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:	2019/62/91617/W
Site Address:	Store adj, 5, Fernside Avenue, Almondbury, Huddersfield, HD5 8NR
Description:	Demolition of existing builders store/depot and erection of 5 dwellings, formation of new access road and parking area
Recommending Officer:	William Simcock

DECISION - REFUSE

I hereby authorise the refusal 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: 18-Oct-2019

Officer Report

Site Description

The application site consists of an irregularly-shaped plot of land measuring some 75m from Fernside Avenue to its farthest point in the north-west.

Within the site is an old stone building, built on to the end of 1-5 Fernside Avenue, originally a barn but much altered and more recently used as a builder's store. These buildings are built on land this is raised above the highway. To the side of this and behind it (to the north-east and north-west) is an area used informally for the parking of vehicles. At present the only vehicular access into the site is via a narrow track that joins the adopted highway at the corner of Fernside Avenue and Bank End Lane.

Further back, the site consists of overgrown and untended vacant land which is elevated above the established residential development to the south-west and north-east. The surroundings of the site are residential, comprising medium-density, mostly semi-detached houses.

Description of Proposal

The proposal is for the demolition of the existing builder's store/depot and erection of 5 dwellings and detached garage, formation of new access road and parking area.

Two new dwellings (Plots 1 & 2) would be built on the end of 5 Fernside Avenue as a pair of townhouses. To the right, or north-east of these, a new shared driveway would be formed leading up from Fernside Avenue, which would turn to the left behind Plots 1&2 providing vehicular access to these and another 3 dwellings, also built as a row of townhouses, parallel with Plots 1-2 and 21m behind them. The most north-westerly part of the site would remain undeveloped and is annotated "tree plantation".

Plots 3-5 would comprise 4-bedroom houses with room in the roof space and dormers in 4-5; Plots 1-2 would have two bedrooms each.

History of negotiations/amendments received

25-Jul-2019: Case officer wrote to agent advising that changes would be required relating to design, parking provision and layout, and suggesting that it might be better to reduce the scheme to 4 dwellings. Agent did not respond despite a reminder letter being sent 25-Sep-2019 giving 21 days.

Relevant Planning History

2017/94072 – Demolition of builder's store and erection of 2 no. terraced dwellings. Approved, not implemented.

2018/93741 – Demolition of existing builders store/depot and erection of 5 dwellings and detached garage, formation of new access road and parking area. Invalid.

Representations

Final publicity date expires: 31-Jul-2019.

3 representations made by members of the public, objecting to the proposal.

A summary of the comments received is set out below:

- It will block foot access to existing dwellings (1-5)
- It will interfere with rights of way for vehicles from the existing access road to the land to the right of the new accessway. The alternative access would not work;
- Current landowner has not agreed to the proposed visibility splay;
- Insufficient new parking spaces;
- Fernside Avenue is a busy school route;
- Overlooking from plots 4 and 5 into adjacent house and garden;
- Has there been any consideration given to wildlife?
- Additional comment – the new access will at least have the advantage of being safer than the existing corner access, and landscaping at the front will improve the appearance of Plots 1-2, but this does not overcome our objections.

Ward Councillor Bernard McGuin. Requests Sub-Committee Decision if officers minded to approve, on the grounds of possible impact on setting of Listed Buildings and 5 Fernside Avenue, and a possibly inadequate access.

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 – requires further justification for the level of parking.
- KC Ecology – Acceptable subject to condition.

Environmental Health and Conservation & Design were consulted on application 2018 and supported the proposal in principle. Reconsultation was not carried out because the proposal for Plots 1&2 was the same in terms of scale and design and it was not deemed to raise any new environmental issues.

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 without designation on the Kirklees Local Plan.

The proposal is not considered to raise access or other Equality Act considerations.

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7**: Efficient and effective use of land and buildings
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24**: Design
- **LP 28**: Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 52:** Protection and improvement of environmental quality.
- **LP 53:** Contaminated 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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

Assessment

The following matters are considered in the assessment below –

1) Principle of development

2) Impact on visual amenity (including any heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development: Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

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 surrounded predominantly by residential development. Although the Local Planning Authority can demonstrate a five year land supply, it is noted that the development of this plot would contribute to the housing supply in the district. However the provision of housing needs to be balanced against all material planning considerations considered below.

The proposal will be assessed according to the following policies:

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value

and appropriate housing densities to ensure that land is used efficiently.

- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – development to incorporate biodiversity enhancement measures.
- LP38 – Minerals safeguarding

Under Chapter 11 of the NPPF, planning decisions should support development that makes “efficient use of land” taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed places”, should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments.

Also of relevance is Chapter 14 (opportunities to be taken to prevent development contributing to flooding) 15 (any potential pollution impacts should be assessed at the planning stage, and biodiversity should be enhanced where possible) and 16 (the setting of heritage assets should be conserved or enhanced).

2 –Impact on visual amenity: Policy LP24 states that the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape.

The principle of residential development (2 dwellings) in the front part of the site has been established (2017/94072) and can be regarded as a material consideration.

The new dwellings on plots 1-2 would be seen as a continuation of an existing row. Roof style and fenestration would respect that of neighbouring dwellings and the local vernacular architecture generally. They would replace a building that is in poor condition and is considered to have minimal amenity or heritage value, having been substantially altered. They would have at least one non-traditional feature (French doors to the rear) but as a whole they would harmonise with their surroundings and would not (subject to suitable

materials) detract from the setting of the Listed Buildings, 1-3 Fernside Avenue. Materials listed on the application form as “reconstituted stone” and concrete tiles, which would not be appropriate given the character of the existing row including the Listed Buildings, but improved materials could be conditioned or negotiated with the architect if officers were in principle minded to approve.

The 3 new dwellings on Plots 3-5 are for the central part of the site which does not benefit from any recent or extant planning permission. The 2017 application for residential development had a pair of semi-detached houses near the north-western corner of the site and a larger single dwelling near the middle. This was never formally assessed because the application was deemed invalid. In the case officer’s opinion, plots 4-5 would have had a cramped and contrived appearance owing to the narrowness of the plots and the closeness to the boundaries at this point. The new scheme, showing the three dwellings in a single bloc near the centre of the site, is considered to be an improvement. There would be a minimum 5m distance from the south-western gable end of plot 5 to the site boundary. The dwelling on Plot 3 would have its end wall, on average, approximately 6m from the site boundary. Notwithstanding the elevated position of the land in relation to nos. 107-111 Bank End Lane to the south-west, it is considered that this arrangement would not, in itself, give the impression of overdevelopment.

Dwellings 3-5 would however have a steep roof pitch (40 degrees) to allow the inclusion of further habitable space within the attic. There are, it is noted, a variety of roof styles in the surrounding area, but the existing housing that is visible from the application site or has a common border with it consists mainly of two-storey houses with either hipped roofs or moderate to shallow roof pitching gable roofs of approximately 30 degrees which have not been designed to include second-floor living accommodation. The dwellings would have limited visibility from Fernside Avenue as they are set back into the site and from some angles the view would be blocked by Plots 1-2, which according to the plans have a similar finished floor level. But they would be visible from someone approaching the site from the north-east and from some neighbouring properties.

It is considered that the proposed dwellings, by reason of their prominent and steeply pitching roofs, would be out of keeping with the established residential development. This would be detrimental to visual amenity and contrary to the aims of LP24a and NPPF Chapter 12.

3 – Impact on residential amenity: The larger new dwellings would provide acceptable internal space having regard to the Nationally Described Space Standards. Plots 1-2, at 68 sqm, would be marginally below the recommended 70sqm, but given the extant approval, this can be accepted. Plots 1-2 would not have much outdoor amenity space, but provision is better than in the 2017 approval. The provision of outdoor amenity space for 3 would, in effect, be broken up into four separate parcels, but these would amount to 180sqm altogether. The layout of amenity space would not be ideal

from the point of view of convenience, but it would be difficult to justify a refusal on these grounds. For 4-5, provision is deemed acceptable.

It is considered that the siting and design of dwellings on Plots 1-2 and 4-5 would be sufficient to avoid mutual overlooking or any overbearing impact arising from blockage of natural light either to 1-5 Fernside Avenue to the south-east or Bank End Lane to the south-west. It is noted that the main south-west facing windows would be 21m from the opposing rear elevation of 3-5 Fernside Avenue which is considered an appropriate distance although under the Local Plan it is no longer a statutory recommended minimum.

In the case of plot 3, the window to bedroom 4 would be about 8m from the boundary with the nearest residential curtilage. Bedroom 1's rear window would be much closer – roughly 4m from the curtilage boundary and 16m from this property's rear elevation. The direct line of sight from the new window would be at a shallow angle – about 30 degrees from the line of the boundary – and would be towards the corner of no. 8 and no. 7's curtilage. The finished floor levels would, however, not be significantly lower than would existing ground levels as shown on the topographical survey. There is a high evergreen hedge along part of the boundary but it finishes before the boundary line with no. 7, giving way first to a privet hedge and then a fence.

The 8m distance to the boundary with no. 8 is considered just about sufficient to avoid overlooking of gardens given the change in levels (no. 8 being lower). It would be about 18m from the nearest upper floor habitable room window in no. 8. This would be at a steeper angle than in the case of no. 7's windows but is still much less than 90 degrees.

It is considered that, whilst this is a finely-balanced case, the dwelling on Plot 3 would provide adequate levels of privacy for the new and existing dwelling. However, the scale of the dwelling on an elevated site – in particular the high roof pitch referred to earlier – would be liable to affect the outlook of no. 7 in particular, and could be deemed to have an overbearing impact

The development would therefore not allow existing dwellings to enjoy an acceptable standard of amenity and would not accord with the aims of LP24b.

4 – Impact on highway safety: LP21 states that proposals must avoid a detrimental impact on highway safety and ensure the safe and efficient flow of traffic within the development and the surrounding highway network. LP22 states that plans should demonstrate how the design and amount of parking proposed is the most efficient use of land as part of encouraging sustainable travel.

The proposed layout shows 10 parking spaces. These are shown allocated as 2 per dwelling. A realistic assessment of parking demand would have to take into account the differences in the amount of living accommodation per dwelling, as well as the site's accessibility by a range of means of transport.

The site entrance is about 70m from the proposed shared entrance to the site to a bus stop of Town End, but this has only a few services a day. The nearest bus stop with a frequent service (several times an hour at peak) is on Northgate over 400m away. The site is therefore considered to have moderate public transport accessibility.

There are no numerical standards in the adopted Local Plan – the Highway Officer response refers to draft Highway Design Guide but this has not been afforded significant weight in the case officer's assessment. The largest of the 3 dwellings, Plot 3, has 4 bedrooms and additional room in the attic which could form further bedrooms or other habitable space. This should not be allocated fewer than 3 spaces. The other two dwellings are also 4-bedroom. These are somewhat smaller, being approximately 125sqm floor area, but it is considered on balance that these should also have 3 spaces each unless a lower level of provision can be clearly justified. For Plots 1 and 2, which have two bedrooms each, one space per dwelling might suffice if it was on, or very close to a route with a frequent bus service, which is not the case here and so 2 spaces per dwelling should be regarded as normal unless a lower level is clearly justified. This would amount to 13 spaces. Finally, there is no provision made for visitor parking.

The development would not result in the loss of any formally allocated parking for an existing dwelling and so it would not be possible to justify a refusal on the grounds of displacement of existing parking.

The case officer emailed the architect in July advising him that the level of parking provision was unacceptably low, but did not receive a response.

It is considered probable that the low level of parking provision shown would result in more vehicles parking on the public highway. The carriageway of Fernside Avenue is about 7.5m wide and there is a strip of land within the footway with a lowered kerb (on the north-west side near the junction and on both sides further down) which acts as a parking lay-by. This means that vehicles parked at the side of the road would just about leave space for two vehicles to pass each other. The parking lay-by near the junction was not heavily used at the time of the case officer's site visit, but there was a lot more usage of on-street parking further down Fernside Avenue. The level of traffic on Fernside Avenue was very low on occasions when the case officer visited the site but may experience much higher levels of traffic around school opening and closing times as Greenside Infant and Nursery School is on Fernside Avenue 650m to the north-east.

It is considered that in the absence of detailed justification for the relatively low level of parking provision, there is a significant risk that increased on-street parking would interfere with the convenience of highway users and create safety problems, contrary to the aims of Policies LP21-22.

5 – Other matters:

Drainage:
The application form states that drainage of surface water is to be by a soakaway. In general this option is preferable to mains drainage – details would need to be sought by condition if officers were minded to approve.

Ecology:
The site is considered to have limited ecological value and the bat survey submitted demonstrates that the site is unlikely to host bat roosts. In the event of officers being minded to approve, an ecological design strategy could be conditioned.

Refuse collection:
Refuse storage and collection arrangements are deemed acceptable.

Housing supply and efficient use of land:
It is considered that the development would not respect the prevailing character of the area or be compatible with the aims of securing well-designed, attractive and healthy places in NPPF Chapter 11. As previously stated, the Council can demonstrate a supply of land in excess of 5 years.

Minerals safeguarding:
Under Policy LP38, a Mineral Resource Assessment should normally be submitted for sites over 1000sqm. The site is over 1000sqm, even excluding the part that already benefits from planning permission. But since it is in an established residential area where it would be impossible to provide a satisfactory stand-off distance (usually 100m) from dwellings, mineral extraction is impracticable in any case.

6 – Representations: The issues of residential amenity and highway safety have been examined in the main part of the Assessment but are highlighted here together with other issues raised.

1. It will block foot access to existing dwellings (1-5)

2. It will interfere with rights of way for vehicles from the existing access road to the land to the right of the new accessway. The alternative access would not work;

Response (1-2): Interference with private rights of access is generally treated as a private civil matter. It is noted that it would potentially limit or interfere with existing access routes but it would not be possible to substantiate a refusal on this basis.

3. Current landowner has not agreed to the proposed visibility splay;

Response: The Highways Officer has not raised junction visibility as an concern. In the event of officers being generally minded to approve, there might be ways of resolving this issue.

4. Insufficient new parking spaces;

Response: This is considered to be substantiated as a concern.

5. Fernside Avenue is a busy school route;

Response: It is noted that traffic levels would be higher during the school run.

6. Overlooking from plots 4 and 5 into adjacent house and garden;

Response: In officers' view (see part 3 of the Assessment), the potential for overlooking is not a significant cause for concern. Boundaries could be given appropriate screening in the event of officers being minded to approve.

7. Has there been any consideration given to wildlife?

Response: This has been taken into consideration – see "Ecology" in Section 5 of the Assessment above.

8. Additional comment – the new access will at least have the advantage of being safer than the existing corner access, and landscaping at the front will improve the appearance of Plots 1-2, but this does not overcome our objections.

Response: Noted.

The Ward Councillor's comments are noted; it is also noted that Councillor McGuin did not formally express a view on the issues of highway safety, access or residential amenity but merely highlighted these as potential concerns.

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 adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation – REFUSE PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2019/91617

Officer Recommendation: REFUSAL

Reason for Refusal

1. The proposed dwellings on Plots 3-5, by reason of their prominent and steeply pitching roofs, would be out of keeping with the character of established residential development and would be liable to have an overbearing impact upon established residential development, in particular neighbouring properties on Rockley Close to the north. This would be detrimental to visual and residential amenity and contrary to the aims of LP24 (a) and (b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. It is considered that, taking into account the amount of living accommodation provided within the proposed dwellings, especially the larger units on Plots 3-5, the accessibility of the site by public transport, and the absence of any written justification for the relatively low level of parking provision, there is a significant risk that the development would interfere with the safe and efficient flow of traffic as a result of increased parking on the public highway, contrary to the aims of Policies LP21-22 of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			10-Jul-2019
Existing elevations	(EX)02		13-Jun-2019
Topographical site survey			13-Jun-2019
Location plan, site plan and sections as proposed	(AL)30	a	13-Jun-2019
Elevations and floorplans plots 1-2	(AL)31		13-Jun-2019
Floorplans plots 3-5	(AL)32		13-Jun-2019
Elevations plots 3-5	(AL)33		13-Jun-2019
Bat survey			13-Jun-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. The applicant was approached regarding amendments to the application but did not provide the amendments requested and so it was determined on the basis of the submitted scheme. For the

reason set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report Dated: 16-Oct-2019