

**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: 2019/62/92723/E

Site Address: adj, 41/43, Bank Street, Mirfield, WF14 9QF

Description: Erection of two dwellings

Recommending Officer: Liz Chippendale

DECISION – Conditional 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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 06-Jul-2020

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Site Description

The application site is an area of open space with a single mature tree on the North East corner. There is a single unadopted footpath which goes from North West to South East through the site following the slope of the site.

The application site is set within a predominantly residential area with a mixture of terraced, detached and semi-detached bungalows and two storey dwellings.

The application site is unallocated within the Kirklees Local Plan.

Description of Proposal

The application is sought for the erection of 2 no. semi-detached, four bedroom dwellings. The dwellings will be set over two floors with 2 no. bedrooms within the roof space.

The proposed dwellings have an eaves height of 5.5m and ridge height of 8.5m. The width of the dwellings are 6.5m with a depth of 10m. The attached garage is located centrally to the dwellings and to the north of plot 1 with a width of 3m, eaves height of 2.4m and ridge height of 4m. Each dwelling has a single storey element to the rear which projects 2.8m.

The dwellings have an enclosed rear amenity space with a small enclosed yard to the frontage and driveway. Plot 1 has 2 no. vehicle parking spaces to the frontage and a garage space. Plot 2 has 1 no. parking space to the frontage and a garage space.

The proposed construction materials are Marshalls Cromwell weathered pitch with grey interlocking concrete tiles roof. The proposed boundary treatments are a timber fence to the North, East and South boundaries and a beech hedge to the Western boundary.

History of negotiations/amendments received

The applicant was approached to submit amended plans to show the following:

- Revised site plan to show improved visibility at the junction of Nab Lane and Bank Street

Following the receipt of a draft set of planning conditions for the development, the applicant chose to submit site investigation reports and an Ecological Design Strategy in order to avoid the need for a pre-commencement condition attached to a permission. These documents were submitted and considered to be acceptable.

A Phase 1 site investigation report was also submitted to support the application. This was considered to be acceptable by Environmental Health Officers and agreed that development could commence on the sub-structure of the dwellings prior to the submission of gas monitoring results which is secured by an agreed condition.

Relevant Planning History

2019/20137 Pre-app for the erection of 2 dwellings
Positive advice given

Representations

Final publicity date Expires: 05.11.2019

7 no. representations were received as a result of the public consultation period. A summary of the comments is as follows:

- Bank Street is a narrow road with limited parking. An additional two dwellings with several vehicles each will have a huge impact on current residents.
- The dwelling will restrict the view of drivers turning into Bank Street from Nab Lane and vice versa. Nab Lane is a major public transport link with a primary school and used by residents for on-street parking.
- Dangers to residents, pedestrians and drivers throughout the construction process.
- Concerns over boundary wall which could be disturbed/fall during construction.
- It would be a great shame to lose the two blossom trees on the site.
- A count of 27 cars were parked on Bank Street one evening. The additional dwellings would add to this as the road is already often a single-track road.
- The driveway to plot 2 is opposite Quarryside Road which will cause further problems.
- It will be a shame to lose 'the triangle'.
- A mature fully grown tree was felled shortly after the sale of the land presumably without permission.
- The dwellings look to be very close to existing dwellings and the yellow stone will out of place.
- Problems caused by commercial vehicles using Bank Street to reach Nab Lane.

Consultation Responses

The Coal Authority – *No objection subject to condition*

K.C Highways Development Management – *No objection subject to condition*

K.C Environmental Health – *No objection subject to condition*

K.C Trees – *No objection*

K.C Ecology – *No objection subject to condition*

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 within the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety
- **LP 24** – Design
- **LP 33** - Trees
- **LP 51** – Protection and improvement of local air quality
- **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 24th July 2018, 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 5** – Delivering a sufficient supply of homes
- **Chapter 12** – Achieving well-designed places

Supplementary Planning Guidance/documents:

Highways Design Guide Supplementary Planning Document

Assessment

Principle of development:

Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

The application has no specific allocation within the Kirklees Local Plan. As such Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

The application site is an open green space which was previously within the ownership of Kirklees Council. Although the site is a small green space, it is not referenced within the Local Plan as urban green space or amenity green space. There are also other nearby urban green spaces which can be used by local residents.

Chapter 5 of the NPPF states that it is the Government's objective to significantly boost the supply of homes. As the proposal is for the erection of 2 no. dwellings, the proposed development supports this aim.

Impact on visual amenity

Policy LP24 states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by The National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local characterwhile not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).

The application site is set within a predominantly residential area with a mixture of build types. The site is an open piece of land with a mature tree to the North East. The Tree Officer has confirmed that the tree is not protected and thus there are no objections to its removal.

The proposed scale and design of the dwellings is considered to be acceptable within the site context. The site is made up of a mixture of tenures and built form and so there is no specific character as such.

The dwellings are stepped following the development pattern of existing dwellings on Bank Street and gradient of the land. The frontage of the dwellings will have a low retaining wall and fence above similar to other dwellings within the street scene.

The elevation facing Nab Lane is the North elevation of the attached garage which is set back. The dwelling elevation also hold 2 no windows. The difference in roof heights and windows add interest to this elevation which is directly adjacent to the Nab Lane street scene.

The dwellings will be constructed from tumbled and dyed stone with a grey calderdale slate roof. The predominant material of construction within the vicinity of the site is stone, however there is a mixture of red brick and render also. Therefore, the proposed materials could be considered acceptable.

For the reasons outlined above, the proposed dwelling is considered to be appropriate from a visual amenity perspective. The proposal therefore complies with Policies LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

The closest neighbouring residential dwellings are 109 Nab Lane; 28 Bank Street; 43 and 41 Bank Street and 106 Nab Lane.

109 Nab Lane is a detached two storey dwelling set to the West of the application site with a separation distance of 8.5m at an angle to the rear of the proposed dwellings. There are no windows within the side elevation of the neighbouring dwelling. There are no concerns on the impact of residential amenity of residents.

28 Bank Lane is a two storey semi-detached dwelling set to the North East of the application site which is separated by Bank Street. There are no windows within the West elevation of the neighbouring dwelling. There are no concerns on the impact of residential amenity of the residents.

43 and 41 Bank Lane are two storey, back-to-back dwellings set to the South of the application site. There is a distance of 1.4m between the dwellings although the application site is set a slightly higher level.

106 Nab Lane is a detached bungalow set to the North of the application site. The site is bordered by a boundary wall and fence therefore there are limited views of the dwelling from the street scene, therefore there are no considered impacts on residential amenity.

The proposed 4 no bedroom dwellings are considered to have acceptable levels of residential amenity provided both internally and externally for future residents.

It is considered that the proposed dwellings would not impact upon the residential amenity of any occupants of neighbouring properties or future occupiers and complies with guidance within Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Impact on highway safety:

The application seeks approval for the erection of 2 no. semi-detached four bedroom dwellings on land adjacent to 41/43 Bank Street, Mirfield. Access to the dwellings will be taken from Bank Street.

LP22 sets out the criteria for establishing parking requirements for new development which should be evidence based within the planning application. It is noted that one of the proposed 4 no. bedroom dwellings has an off-street parking provision for two vehicles only, with no supporting information to the contrary. However, given that there would be sufficient on-street provision to accommodate a third vehicle, on balance, the proposal would be acceptable.

A revised plan was submitted (ref: 1936/A(10)-01-Rev A) which indicates that a strip of land will be dedicated a footway to ensure that a suitable visibility splay can be maintained at the junction of Bank Street and Nab Lane. This proposal is considered to be acceptable and overcomes previous concerns.

Subject to the addition of conditions relating to the surfacing and drainage of parking areas; submission of bin storage/collection points and the clearance of visibility splats, the proposed development is therefore considered to be in compliance with policy LP21 and LP24 of the Kirklees Local Plan subject to the addition of conditions relating to the surface and drainage of the parking surfaces.

Representations

7 representations were received as a result of the public consultation period. So much as the points have not been addressed above:

- Bank Street is a narrow road with limited parking. An additional two dwellings with several vehicles each will have a huge impact on current residents.

Response: The parking provision is assessed in detail within the above report

- The dwelling will restrict the view of drivers turning into Bank Street from Nab Lane and vice versa. Nab Lane is a major public transport link with a primary school and used by residents for on-street parking.

Response: The visibility splays at the junction of Nab Lane and Bank Street are assessed in the report above

- Dangers to residents, pedestrians and drivers throughout the construction process.

Response: Any disturbance caused by developers should be reported to Environmental Health team if noise disturbance or the police for obstructions.

- Concerns over boundary wall which could be disturbed/fall during construction.

Response: This is considered to be a private matter and one in which the Local Planning Authority would have no powers of control

- It would be a great shame to lose the two blossom trees on the site.

Response: The trees have been assessed by the Kirklees Trees Officer and addressed in the report above.

- A count of 27 cars were parked on Bank street one evening. The additional dwellings would add to this as the road is already often a single-track road.

Response: The impact of the proposal on highway safety is addressed fully in the above report.

- The driveway to plot 2 is opposite Quarryside Road which will cause further problems.

Response: The impact of the proposal on highway safety is addressed fully in the above report.

- It will be a shame to lose 'the triangle'.

Response: The application site is unallocated within the Kirklees Local Plan and is therefore suitable for development subject to an appropriate scheme#"

- A mature fully grown tree was felled shortly after the sale of the land presumably without permission.

Response: The trees on the site were not protected and therefore permission was not required for their removal

- The dwellings look to be very close to existing dwellings and the yellow stone will out of place.

Response: An assessment of residential and visual amenity is included within the above report

- Problems caused by commercial vehicles using Bank Street to reach Nab Lane

Response: The impact of the proposal on highway safety is addressed fully in the above report.

Other Matters

Coal Mining History

The application site is located within a high risk development area therefore the applicant submitted a Coal Mining Site investigation (dated February 2020, by Your Environment) report to support the application.

The Coal Authority concurs with the recommendations of the Coal Mining Site Investigation Report; that coal mining legacy potentially poses a risk to the proposed development and that remediation works should be undertaken prior to development in order to ensure surface stability. A condition will be

added to ensure that the remediation works identified within Section 9.2 of the Coal Mining site investigation report are implemented on site.

Climate Budget

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Taking into account the above, in order to successfully address the climate change challenge, a condition has been added to the secure vehicle charging points within the development in order to reduce the emissions associated within the proposed development. When considering the small scale of proposed development, the electric vehicle charging points are considered to be proportionate to the scale of the development.

Land Contamination

The site has been identified on the Kirklees mapping system as potentially contaminated land due to its proximity to former quarry.

A phase 1 contaminated land report by Earth Environmental dated December 2019 (Ref: B1142/19) was submitted. In the conceptual model of the report (pg 13), land gas contamination is classified as moderate to low. The receptor would be classified as high with the development being residential with gardens, therefore according to CIRIA C665 it would be expected that gas monitoring has taken place over a 3 month period. Conditions would therefore be added for further site investigations to take place.

KC Environmental Health Officers have confirmed that groundworks can commence on the site of the superstructure 'pre-above ground floor level' to allow for the development to commence whilst carrying out the required gas monitoring. If remediation of the site was required following the monitoring, this could be implemented prior to further works on the dwellings.

Air Quality

The development has been assessed in accordance with the West Yorkshire Low Emission Strategy planning guidance. A condition is required for the installation of 1 vehicle charging point.

Trees

The Kirklees Trees Officer has assessed the 3 no. trees on site which are not protected and are not considered to meet the criteria for a new Tree Preservation Order to be served. Therefore, there are no objections to the loss of the trees.

Ecology

In order that the development provides ecological enhancement measures in accordance with Policy LP30, the applicant was advised that an Ecological Design Strategy (EDS) would be required which was submitted. The EDS is considered to be acceptable and will be subject to condition for its implementation.

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 – Conditional Full Permission

Decision Authorisation - Delegated Powers

Application Number: 2019/92723

Officer Recommendation: Conditional Full Permission

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. 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 LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

3. Unless otherwise agreed in writing, prior to the development being brought into use, the approved 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, and thereafter retained.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policies LP21, LP22 and LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

4. Before development commences, the wall on the corner of the junction of Bank Street and Nab Lane shall be constructed as shown on approved plan number (1936/A(10)-01- Rev A) and the area shall be cleared of all obstructions to visibility with the exception of the existing telecommunications cabinet and tarmac surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.

Reason: To ensure adequate visibility in the interests of highway safety, in accordance with Policy LP 21 of the Kirklees Local Plan.

5. Prior to the commencement of the superstructure the remediation measures identified in Section 9.2 of Coal Mining Site Investigation Report (dated February 2020, prepared by Your Environment) have been implemented on site (subject to separate approval by the Coal Authority's Permitting Team).

Reason: To identify and remove unacceptable risks to human health and the environment from coal mining history in accordance with Policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. Prior to occupation of the dwellings, an electric vehicle charging point shall be installed for each dwelling hereby approved. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. Thereafter the electric vehicle charging point so provided shall be retained.

Reason: To promote the use of ultra-low emission forms of transport in the interests of achieving sustainable development and to accord with guidance in the National Planning Policy Framework.

7. The dwellings hereby approved shall be constructed from Marshalls Cromwell weathered pitch faced stone with grey interlocking concrete tiles roof. The development shall be completed using the approved materials, prior to the dwellings hereby approved being brought into use.

Reason: In the interests of the visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

8. Groundworks pre-above ground floor level (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report for gas monitoring purposes has been submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwellings.

9. Where remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 8 further groundworks shall not commence until a Remediation Strategy for gas monitoring purposes 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 identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwellings.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. 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 Phase II Intrusive Site Investigation Report) is identified or encountered on site, all groundworks in the affected area (except 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 from land contamination in accordance with Policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition as it could affect the method of construction of the dwellings.

11. The development shall be in accordance with the approved Ecological Design Strategy by David Watts Associates Ltd dated 20.04.2020. The Ecological Design Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure the development hereby permitted provides ecological enhancement measures in accordance with Policy LP 30 of the Kirklees Local Plan.

12. Before development commences on the superstructure of the dwellings hereby approved, details of storage and access for collection of wastes from the

premises shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety, in accordance with Policy LP 24 of the Kirklees Local Plan.

NOTE

Charging points for single residential properties should meet the requirements specified in the latest version of 'Minimum technical specification – Electric Vehicle Homecharge Scheme (EVHS)' by the Office of Low Emission Vehicles. Cable and Circuitry ratings for the charging points of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps that can provide Mode 3 Charging and has a type 2 socket would be acceptable

NOTE

All contamination reports shall be prepared in accordance with Model Procedures for the Management of Land Contamination – Contaminated Land report 11 (CLR11), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

NOTE

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notices

served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE

The granting of planning permission does not authorise the carrying out of works within the highway, for which written permission of the Council as the Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regards to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings with the highway is deemed to be major works for the purpose 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
Coal Mining Site investigation by Your Environment dated 20 th February 2020	YG0146-20	-	18.03.2020
Phase 1 Geo-environmental desk study report dated December 2019	B1142/19	-	11.12.2019
Plans and elevations	1936 A(10)-01	-	09.10.2019
Environment Agency Flood map for planning dated 5 th June 2019	419291/420538	-	14.08.2019
Topographical Survey July 2019	-	-	14.08.2019
Ecological Design Strategy	BE.1342.1	-	28.04.2020

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 throughout the application process to submit amended plans. The applicant chose to submit details as part of the planning process in order to minimise the need for pre-commencement planning conditions.

Report Dated: 03.07.2020

