to serve the proposed residential development.

As noted above the application form suggests that the development would be for 2 dwellings, with 4 parking spaces, however the dwelling indicated as being for at least 4 bedrooms; the highways officer has stated that this would require 3 parking spaces per dwelling.

Given the site location and narrow streets the development cannot rely on on-street parking near to the dwellings; as such the spaces should be provided within the site curtilage. However due to the constraints of the site it is likely that a maximum of 2 spaces per dwelling could be provided.

Notwithstanding the above, as all matters including layout and access are reserved,
It would be up to the applicant to show that sufficient parking can be provided on site.

A condition should be included to require that details of bin storage and collection area are submitted to the LPA. This can as part of the reserved matters application.

The highways officer has suggested a condition is required regarding the layout and access, however these are both reserved matters included within the standard conditions.

Subject to appropriate conditions the proposals are considered to be in accordance with policies LP 15, LP 21 and LP 24 of the KLP.

Other Issues.

Ecology -The site is within a bat alert area, no Bat survey has been submitted as part of the outline application however the proposals have been discussed with the Council's Ecologist. The buildings and the vegetation are unlikely to provide any habitat for bats and there is no concern with their removal. The dwellings should include two bat boxes.

Drainage – The application form indicates that the surface water from the development will be via soakaways, however no evidence has been provided with the application that these would work. As such a condition should be included with any permission requiring the applicant to provide further details of the above. To accord with policy LP 28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Representations

3 letters of representation received. Issues raised are:

- Covenant on the land.
Response. Any planning permission granted would not override a deed of covenant where one exists.
- Access being blocked.
Response. There is no layout plan provided with the application as it is outline with all matters reserved. The current situation with any blocking of private access would be matter between the two parties. Any obstruction of a public highway would be police matter.
- Site is a mess and should be cleared up.
Response. The proposed residential development would require the removal of the waste on site and should lead to an improvement to the environmental quality of the area.
- Believe land was shared between a number of dwellings.

Response: The applicant has signed the certificate to say that he owns all the land required for the development. No evidence has been provided to the contrary.

- Too close to other nearby houses.

Response: At this stage there is no detailed layout for the site however it has been assessed as being capable of some type of residential development.

- Parking a big problem.

Response: The parking provision would be a reserved matter, however at this outline stage the highways officer has made it clear that the site should provide adequate off-street parking for the dwellings. This has been assessed further in the report.

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.

Decision Authorisation - Delegated Powers

Application Number: 2019/90214

Officer Recommendation: Grant Outline Permission.

Conditions and Reasons

1. Approval of the details of the means of access, appearance, layout, scale and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the means of access, appearance, layout, scale and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

5. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance the aims of policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition that will allow for investigations to be undertaken and assessed, to establish the exact situation regarding contamination at the site in a timely manner.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 5, development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance the aims of policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition that will allow for intrusive site investigations to be undertaken and assessed, to establish the exact situation regarding contamination issues at the site in a timely manner.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall

include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance the aims of policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition that will allow for intrusive site investigations to be undertaken and assessed, to establish the exact situation regarding contamination issues at the site in a timely manner.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance the aims of policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the Local Planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Reason: To ensure that the site can be made, safe and stable for the proposed development and remove unacceptable risks to human health, in accordance the aims of policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

10. Site investigation works shall be carried out in accordance with the findings of the Coal Mining Risk Assessment prepared by Haigh Huddleston Associates Ref: E19/7470/DP/L001 before development commences. The applicant shall ensure that the exact form of any intrusive site investigation, including the number, location and depth of boreholes, is agreed with The Coal Authority's Licensing and Permitting Development department as part of their permit application.

Reason: To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with

Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.

11. A report of findings arising from the intrusive site investigation works pursuant to condition 10 shall be submitted to and approved in writing before development commences. The report shall include a scheme of remedial works for the shallow coal workings together with a timetable for the implementation and completion of the approved remediation measures.

Reason: To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.

12. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 11. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of the National Planning Policy Framework.

13. Following completion of any measures identified in the approved Remediation Strategy A Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with Policy LP 53 of the Kirklees Local Plan and guidance contained within Chapter 15 of National Planning Policy Framework.

14. Details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved first comes into use. These shall be designed so as not to impede the free movement of hedgehogs. The approved boundary treatments shall then be implemented before the development hereby approved first comes into use and retained thereafter.

Reason: In the interests of visual and residential amenity, as well as in the interest of enhancing the biodiversity of the site, in accordance with policies LP 24 and LP 30 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

15. Prior to occupation of the dwelling(s), an electric vehicle recharging point shall be installed in a position that is accessible to electric vehicles at the rate of 1 per dwelling. 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: In the interest of improving the local air quality and promoting ultra-low emission vehicles and to accord with policy LP 51 of the Kirklees Local Plan and national policy in chapter 9 of the National Planning Policy Framework, Promoting Sustainable Transport.

16. Prior to commencement of development details of a scheme to show how surface water from the development will be disposed of shall be submitted to the Local Planning Authority for approval in writing, the scheme shall show that the applicant has explored sustainable methods of drainage according to the Hierarchy of Drainage.

The approved scheme shall be implemented before the development is first brought into use and retained thereafter.

Reason: To ensure the effective management of surface water from the development and to accord with policy LP 28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework, Meeting the challenge of climate change, flooding and coastal change.

This is a pre-commencement condition to ensure that the drainage and surface water features are integrated into the site at the appropriate phase of development.

17. Before the dwelling(s) are first occupied, one bat box shall be installed on each dwelling. The boxes shall not be located above a window and shall be a minimum of 4 m above ground level and shall be retained thereafter.

Reason: In order to protect and enhance the biodiversity of the area and to accord with national policy in the National Planning Policy Framework, chapter 15 – Conserving and Enhancing the Natural Environment.

18. Before the dwelling(s) are first occupied, a bin storage area shall be provided within the boundary of the site and retained for such use thereafter.

Reason: In the interests of visual and residential amenity and highway safety and to accord with the requirements of policies LP 15, LP 21 and LP 24 of the Kirklees Local Plan.

Note: 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.

Note: A 13A EV charge point does not comply with current government guidance (published 03 November 2016), which is the “Minimum technical specification - Electric Vehicle Home charge Scheme (EVHS)” from the Office for Low Emission Vehicles (OLEV). This document gives minimum specifications for various charging speeds. A minimum of 16A continuous current demand as listed in the OLEV document is required.

Plans and specification schedule:-

Plan Type	Reference	Version	Date Received
Location Plan.	1/1250	1	15/04/19
Block plan	1/200	1	15/04/19
Coal Mining Risk Assessment	E19/7470/DP/L001		15/04/19

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter and otherwise actively engaged with the applicant in dealing with the application. No discussions were necessary with the agent during the course of the application.