

**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: 2019/60/91141/W

Site Address: adj, 320, New Hey Road, Oakes, Huddersfield, HD3 4GQ

Description: Outline application for erection of one detached dwelling

Recommending Officer: Nick Hirst

DECISION – CONDITIONAL OUTLINE PERMISSION

I hereby authorise the outline approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Emma Thompson

AUTHORISED OFFICER

Date: 22-Oct-2019

Application: 2019/60/91141/W

Site: adj, 320, New Hey Road, Oakes, Huddersfield, HD3 4GQ

Proposal: Outline application for erection of one detached dwelling

Site Description

The application relates to a parcel of land located between no.320 New Hey Road to the north and nos.328 / 330 New Hey Road to the south. Nos.328 and 330 are alongside New Hey Road's carriageway, while no.320 is set away from the road. No.320 is access via a private road, which serves four dwellings.

The land forms garden space which is within the ownership of no.320. The site is a lawned area which contains a various trees, shrubs and bushes. The land slopes away to the south. Adjacent the site is a new dwelling, to the rear of no.324.

Description of Proposal

Outline planning permission is sought for the erection of one detached dwelling. All matters are reserved. Access would be taken from New Hey Road, along a private drive which is located between no. 324 and a reservoir.

The indicative drawings submitted with the application indicate a dwelling which would be two storeys in scale with an attached single garage. The indicative scale shows a height of circa 8.5m.

Relevant Planning History

Proposed Site

2008/93224: Outline application for the erection of 1 detached dwelling – Conditional Outline Permission

2012/93585: Outline application for 1 no. dwelling – Conditional Outline Permission

2016/90141: Outline application for erection of one dwelling – Conditional Outline Permission

To the rear of no. 324 New Hey Road

2008/93561: Erection of detached dwelling with associated parking – Approved. Implemented

History of Negotiations and Representations

Public representations raised that the submitted plans did not fully display the extent of development in the area. This included a neighbouring house being incorrectly aligned and rear extensions not been shown. Thus it was stated a fair commentary could not be made; officers concurred and requested correct plans for the applicant. These were provided and re-advertised.

Final publicity date expired: 16.10.2019

Seven representations have been received. The following is a summary of the comments made;

- The site plan has no north arrow.
- The location and site plans are incorrect and do not show the neighbouring dwelling's correct alignment or a rear extension on the adjacent no.330.
- The trees shown on plan are not correspond to those on site.
- The ordinance survey is out of date with no license reference and is presumably being reused from previous applications.
- The proposed dwelling would cause harmful overshadowing, overbearing and overlooking upon properties to the south and east.
- The proposal, including the loss of trees, will result in greater surface water discharge onto properties downhill (those to the south, onto New Hey Road) and the busy main road.
- The removal of trees and vegetation will harm local ecology.
- The amended layout plan, intended to show the neighbouring dwellings as extended and the orientation of adjacent dwellings, remains incorrect.
- Window location should form part of this application as there is great potential for overlooking.
- A sustainable drainage strategy should be provided for the site prior to determination due to the site's ongoing drainage issues.

Consultation Responses

K.C. Highways: No objection, subject to condition.

K.C. Trees: No objection.

Planning Policy

Kirklees Local Plan (KLP)

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 LP Policies Map.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP30** – Ecology and geodiversity
- **LP33** – Trees
- **LP51** – Protection and improvement of local air 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, and 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 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment

Other

- DCLG: Technical Housing Standards – Nationally Described Space Standard
- Kirklees Local Plan Supplementary Planning Document Consultation Draft – Highways Design Guide

Assessment

The following matters are considered in the assessment below –

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

1 – Principle of development

1.1 – Previous permissions

Planning history for a site is a material planning consideration which must be given weight in the decision making process. Extant and recently expired permissions carry the most weight. Permission 2016/90141 approved outline permission, with all matters reserved, for one dwelling. 2016/90141's three years of permission expired in March 2019, which for planning purposes can be considered 'recently expired' and thus can be attributed weight in the decision making process.

Consideration must be given to whether the planning circumstances, including the policy and local context, are materially different to determine the weight given to the previous permission.

First considering the planning policy context, 2016/90141 was assessed against the Unitary Development Plan (UDP) and National Planning Policy Framework 2012. Since then, these have been replaced by the Kirklees Local Plan (KLP) and NPPF2019 respectively. These replacement documents maintain a principle in favour of sustainable development. Regarding the UDP to KLP, both of these establish a general principle in favour of residential development. The site remains unallocated within the KLP, as it was in the UDP, with the KLP having no restrictive allocations or policies which would not support the proposal. It is acknowledged that the KLP currently holds a five year housing land supply, which the UDP did not. Nonetheless this does not oppose the development of unallocated land, with such windfall sites being an aspect of the housing land supply. The changes between the NPPF2012 and NPPF2019, which are principally strategic in nature, are not considered to impact upon the previous assessment.

Turning to the local context no Planning Permissions have been granted or implemented, or other forms of permitted development undertaken, in the immediate vicinity which would interfere with the previously approved development. Notwithstanding this, it is noted that within representations residents have raised that the plans previously considered did not accurately portray the development adjacent to the site. This included a building's orientation being incorrect and rear extensions not being shown. While not identified during 2016/90141, this has now been corrected through the re-submission of amended plans. In considering the implications, although the plans did not show neighbouring extensions, officers undertook site visits and were aware of the circumstances during their assessment of 2016/90141. Accordingly, officers do not consider that this matter would materially impact upon the previously established principle of development.

Therefore, the principle of residential development of this site is found to remain to be acceptable. Consideration is required to the impact upon the local environment, which will include the neighbouring residents as per the corrected plans.

2 – Impact on visual amenity

The proposal seeks to introduce a detached dwelling within an area hosting a mixture of detached and semi-detached dwellings. While the dwellings fronting the carriageway of New Hey Road are similar in design, those accessed via the private road (nos. 318, 320 and 322) are each unique in appearance.

The site is neither close to a listed building nor within a Conservation Area. While this is an outline application with all matters reserved, indicative layout and elevation plans have been provided. Although subject to change the layout indicates that the proposed property could reasonably be placed within the plot, with acceptable spacing to neighbouring properties. While reducing the space about dwellings, this is not out of character of the area with closely spaced semi-detached dwellings being evident upon the street and within the area.

The indicative street scene elevation shows a dwelling that would be sited higher than those along New Hey Road, due to the raising land levels. While this height causes some concern on the current indicative plans, it is acknowledged that the dwelling would be set back from the frontage of these dwellings by 25 metres. Furthermore, the indicative mass itself is not undue. This set back would reduce the impact of the new dwelling on the street scene and the building would also be screened by the existing trees which are stipulated to be retained. Therefore, at this time and based on indicative plans, officers hold no substantive concerns of the siting and its impact on New Hey Road.

More detailed aspects, including architectural features roof design and, will be addressed at the reserved matters stage. At this stage there is considered no prohibitive considerations which would prevent the proposed dwelling having an acceptable impact on the area's visual amenity and preventing the reserved matters application adhering to Policy LP24 of the KLP and Chapter 12 of the NPPF.

3 – Impact on residential amenity

An indicative layout and scale has been submitted as part of this proposal. While it is acknowledged that the design is subject to change at reserved matters, it is considered that the indicative details allows consideration be given to the proposal's potential impact on the neighbouring properties' residential amenity. Neighbouring dwellings are sited to the north, east and south.

Considering the dwellings to the north, the indicative plan shows a distance of at least 22m is achievable between the front elevation of the proposed building and the front elevation of no.320. There is no direct relationship between the front elevation of the proposed dwelling and no.322. Therefore officers raise no concerns regarding the relationships between these dwellings.

To the east is no. 318 New Hey Road. No. 318's rear faces towards the south end of the site, with the indicative plan showing that a dwelling can be positioned within the north of the site without causing materially harmful overbearing or overshadowing upon no. 318. The indicative plan shows the side elevation of the new dwelling facing no.318, which would presumably only host non-habitable room windows but would be fully assessed at reserved matters stage.

To the south are nos. 328 and 330 New Hey Road. These are bungalows on a lower level to the site. Each has rear extensions, which result in separation distances of 18.7m and 16.0m to the indicative dwelling, respectively. This issue is exacerbated by the level differences, with the site being a higher ground level. Officers hold some concerns over the proximity of the dwellings to the site, alongside the indicative scale of the dwelling. However, in mitigation no.330 is at an angle to the indicative position of the dwelling, which would be to the side as opposed to directly sited to the rear. Furthermore, there is noted to be mature vegetation on the boundary; officers *consider, based on the currently submitted details, a combination of screening and appropriate building design could suitably mitigate detrimental overbearing and/or overlooking.*

Notwithstanding the above, careful design will be required to ensure the dwelling does not result in materially harmful, overbearing or overshadowing upon 328 and 330 New Hey Road. Speculatively, this may necessitate a single storey dwelling or having no habitable room windows to the rear. Nevertheless, on the planning balance, officers do not consider the concerns expressed to be prohibitive so as to justify refusing the application at outline stage (with all matters reserved).

Consideration must be given to the amenity of future occupiers. At a site area of 717sqm, officers are satisfied that the site is a more than reasonable size for a detached dwellings with commensurate garden space; this is subject to appropriate details being reviewed at reserved matters.

Past permissions have imposed conditions removing PD rights and requiring the submission of boundary treatment details. Officers consider that these would fall under the consideration of the Reserved Matters and therefore are no longer necessary or reasonable to impose.

Accordingly, based on the submitted details and indicative plans, officers conclude that the development would not cause harm to existing occupants.

More detailed aspects that allow a full assessment upon residential amenity will be provided at Reserved Matters stage. However, based on the submitted details, review of the site and the indicative plans, at this stage there is considered no prohibitive considerations which would prevent the proposed dwelling having an acceptable impact on the area's visual amenity and preventing the reserved matters application adhering to Policy LP24 of the KLP and Chapter 12 of the NPPF.

4 – Impact on the local highway network

All matters are reserved; therefore a full assessment on the impact on the highway cannot be undertaken. However, an assessment must be made on the indicative plans as to whether any prohibitive reasons would provide acceptable details being provided.

The proposal would use an existing and established private drive onto New Hey Road, currently serving 4 dwellings. The proposal would take the number served off the private drive to 5, which is considered to be acceptable, and there are no concerns regarding the indicative access arrangements.

Regarding parking, at this time officers are satisfied that the site is of a sufficient size that it could accommodate both 2/3 parking spaces alongside a reasonably sized dwelling,

Previous permissions included conditions requiring the submission of 'arrangements and specification for layout and parking'. As this would fall under the reserved matter of 'layout', officers no longer consider this condition reasonable or necessary to impose. A condition requiring areas for parking, which will inevitably be required, to be provided and surfaced in accordance with relevant guidance is deemed appropriate at this time.

Subject to this condition, officers are satisfied that the proposal would comply with the aims and objectives of LP21.

5 – Other matters

5.1 – Air quality

In accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24 and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.

5.2 – Trees

The site hosts numerous mature trees. Although the amount of clearance is not currently known, being a matter for layout, scale and landscaping, it can be assumed that several will be required to be removed as part of the development.

As the amenity value of the trees is localised to those surrounding the plot it is not considered that the trees on the site would be worthy of a TPO at this stage. Given that the indicative plan demonstrates that the majority of the

trees are to be retained, the impact of the development on mature trees is considered to be acceptable in principle.

If trees are required to be protected, K.C. Trees believe it would be better to do this at Reserved Matters. In principle, from an Arboricultural perspective, the development is deemed acceptable at this stage, and complies with Policy LP33 and Chapter 15 of the NPPF.

5.3 – Ecology

The site is managed garden with mature vegetation. K.C. Ecology deem the site to be of limited ecological value and therefore pre-determination survey and assessment is not considered necessary. However, planning policy seeks for all development to secure enhancements for local ecology. Therefore, if minded to approve, a condition is to be imposed requiring the submission of an Ecological Design Strategy. This would be required as a pre-commencement condition, given the need to ensure appropriate enhancements are implemented from the start.

This is to comply with the aims and objectives of LP30 of the KLP and Chapter 15 of the NPPF.

It is noted that such a condition was not sought in the previous permissions. Nonetheless officers consider that the KLP and NPPF2019 place greater weight and need upon the Planning system to preserve and enhance the natural environment. Therefore its inclusion is deemed reasonable.

6 – Representations

- The site plan has no north arrow.
- The location and site plans are incorrect and do not show the neighbouring dwelling's correct alignment or a rear extension on the adjacent no.330.
- The amended layout plan, intended to show the neighbouring dwellings as extended and the orientation of adjacent dwellings, remains incorrect.

Reason: A north arrow is not a lawful requirement. Officers concurred that the initially submitted plans were not accurate, which led to the amended plans being provided and re-advertised. On review of the amended plans, aerial photos and site photos officer are satisfied that they are suitably accurate to assess the proposal.

- The trees shown on plan are not correspond to those on site.
- The removal of trees and vegetation will harm local ecology.

Reason: The trees on site have been assessed as not being worthy of TPO status. Furthermore the layout, and the direct impact on the trees in question, cannot be fully understood. Therefore it would not be deemed reasonable to require a fully and formal tree survey at this time.

Ecology have reviewed the proposal and do not object to the development. However, they'd seek an EDS via condition, to secure enhancements.

- The ordinance survey is out of date with no license reference and is presumably being reused from previous applications.

Reason: This does not form a material planning consideration.

- The proposed dwelling would cause harmful overshadowing, overbearing and overlooking upon properties to the south and east.

Reason: The application is made at outline, with all matters reserved. The submitted plans are indicative. While some concern is held over the potential impact upon dwellings to the south, these are not deemed prohibitive to the future development of the site, subject to a suitable design being proposed at reserved matters stage.

- The proposal, including the loss of trees, will result in greater surface water discharge onto properties downhill (those to the south, onto New Hey Road) and the busy main road.
- A sustainable drainage strategy should be provided for the site prior to determination due to the site's ongoing drainage issues.

Reason: The site is neither within an identified flood zone or area with drainage issues. Given the scale and nature of the development, surface water drainage would fall under a consideration of Building Regulations.

- Window location should form part of this application as there is great potential for overlooking.

Reason: This comment is noted, however as a Reserved Matter officers are unable to control this aspect of the development at this time.

7 – 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

Application Number: 2019/91141

Decision Authorisation: Delegated Powers

Officer Recommendation: Grant Outline Permission

Conditions and Reasons

1. Approval of the details of the layout, scale, appearance, access 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 layout, scale, appearance, access 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. Prior to external site clearance, landscaping or groundworks taking place, an Ecological Design Strategy addressing ecological enhancement shall be submitted to, and approved in writing by, the Local Planning Authority. The Ecological Design Strategy shall include, but not be limited to, the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.

- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

Prior to the hereby approved development being brought into use, the Ecological Design Strategy shall be implemented in accordance with the approved details. Thereafter all approved features of the Ecological Design Strategy shall be retained in that manner thereafter.

Reason: In the interest of preserving and enhancing the ecological environment, to comply with the aims and objectives of Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. Prior to the hereby approved dwelling being brought into use, an electric vehicle recharging point shall be installed within the dedicated parking area of the approved 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. The electric vehicle charging point so installed shall thereafter be retained.

Reason: In the interest of supporting low emission vehicles, to accord with the guidance contained in Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 15 of the National Planning Policy Framework.

7. The development shall not be brought into use until all areas indicated to be used for vehicles on the approved plans 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) 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 use specified on the listed plans.

Reason: In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements and parking and in accordance with Policy LP21 of the Kirklees Local Plan.

Note: 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

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	1895 – 01	Rev. C	25.09.2019
Indicative Block Plan	1895 – 02	Rev. C	01.10.2019
Indicative Elevations	1895 – 03		04.04.2019
Indicative Street Scene	1895 – 05		04.04.2019
Supporting Information	Covering Letter		04.04.2019

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 Planning 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.

It was identified during the course of the application that the submitted plans did not adequately portray the layout and extent of neighbouring development. This led to further plans being submitted and re-advertised. Based on the amended plans, officers were able to support the proposal.

Report Dated: 22.10.2019