

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No: 2019/70/93499/E

Site Address: 9, Far Bank, Shelley, Huddersfield, HD8 8LA

Description: Variation condition 6 (materials) on previous permission 2018/91283 for erection of detached dwelling

Recommending Officer: Olivia Roberts

DECISION – APPROVE VARIATION OF CONDITION 6

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.

Rebecca Drake

AUTHORISED OFFICER

Date: 18-Dec-2019

Officer Report

Site Description

The application relates to 9 Far Bank in Shelley. At the time in which the site visit was undertaken, it was evident that work had begun on the construction of the dwelling approved within the curtilage of the property under application 2018/91283. Within the site and the wider area, the topography slopes from north to south. A number of mature trees are located along the southern boundary which are protected by TPOs.

The site and its surrounding area are characterised by predominantly residential properties which include a mix of bungalows and two and three storey dwellings. Shelley Sports and Social Club and its associated parking, as well as open fields are located to the rear of the site. Whilst there are a mixture of materials used in the buildings in the vicinity of the site, the buildings closest to the application site are constructed mainly of natural stone.

Description of Proposal

The application seeks permission to vary condition 6 (materials) on previous application 2018/91283 for the erection of a detached dwelling.

The roofing materials of the dwelling would comprise bar camp blue roof slate as opposed to the Yorkshire Slate that was approved. A photograph of a sample of the roofing material has been provided along with a sample of the natural stone which will comprise dyed and tumbled natural stone from Watson's Quarry, Brookfoot Lane, Halifax. The agent has requested that this also be considered.

History of negotiations/amendments received

No amendments were sought or received during the course of the application.

Relevant Planning History

2019/92622 – Discharge of condition 6 (materials) on previous permission 2018/91283 for erection of detached dwelling. Withdrawn.

2018/91283 – Erection of detached dwelling. Granted Conditional Full Permission.

Representations

The application was advertised by site notice and neighbour letter which expired on 6th December 2019.

As a result of the above publicity, no representations have been received.

Kirkburton Parish Council comments – responded with no comment.

Consultation Responses

No consultations were considered necessary during the course of the application.

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 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – parking
- LP 24 – Design
- LP 33 – Trees

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 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The application seeks permission to vary condition 6 (materials) on previous permission 2018/91283 for the erection of a detached dwelling.

Condition 6 (materials)

6. The development shall be completed using natural stone for the external elevations and Yorkshire slate for the roof. Samples of materials shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on the superstructure of the dwelling hereby approved.

Reason: To ensure the satisfactory appearance of the development on completion in the interest of visual amenity and to accord with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework.

The roofing materials are proposed to be changed from Yorkshire Stone as approved to bar camp blue slate. Details of the stone for the construction of the dwelling have also been provided for consideration. The stone will comprise dyed and tumbled natural stone from Watson's Quarry, Brookfoot Lane, Halifax.

1 – Principle of development

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

There is no statutory definition of what constitutes a minor material amendment although guidance suggests this should be one "whose scale and nature results in a development which is not substantially different from the one which has been approved".

In this particular case, the scale, nature and description of the development remains the same as previously approved, and as such it is considered that the principle of development has been established in the previous application. This assessment will deal with the merits of the proposed variation.

2 – Impact on visual amenity

Whilst the application site occupies a prominent plot along Far Bank, it is noted that the surrounding area includes a variety of roofing materials including stone slate, slate and concrete roof tiles. As such, it is not considered that the proposed roofing materials, whilst differing in appearance from those approved, would have a significant impact on the visual amenity of either the approved dwelling or the surrounding area.

The details of the proposed stone have also been reviewed and it is considered that this would have a satisfactory appearance in relation to visual amenity.

Taking the above into consideration, the proposal is considered acceptable in respect of policy LP24 of the Kirklees Local Plan. Accepting the proposal would not result in conflicts with the reasons of imposing condition 6.

3 – Impact on residential amenity

Given the nature of the proposal which comprises changes to the roofing materials of the approved dwelling, it is not considered that the proposed amendment would give rise to any residential amenity issues.

As such, it is considered that the proposed amendment would be satisfactory from a residential amenity perspective and compliant with policy LP24 of the Kirklees Local Plan in terms of protecting the amenity of the future and neighbouring occupiers.

4 – Impact on highways safety

There would be no greater impact on highways safety, efficiency and parking as the proposal would involve alterations to the approved roofing materials and as such, would not cause changes to the approved access and parking arrangements. The development as proposed would comply with policies LP21 and LP22 of the KLP.

5 – Other matters

There are no other matters considered relevant to the determination of this application.

As this application is a Section 73 application to vary conditions, it is necessary to re-impose all those conditions which still remain relevant.

Condition 1 – No longer relevant as the development has commenced.

Condition 2 – Still relevant and to re-impose.

Condition 3 – Still relevant and to re-impose.

Condition 4 – Still relevant and to re-impose.

Condition 5 – Still relevant and to re-impose.

Condition 6 – To be varied as assessed above.

Condition 7 – Still relevant and to re-impose.

As the Kirklees Local Plan has been adopted since approval of the original application, it would be necessary to amend all reasons for conditions with the relevant local plan references.

6 – Representations

No representations received as a result of the statutory publicity.

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 – Vary Condition 6

Decision Authorisation - Delegated Powers

Application Number: 2019/93499

Officer Recommendation: Vary Condition 6

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21, LP22, LP24 and LP33 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

2. Before first occupation, the developer shall provide written evidence to the Local Planning Authority to demonstrate that the following internal sound levels have been achieved:

a. The 16hr LAeq shall not exceed 35dB between 0700 and 2300 hours when readings are taken in any noise sensitive rooms in the development.

b. The 8hr LAeq shall not exceed 30dB between 2300 and 0700 hours when readings are taken inside any bedroom in the development.

c. The LAF1 (15min) indoor shall not exceed 45 dB between 2300 and 0700hrs when readings are taken inside any bedroom in the development.

If it cannot be demonstrated that the aforementioned sound levels have been achieved, a further scheme incorporating further measures to achieve those sound levels shall be submitted for the written approval of the Local Planning Authority. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned

Reason: This is a pre-occupation condition to ensure that measures of attenuation can be incorporated into the development at an appropriate stage and in the interest of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

3. The site shall be developed in accordance with Plan 2528-01B which shows sightlines 2.4 metres x 43 metres cleared of all obstructions to visibility exceeding 0.9 metres. Before any building is occupied the development shall be completed in accordance with the details shown on the approved plan and retained thereafter. **Reason:** In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements and parking, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

4. Prior to occupation of the dwelling, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging points 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 policies LP24 and LP51 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.

5. The external walls of the dwelling shall be finished in natural stone from Watson's Quarry, Brookfoot Lane, Halifax.

Reason: To ensure the satisfactory appearance of the development on completion in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework.

6. The roofing materials of the extension hereby approved shall be finished in Bar Camp roof slate.

Reason: To ensure the satisfactory appearance of the development on completion in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework.

7. The development shall be completed in accordance with the tree protection barrier information received on the 20th June 2018. The protective barrier shall be installed in accordance with BS5837:2012. The protection barrier shall be installed in the position as shown on the site plan 2528-01B prior to development commencing and remain in situ until the development is complete.

Reason: So as to protect the viability of the protected trees located within the application site and to comply with the aims of Policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

NOTE: The approved vehicle parking areas need 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.

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 13.00 hours,
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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed Materials	2528_IMG_01 Materials		24th October 2019
Planning Statement (as approved under application 2018/91283)	Acumen 2528		19th April 2018
Location Plan, site plan and site sections (as approved under application 2018/91283)	2528-01B		2nd August 2018
Plans and elevations as proposed (as approved under application 2018/91283)	2528-02		19th April 2018
Arboricultural Report (as approved under application 2018/91283)	14183/AJB		20th June 2018
Tree protection area (as approved under application 2018/91283)	Refer to 2528-01B		31st July 2018

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.

As the submitted details were considered to be acceptable, no changes were sought.

Report Dated: 18/12/2019