

**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: 2019/62/93903/W

Site Address: 122A, Laund Road, Salendine Nook, Huddersfield,
HD3 3TY

Description: Erection of one dwelling and associated works

Recommending Officer: Neil Bearcroft

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 05-Feb-2021

Officer Report

Site Description – 122A Laund Road, Salendine Nook, Huddersfield, HD3 3TY

The site is a single plot of land that forms part of a wider L shaped site which formed part of the domestic curtilage and surrounding land to 120 Laund Road which is now in the process of being developed for a number of dwellings. The dwelling proposed by the current application has already been developed, though is not yet occupied. The area is characterised by a mixture of housing types and materials of construction with no. 120 a detached property constructed from artificial stone, nos. 110 to 114 terraced dwellings of stone construction, with other properties in the street constructed from a mix of stone, render and pebble dash render.

Description of Proposal

The application seeks full planning permission for the erection of a detached two storey dwelling. The dwelling would provide 2 parking spaces located to the rear. A small garden area would be located around the dwelling. The dwelling is constructed from natural stone with concrete tiles for the roof.

History of negotiations/amendments received

The agent was advised that dwelling as constructed had not addressed conditions attached to a previous permission in respect to contaminated land. Additional information was provided on a number of occasions seeking to address the matter of contaminated land with final information received in December 2020. The application has been determined based on this latest information.

Relevant Planning History

- 2020/93475 - Non material amendment to previous permission 2019/90486 for demolition of existing dwelling and erection of 7 dwellings – Approved
- 2020/92965 - Non material amendment to previous permission 2019/90486 for demolition of existing dwelling and erection of 7 dwellings - Approved
- 2020/92080 - Non material amendment to previous permission 2019/90486 for demolition of existing dwelling and erection of 7 dwellings – Approved
- 2019/90486 - Demolition of existing dwelling and erection of 7 dwellings - Approved
- 2018/90491 - Discharge of condition 3 (materials), 4 (drainage scheme), 5 (drainage scheme), 8 (highway works), 10 (estate roads), 11 (cycle storage), 12 (Phase 1 Report), 17 (method statement) and 19

(bat survey) on previous permission 2014/93584 for demolition of dwelling and erection of 10 dwellings – Details approved

- 2014/93584 - Demolition of dwelling and erection of 10 dwellings - approved
- 2011/91515 - Extension to time limit to previous permission 2008/91014 for outline application for erection of 11 dwellings and demolition of existing house and garage – Granted at Sub Committee
- 2008/91014 - demolition of existing house and garage and outline application for residential – Approved at Sub-Committee 12th June 2008.

Representations

Final publicity date Expires: 9/1/2020 – 2 comments received, a summary of the comments received is set out below:

- The application is retrospective as the dwelling proposed already exists on site it should be demolished to ensure that planning permission is secured first before works commence.
- The development will add additional journeys to an already busy road and the highways assessment was carried out over 18 months ago. Sightlines out of the access are poor and the removal of the house would improve these.
- The development of the plot has reduced biodiversity at the site.

The amended information received in respect of contaminated land reports was not re-publicised as this did not fundamentally change the development applied for.

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 Environmental Health** – after the submission of further information no objection

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):

- **LP1** - Presumption in favour of sustainable development
- **LP2** – Place shaping

- **LP11** - Housing Mix and Affordable Housing
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP28** - Drainage
- **LP30** – Biodiversity and geodiversity
- **LP51** - Protection and improvement of local air quality
- **LP53** - 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 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** – Deliver 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
- **Chapter 15** – Conserving and enhancing the natural environment

Assessment

Principle

The site represents unallocated land on the Local Plan and therefore policies LP1 and 2 apply which support sustainable development and seek to ensure that new developments protect and enhance the quality's which contribute to the character of an area.

It should be noted that the wider site has previously benefited from planning permission for residential development under applications, 2008/91014, 2011/91515, 2014/93584 and 2019/90486 with the most recent consent currently under construction. However, planning conditions in relation to contaminated land requiring the submission of an intrusive site investigation report (Phase 2) and any necessary remediation and validation reports had not been satisfied. The wider site now benefits from permission for 7 other dwelling, the 2019 application.

The proposal would lead to the erection of a new residential dwelling and therefore it is considered appropriate to consider the Councils housing land supply position. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions

allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).

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 site is located within a predominantly built-up area in Huddersfield and is within proximity to bus routes to Huddersfield or other local centres and within reasonable distance of facilities in nearby local centres. The proposal would make an efficient use of land it is therefore considered to be sustainable development, and planning permission has already been granted for housing on the site.

In light of the above the principle of developing the site is considered to be acceptable subject to assessment of design, residential amenity, highway safety, ecology, contaminated land and all other material planning considerations and representations received.

Design

The design of the development will be assessed against Policy LP24 of the Local Plan and Policies in Chapter 12 of the NPPF. These policies seek to promote good design by ensuring that the scale, layout and details of a development respect and enhance the character of the townscape, heritage and landscape, provide a high standard of amenity of future and neighbouring properties and assess other design considerations such as designing out crime the provision of open space.

The design of the proposed dwelling is the same as that previously approved under application 2014/93584 and would be constructed from natural stone with a concrete tiled roof.

The application site is located within a well established residential area, where there is a mixture of property types and designs. The new dwelling would utilise the existing access which originally served no.120, and would make an efficient use of a piece of unallocated land which provides limited amenity value.

The use of natural stone and concrete roof tiles have been approved for the 2014 permission and the use of such materials is proposed for this application which is considered to be acceptable. Boundary treatment in the form of a stone wall to the front and timber fence to the rear have already been erected and are considered to be acceptable. Whilst the proposal would provide only limited amenity space this is on balance considered to be acceptable and

accords with the 2014 permission. Given the restricted garden space it is considered appropriate to withdraw permitted development rights for any extensions and outbuildings at the site.

In light of the above the overall design and scale of development is considered to be acceptable and would accord with Policies in LP24 of the Local Plan and Policies in Chapter 12 of the NPPF.

Highway Safety

The proposal's impact on highway safety has been assessed by the Council's Highway DM Officer and in relation to Policies LP21 and 22 of the Local Plan. The site would be accessed via the road which forms part of the wider development of 7 other dwellings and 2 parking spaces would be provided for the dwelling.

The point of access is the same as that approved via application 2019/90486 and is considered to be acceptable from a highway perspective to serve the dwelling. Two parking spaces would be provided to the rear of the dwelling. Usually for a 4 bedroom dwelling 3 parking spaces would be required, however 2 parking spaces for a 4 bedroom property was approved in a 2014 permission and there would be scope for some informal on street parking as part of the adjacent development or along Laund Road. The lack of a third parking space is on balance considered to be acceptable to protect highway safety. Given that the parking spaces have already been provided it is not considered necessary to attach any specific highway conditions.

Amenity

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to *"provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings."*

The layout of the dwelling is the same as that approved under 2014/93584 with the same separation distances achieved between dwellings, those on the adjacent site and surrounding dwellings. Given that the separation distances remain the same as previously approved it is considered that the proposed dwelling would not lead to any detrimental overlooking, overshadowing or overbearing impact.

In light of the above arrangements the proposal is considered to have an acceptable impact on residential amenity.

Contaminated Land and Coal Mining Legacy

The application site is located in an area with a low risk coal mining area and the application has been assessed Environmental Services. It is noted that the wider site is located in the high risk coal mining area and this has been

assessed in detail and considered by the Coal Authority in application 2019/90486. The applicant has submitted additional information through the course of the application which has been reviewed in detail by Environmental Services (ES).

The final ES Officers comments have been provided in full for completeness:

Previous consultation responses

This application relates to a single building that has already been constructed under a previous planning permission which was for a larger development but the construction is contrary to a condition of that permission relating to the protection the future occupiers of the development from contaminated land risks (including ground gas). In our previous responses dated 13 & 14 Feb, 09 Apr and 22 May and 19 Nov 2020 we have considered information submitted by the applicant, in particular regarding the ground gas situation at the site. Each time we have considered that the applicant has failed to provide satisfactory evidence to clearly demonstrate that the building, which has already been constructed but without any specific ground gas protection measures, does not need any such protection measures.

New review of previously submitted information

A Review of Landfill Gas Risk, Plot 1, Laund Road, Huddersfield by EPG dated 1 Dec 2020 (Version 1) has now been received. This firstly reviews the site history and concludes that this indicates that there are no high-risk sources of ground gas below the site. It does however acknowledge that there is a slight possibility of unrecorded workings. It then reviews the physical site investigations that have been carried out at the site. The findings of the physical site investigations are compared favourably with the predicted depths of coal seams in the area. From this the review concludes that the location of the Pot Clay Coal Seam outcrops just to the east of the site and continues away from the site and therefore does not underlie it. The review also considers the previous assessments for the site (which considered that bell pit mining had been undertaken in the larger site) and disputes this providing detailed information to explain why any coal workings would have been from open excavations. The review also considers the groundwater situation at the site and considers this to be perched water over clay layers which is being fed by infiltration from above and would therefore not push gas out from the ground. The construction of the building is also detailed advising that there is a 150mm ground bearing slab overlaying a 1200-gauge Visqueen damp proof membrane. From a conceptual site model based on this information it considers that ground gas monitoring for this plot would not be required but was actually carried out.

The report reviews the previous ground gas monitoring that has been carried out at a variety of monitoring wells across the wider site area. It notes a number of typographical errors in previous reports where incorrect monitoring well numbers were given. In particular, spot

measurements in Dec 2019 & Jan 2020 at WS402 which were labelled as being at WS302 which is adjacent to the single plot of this application. During this period, WS302 was being monitored by a continuous monitor and its results show that it was not spot monitored during that period. The report also discusses groundwater levels in monitoring wells, and the impact that this may have had on the monitoring results, particularly during the continuous monitoring at WS302 for which two graphs are provided for the monitoring results (Figure 12). From this the report advises that there is no correlation between carbon dioxide levels and water levels. However, the report considers that flow rates at some monitoring wells (WS01A, WS03 and WS04) were affected by ground water. It considers that because these are in monitoring wells that are sealed above the response zone that they are not representative of normal ground conditions and should therefore not be used in the assessment.

The report considers therefore that there are no high-risk sources of ground gas but that some low-risk sources (made ground, and lower coal measures) may cause elevated concentrations of ground gas but that these are not causing significant gas generation. It also considers that any ground gas that is generated will not migrate into the building in quantities that cannot be overcome by the internal ventilation. The report also notes the clay layer at the site at the top of the middle coal measures and also the floor slab & DPC in the building which would all act as barriers to any ground gas migration into the building.

From the assessment of all of the previously submitted information, the report considers that it would be reasonable to conclude that a CS1 classification is appropriate for the site and the assessment maintains a precautionary position as required within the UK planning framework. The report also considers the requirement to consider an increase from CS1 to CS2 if methane concentrations exceed 1% v/v or carbon dioxide concentrations exceed 5%. It considers that because carbon dioxide concentrations are caused by processes that cannot result in hazardous gas emissions and that there is no evidence that Plot 1 is affected by mine gas or landfill gas that it is therefore not reasonable to increase the characteristic situation upwards from CS1 on the basis of elevated carbon dioxide concentrations.

In addition, the report considers a New Approach to Risk Assessment which was published in Ground Engineering in 2019 which also concludes that there is no requirement for gas protection in Plot 1.

A quantitative assessment is also considered in the report and this concluded that even without the floor slab & DPC that for either diffusion-driven flow or advective flow the concentrations of carbon dioxide are estimated to be well the minimal risk limit and would not result in unacceptable gas concentrations in the building.

The review advises that the multiple but separate lines of evidence provided are consistent in demonstrating that there is negligible to very low risk of ground gas emissions affecting Plot 1 and that the building is safe for occupation in its current condition, without a gas membrane present in the construction. It also considers that there are not any credible future changes that would change the gas risk.

Comment

The new report provides a comprehensive review of the previously submitted information. It has identified and corrected typographical errors in previous reports that now enable a more accurate assessment of the monitoring data to be made. It disputes the previous opinion that bell pit mining had occurred in parts of the larger site area. It provides a detailed conceptual site model that clearly indicates that Plot 1 is not underlain by the nearby coal seam. It provides detailed explanations which were either absent or less detailed in previous reports. It concludes that the site is considered to be Characteristic Situation CS1 and gas protection measures are therefore not necessary in Plot 1.

Recommendations

I consider that the report makes a satisfactory assessment of the ground gas situation for this individual plot and agree with its conclusion that ground gas protection measures are not required for this plot. I consider the review to be satisfactory and I recommend that it is accepted. We have therefore now received the satisfactory evidence that we originally asked for that demonstrates that this building does not require ground gas protection measures and therefore we no longer have an objection to this application.

In light of the above it is considered that the matter of contaminated land, including coal mining legacy, has been sufficiently addressed to accord with Policy LP53 of the Local Plan.

Other Matters

Climate Change –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.

In this instance the proposed, no specific detail in relation to climate change has been provided by the agent. However the new dwelling would be built to

modern building standards which are more thermally efficient than older properties, an electric vehicle charging point would be secured for the property by condition and the site is located within a sustainable location where there access to sustainable travel options. Such arrangements are considered to be acceptable for the purposes of this application.

Representations

2 comments were received, a summary of the comments received is set out below, along with a response to the points raised:

- The application is retrospective as the dwelling proposed already exists on site it should be demolished to ensure that planning permission is secured first before works commence.

Response: The application site has previously benefited from conditional permission of a detached dwelling. The current application has been submitted retrospectively due to issues around the discharge of planning conditions relating to contaminated land which have now been addressed. The determination of retrospective planning permission is permitted as part of the planning process. It has been treated on its own merits.

- The development will add additional journeys to an already busy road and the highways assessment was carried out over 18 months ago. Sightlines out of the access are poor and the removal of the house would improve these.

Response: The proposal would utilise the approved access to the wider development which is considered to be acceptable.

- The development of the plot has reduced biodiversity at the site.

Response: the site was previously an area of grass and biodiversity enhancements have been secured by the wider site which is considered to be acceptable.

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 – Full Conditional Permission

Decision Authorisation - Delegated Powers

Application Number: 2019/90486

Officer Recommendation: Full Conditional Permission

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications 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 LP1, 2, 21, 22 and 24 of the Kirklees Local Plan.

2. 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 development included within Classes A, B, or E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities of adjacent properties from loss of privacy or overbearing development, to prevent the overdevelopment at the site and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. Before occupation of the hereby approved dwelling, one electric vehicle recharging point shall be provided within the dedicated parking spaces that serves the dwelling. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

Reason: To encourage ultra-low emission vehicles in the interests of air quality and accord with the guidance contained in Chapter 9 and Chapter 15 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies LP24 and LP51 of the Kirklees Local Plan.

NOTE - Electric Vehicle Charging Points

- A Standard electric vehicle charging point is one which is capable of providing a continuous supply of at least 16A (3.5kW). A 32A (7kW) is however more likely to be futureproof
- Standard charging points for single residential properties that meet the requirements specified in the latest version of "Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)" by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of at least 16A (3.5kW) and have Type 2 sockets would be acceptable.

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Pan	-	-	2/12/2019
Proposed Site Layout Plan	02 Rev A	-	2/12/2019
Plot 1 Elevations	04	-	2/12/2019
Plot 1 Floor Plans	03		2/12/2019
Highway Plan - Section 38 Design and Long Section	101	-	2/12/2019
Highway Plan - Cross Sections	102	-	2/12/2019
Design and Access Statement	February 2019	-	2/12/2019
Materials Statement	-	-	2/12/2019
Detailed Drainage Design	calc-tjba-cdevs-120 laund rd-detailed drainage design-081217.docx	-	2/12/2019
Stage 1 / 2 Road Safety Audit	1387 May 2018	-	2/12/2019
Designers Response to Stage 1 / 2 Road Safety Audit	1387 May 2018	-	2/12/2019
Phase 1 GeoEnvironmetnal Desk Study	November 2017	-	23/1/2020
Phase 2 GeoEnvironmetnal Investigation & Coal Mining Risk Assessment	Ref: A0697/19/B.0 July 2019	-	23/1/2020
Phase 2 Ground Gas Risk Assessment Plot 1 and Appendices	Ref: A0697 February 2020	-	13/2/2020
Review of Landfill Gas Risk, Plot 1, Laund Road, Huddersfield by EPG	Version 1, December 2020		16/12/2020

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 case officer undertook negotiations with the agent to address ensure that matters of contaminated land were sufficiently addressed with the submission of further information.

Report Dated: 4/2/2021