

**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: 2019/62/93605/E

Site Address: April Court, Roberttown, Liversedge, WF15 7RB

Description: Erection of 1 dwelling

Recommending Officer: Nia Thomas

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.

Paul Dowd

AUTHORISED OFFICER

Date: 03-Sep-2020

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Officer Report

Site Description

The site at April Court relates to a piece of vacant land to the east of Huddersfield Road. The piece of land is overgrown and is on a slightly higher level than the dwellings to the east of the site. The site is accessed from April Court off Huddersfield Road.

Surrounding the site is a variety of dwelling types, with a terraced row of dwellings to the west and predominantly semi-detached properties to the north, south and east.

The site is unallocated on the Kirklees Local Plan.

Description of Proposal

Planning permission is sought for the erection of one dwelling on a triangular piece of land as shown on the submitted block plan.

The dwelling would be two storeys and would be constructed of brick for the external walls and concrete tiles for the roof.

The block plan shows parking to the front of the site. The site would be accessed from April Court.

History of negotiations/amendments received

The case officer has been in negotiations with the agent with regards to the reduction in the number of dwellings at the site, the parking arrangements and, subsequently, the design of the dwelling. The agent has also provided section plans. The case officer is satisfied that the amendments overcome officers' initial concerns.

Relevant Planning History

98/90234 – Erection of detached bungalow REFUSED (adjacent to 1-5 April Court)

2000/90634 – Erection of detached two bedroomed bungalow REFUSED
APPEAL DISMISSED (April Court)

2008/93356 – Erection of detached bungalow REFUSED (land opposite 1-5 April Court)

Representations

Final publicity date Expires: 20.8.2020 (second round of publicity)

All comments have been considered and the material considerations raised have been addressed within this report.

Following the initial publicity period, 9 representations were received raising the following points:

- Land was to be landscaped for the residence of April Court
- Several applications been refused on this land
- Residential amenity – overlooking, loss of privacy and loss of light
- Highway safety – insufficient space for emergency vehicle to manoeuvre within April Court, visibility
- Lack of parking
- Overdevelopment
- Mature trees felled

Following the extended publicity period, after the receipt of amended plans, 7 representations were received raising the following additional points:

- Plan was changed without public notice
- Safety of pedestrians
- Future issue of boundaries
- Smaller house previously got refused

Officer comments will be made in section 6 of this report.

No parish/town council comments are required.

Consultation Response

Highways DM – no objection to one dwelling on the site. See highway safety section of this report.

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
- **LP21** – Highway Safety

- **LP22** – Parking Provision
- **LP 24** – Design
- **LP27** – Flood Risk
- **LP30** – Biodiversity and geodiversity
- **LP51** – Local air quality
- **LP53** – Unstable and 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 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, coastal change and flooding
- Chapter 15 – Conserving and enhancing the natural 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
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

In this case, the principle of development on the application site is acceptable and shall be assessed against other material planning considerations below.

Chapter 11 of the NPPF also states that planning decisions should promote an effective use of land, in meeting the need for homes and uses, while

safeguarding and improving the environment and ensuring safe and healthy living conditions. The proposed development complies with the aims of this policy.

2 –Impact on visual amenity:

The impact on visual amenity is acceptable. Careful consideration has been given to the character of the area and the context of the proposed development. As stated in Chapter 12 of the NPPF, planning decisions should ensure that developments function well and add to the overall quality of the area and are visually attractive.

In this case, the proposed development is of an acceptable design in an area of varied scales of designs of the dwellings. The site is unallocated and the majority of the dwellings are constructed in brick and are of a simple design. The roof form and fenestration details are acceptable and would not result in a dwelling that is out of keeping in the area. Careful consideration has been given to the form of development in the area. As was evident from the site visit and from the desktop assessment aerial photograph, the area is characterised by a terraced row and semi-detached dwellings, enclosing the small piece of land to which this application relates. As the land is not a valuable area of open space and the area is not characterised by a uniform form of development, it is considered that a dwelling in this location would not result in an incongruous feature in its setting.

Instead, the proposed dwelling would redevelop a vacant piece of land and would make efficient use of this current overgrown area, which does not contribute positively to the quality of the area. It is considered that by developing this piece of land, the development and associated amenity space would optimise the potential of the site in accordance with paragraph 127 of the NPPF. The dwelling would face onto April Court and would provide an active frontage when entering the cul-de-sac. This would create a positive contribution to the area, which would be acceptable in the street scene and would enhance the quality of the area and how it functions.

It is noted that the planning history of the site relates to previously refused applications, which include reasons relating to visual amenity and overdevelopment of the site. The case officer has considered these refused applications and they can be summarised as follows:

- Overdevelopment of the land
- Detrimental to the visual amenity of the area
- Amenities of adjoining occupiers
- Site is Greenfield, where development is not considered to be acceptable.

Summary of previous appeal decision:

- Loss of this land would severely diminish this outlook and would adversely impact on enjoyment of April Court

- Over-development of the site and the locality
- Overlooking to existing occupiers of neighbouring buildings, loss of privacy for future occupiers of bungalow
- Priority for development should be previously developed land
- Satisfied that the proposal would have two off street parking spaces and would not cause significant highway safety problems.

The case officer has considered the changes in local and national planning policy since the previous application and appeal. It is noted, as stated above, that Chapter 11 of the NPPF places significant emphasis on ensuring that there is an efficient use of vacant land. This has been given appropriate weight in the decision-making process for this application.

The agent's block plan shows how the dwelling would sit within the site, with an adequate area of amenity space remaining within the site to ensure that the future occupiers of the dwelling have an area for the enjoyment of the dwelling. A condition has been recommended to remove Permitted Development rights to ensure that future extensions and additions would not result in over-development.

Residential amenity will be discussed below. The agent has submitted section plans to demonstrate that the relationship with neighbouring dwellings would be acceptable.

Considering the above, the proposed development complies with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity:

The impact on residential amenity is considered acceptable, although several representations have been received. These will be covered in section 6 of the officer report.

Impact on the terraced properties to the west of the application site

The agent's block plan shows the relationship between the proposed dwelling and this row of terraced properties. There is a distance of 19 metres between habitable-room windows and, therefore, consideration has been given to whether this distance is sufficient to ensure an acceptable level of amenity for the existing occupiers.

Whilst the previous UDP set out distances required between properties, the Kirklees Local Plan does not prescribe distances, but instead confirms that the amenity of existing occupiers needs to be considered, in circumstances where habitable rooms would face each other. In this case, given the differences in ground levels (the application site is on a slightly lower level) and the fact that 19 metres is a reasonable separation distance, it is considered that there would be no significant harmful overbearing or overlooking/loss of privacy that would be sufficient to warrant refusal of the planning application.

Properties on Lumb Lane to the north-west

The applicant has provided a section drawing which demonstrates the relationship between the proposed dwelling and those on Lumb Lane, which sit on a slightly lower level and have habitable-room windows in their side elevations. The section plan shows a distance of 14 metres between the side elevation of the proposed dwelling and the rear elevation of the neighbouring property. The plan also shows that the proposed dwelling would have a lower eaves and ridge height than the closest neighbouring dwelling on Lumb Lane. It is considered that the section plan shows that, on balance, the relationship between the properties would be acceptable and would not result in a significant overbearing or overshadowing impact, sufficient to warrant refusal of the planning application.

In terms of overlooking/loss of privacy, there are no openings in the side elevation facing this site and, therefore, there would be no overlooking to the neighbouring amenity space or the dwelling itself. In terms of future openings, at ground floor level, there is a fence between the properties, so there would be no harmful overlooking or loss of privacy and any future first floor openings would be controlled by the GPDO.

Properties on Huddersfield Road to the northeast

The agent has also provided a section drawing to demonstrate the relationship between properties on Huddersfield Road and the application site. This section plan shows the neighbouring dwellings on a lower level. These dwellings have habitable-room windows in their rear elevations and, therefore, careful consideration has been given to the relationship between the properties.

The distance of 12 metres between the rear elevation of both the neighbouring property and the application property is considered, on balance, to be acceptable. As can be seen from the block plan, the dwelling does not have a direct relationship with any of the properties fronting onto Huddersfield Road, thus the potential impact of the additional bulk and massing is reduced to an acceptable level. Given this relationship, and the fact that the scale of the proposed dwelling is not inappropriate for the site (the eaves height is the same as the neighbouring property, and the dwelling sits lower than the ridge), any overbearing impact would not be sufficiently harmful to constitute a valid reason for refusal.

In terms of overlooking/loss of privacy, there are habitable-room windows at ground floor level and a first-floor window facing to the rear – this is serving a landing and is, therefore, considered non-habitable. The ground floor windows will be screened. A condition has been recommended to ensure that no future openings are inserted in the rear elevation of the dwelling, if approved. This is to ensure that there would be no future overlooking potential.

Overall, the proposed development complies with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

4 – Impact on highway safety:

The impact on highway safety is acceptable. Highways Development Management has been consulted on the application and there is no objection to the proposed scheme. The proposals do not affect the internal turning within the site and the visibility from Huddersfield Road will not be altered in any way.

In terms of parking provision, the plan shows two parking spaces for the dwelling which is acceptable to ensure that the displacement of vehicles will not occur on the highway, and the existing parking provision for residents will not be altered. It is also noted that there is scope within the application site to provide bin storage and collection, and, therefore, this aspect can be dealt with the inclusion of a suitable condition.

Considering the scale of the development, the site circumstances would ensure that there would be no highway safety issues, which would warrant refusal of the planning application. It is also noted that as part of the previous refusals, highway safety did not form a reason for refusal for the applications.

The proposed development complies with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Amended plans – The amended plans have been re advertised to members of the public, given the extent of the changes that were proposed in comparison with the scheme that was initially publicised.

Ecology – The application site is in the bat alert layer and, therefore, ecology considerations are important. In this case, the site is currently waste land and, from the site visit, is considered not to have significant ecological value. Therefore, to comply with policy LP30 of the Kirklees Local Plan, and provide a biodiversity net gain, a condition is recommended to ensure that a bat or bird box would be provided, integral to the dwelling. Given the small scale of the development, this is acceptable.

The proposed development complies with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the NPPF.

Permeable surfacing – to accord with the Environment Agency's guidance on permeable surfacing and to avoid harmful surface water run off, a condition has been recommended to ensure that any additional hardstanding would be constructed from a permeable surface in accordance with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the NPPF.

Description of development – the agent has agreed to the description of development being altered to reflect that the proposal is for the erection of one dwelling, rather than the two dwellings that were initially proposed.

Level of decision making – overall, 16 representations have been received regarding this application. However, the case officer notes that these comments result from two publicity periods, and several comments have been duplicated. For this reason, it is considered that, in accordance with the Council's scheme of delegation, the application may still be determined at officer level.

Pre-commencement condition – the agent has agreed the conditions in writing.

6 – Representations:

Following the initial publicity period, 9 representations were received raising the following points:

- Land was to be landscaped for the residence of April Court
Officer comment: this is noted.
- Several applications been refused on this land
Officer comment: the planning history of the site is noted and is covered in the visual amenity section of this report.
- Residential amenity – overlooking, loss of privacy and loss of light
Officer comment: see residential amenity section of this report.
- Highway safety – insufficient space for emergency vehicle to manoeuvre within April Court, visibility
Officer comment: see highway safety section of this report.
- Lack of parking
Officer comment: see highway safety section of this report,
- Over-development
Officer comment: see visual amenity section of this report.
- Mature trees felled
Officer comment: the trees were not protected by TPO.

Following the extended publicity period, after the receipt of amended plans, 7 representations were received raising the following additional points:

- Plan was changed without public notice
Officer comment: a site notice was erected at the site during the initial round of publicity. Subsequently, neighbour letters were sent to publicise the amended plans. This is acceptable and follows statutory publicity requirements.

- Safety of pedestrians
Officer comment: see highway safety section of this report.
- Future issue of boundaries
Officer comment: Certificate A has been signed and no queries of ownership have been raised during consideration of the application.
- Smaller house was previously refused
Officer comment: the refused applications have been considered and referred to in the report above.

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

Decision Authorisation - Delegated Powers

Application Number: 2019/93605

Officer Recommendation: Approve

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 to ensure the satisfactory appearance of the development on completion, and to accord Policies LP21, LP22, LP24, LP30, LP51 and LP53 of the Kirklees Local Plan and Chapters 9, 12, 14 and 15 of the National Planning Policy Framework.

3. The external walls and roofing materials of the dwelling hereby approved shall in all respects be constructed from brick for the external walls and concrete tiles for the roofing materials. The approved materials shall thereafter be retained.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord Policies LP21, LP22, LP24, LP30, LP51 and LP53 of the Kirklees Local Plan and Chapters 9, 12, 14 and 15 of the National Planning Policy Framework.

4. The development shall not be brought into use until all areas indicated to be used for paving on the submitted site plan have been marked and 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) these areas shall be so retained, free of obstructions and available for the use(s) specified on the site plan (ref. 33NL04).

Reason: In the interests of satisfactory and sustainable drainage and to comply with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

5. 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, complying with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order (with or without modification)) no extensions or buildings other than those expressly authorised by this permission shall be erected within the red line boundary of the application site shown on the approved plans at any time.

Reason: In the interest of visual amenity and to avoid overdevelopment of the site in accordance with Policy LP24 of the Kirklees Local Plan as well as Chapter 12 of the National Planning Policy Framework.

7. Before development commences, details of suitable storage, bin presentation points and access for collection of wastes from the dwellings hereby approved 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: To meet the requirements set out in Local Plan Policy LP24 in the interests of highway safety.

8. 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) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the rear elevation of the dwelling hereby approved.

Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

NOTE: Due to its location, Bats may be present on or near to the application site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Block plan	8057/1	-	16.7.2020
Grouped floor plans and elevations	19/87	ii	13.7.2020
Location plan	1:1250	-	13.7.2020
Proposed site sections	19/87	-	13.7.2020
Design and Access	-	-	04.11.2019

Plan Type	Reference	Version	Date Received
Statement			

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 has, 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 case officer has been in negotiations with the agent with regards to the reduction in the number of dwellings at the site, the parking arrangements and, subsequently, the design of the dwelling. The agent has also provided section plans. The case officer is satisfied that the amendments overcome officers' initial concerns.

Report Dated: 03.09.2020