

**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: 2019/62/93945/E
Site Address: 348A, Leeds Road, Birstall, Batley, WF17 0HY
Description: Erection of 17 dwellings and associated works
Recommending Officer: Nick Hirst

DECISION - Withdrawn

I hereby authorise the Withdrawal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

David Wordsworth

AUTHORISED OFFICER

Date: 05-May-2021

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Application: 2019/62/93945/E

Site: 348A, Leeds Road, Birstall, Batley, WF17 0HY

Proposal: Erection of 17 dwellings and associated works

WITHDRAWN

The application has been withdrawn at the request of the applicant.

Report Dated: 20.04.2021

Officer Report

Site Description

The application site comprises an area of 0.3 ha and is located on the northern side of Leeds Road, Birstall. It contains a detached bungalow set in a substantial garden area.

Access to the site is taken from Leeds Road and this is shared with the neighbouring bungalow 348 (which fronts onto Leeds Road). To the west of the site is a community centre, and to the east a terrace of 4 no dwellings on Becker Avenue.

The site slopes gently from south to north, and there is a small wooded hill next to the site, with a modest retaining structure. The neighbouring buildings are constructed of red brick and slate.

The site is unallocated on the Kirklees Local Plan.

Description of Proposal

Full permission is sought for the erection of 17 no dwellings. These are a mixture of terrace and semi-detached properties, 2 storeys in height. Access is taken off Leeds Road and is a shared surface, after the initial 20m. The access is widened to allow for 2 way traffic, and retains the access to the bungalow. The dwellings are a mix of 2 and 3 no bedroom properties. The dwellings are sited around the perimeter of the site. The 3 bed semis have 2 parking spaces and the 2 bed terrace 1space with 7 visitor parking spaces. Each dwelling has a bin/ bicycle store.

This application was accompanied by a viability appraisal.

(NB the layout is a fundamental change from what was originally submitted that was problematic in terms of space about buildings, appearance, roof scape, streetscape and inappropriate layout).

Relevant Planning History

2009/91939 – Outline application for 11 no dwellings – Approved.

2012/92964 – Extension of time agreed for the above.

2015/93747 Full approval for 17 no dwellings

2017/93657 Full approval for 5 no dwellings.

Representations

The original submission was publicised by site notices and neighbour letters.

2 representations have been received. The main concerns are

The additional traffic will access onto Leeds Road , his is a difficult and dangerous access point at the bottom of a hill where traffic speeds.

The relationship of propose plots 12 and 13, would have an adverse effect on neighbouring properties.

1.

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highway – Recommend conditions as per previous application. Amended layout submitted is in line with requests on negotiation for amendments

KC Environmental Health – recommend conditions re decontamination and noise attenuation (noise relates to potential disturbance from the Community Centre.

KC Trees – No objections

KC Strategic Drainage – Asked for a SUDS assessment of the site.

KC Ecology – Neighbouring trees are in the bat alert layer, and hillside is of habitat value. Should minimise impact on the neighbouring hillside, and condition bat/ bird roost opportunities within the new development, and landscape scheme.

KC Housing – As a brown field site 15% floor area should be sought. If not provide there would need to be a viability assessment.

YW – recommend conditions

Coal Authority – Material concern, no objection subject to a condition

PLANNING 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).

Kirklees Unitary Development Plan:

- LP3 Location of new development
- LP7 Making efficient use of land and buildings
- LP11 Housing mix and affordable housing
- LP20 Sustainable travel
- LP21 Highways safety and access
- LP22 Parking
- LP28 Drainage
- LP30 Biodiversity and geo diversity
- LP33 Trees
- LP51 Protection and improvement of air quality
- LP53 Contaminated and unstable land
- LP63 New open space

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Part 5 Delivering a wide choice of high quality homes
- Part 8 Promoting safe and healthy communities.

Part 9 Promoting sustainable transport
Part 12 Achieving well designed spaces.
Part 14 meeting the challenge of climate change, flooding and coastal change.

Assessment

The application site currently comprises a bungalow and curtilage and has had planning permission for residential development granted previously. As such there is no objection to housing on this site.

This is a high density scheme which makes efficient use of the current site (approx. 60 dwellings per ha). Whilst this seems high, it is not too dissimilar to the surrounding area of terraced properties and as detailed below space about buildings policy is satisfied and each dwelling will have a small but meaningful private amenity space.

Outline permission included consideration of access, layout and scale. The current proposal utilises the same access, it is improved/ widened to accommodate 2 way traffic movements from Leeds Road and the access to 348 is retained. The layout has been fundamentally altered from the original submission, and is now a more conventional cul de sac arrangement with houses/ terraces sited around the edge site (as opposed to the previous series of terraces) with satisfactory space between the new houses and between proposed and existing properties, particularly 348 Leeds Road and 56 & 58 Beckers Ave.

The elevation of 348 which faces onto the site has no habitable room windows, and a boundary fence will be provided, thus safeguarding the privacy of occupiers of this dwelling. 56 & 58 Becker Ave are end terraced properties which face onto the site and have very limited amenity space themselves. They are at a slightly lower level (5/6 feet) from the SE corner of the site. The new development has a blank gable end at this point with a distance of 13.5m from the rear habitable windows of 56 and 58. This is considered to be acceptable and complies with Policy BE12. Conditions removing PD rights for extensions on all the units is recommended together with a condition removing the rights to insert new windows/ openings in the gable of the end terrace facing 56/ 58 Becker Ave.

The relationship, and distance between the dwellings and the Community Centre have been increased and improved and for consistency with the previous application (which approved layout) a noise attenuation scheme is recommended for the front elevations of all the proposed dwellings.

The layout provides 2 parking spaces for the 3 bed houses and 1 plus visitors parking for the 2 bed. Also there is cycle parking provided for each of the properties with a refuse store/ cycle shed.

The internal turning is satisfactory for service vehicles, and the cycle/ refuse stores allow for easy collection.

As such the details of the scheme, layout, access, scale and appearance are all considered to be acceptable and a significant improvement upon the originally submitted scheme and the outline approval.

Given the numbers of units proposed affordable housing policy is applicable. The applicant has provided a viability appraisal with the application indicating that the scheme cannot sustain affordable housing provision. (Given the size of the site and the numbers neither POS nor education contributions are triggered).

The appraisal has been independently assessed, the assessor accepts that provision of any affordable housing is not viable and advises that even without affordable housing the scheme is only marginally viable.

As such the grant of conditional full planning permission is recommended and unlike the outline permission an affordable housing condition will not be added.

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 – GRANT CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2015/93747

Officer Recommendation: Grant full permission subject to the following conditions.

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.

Reason. Pursuant to Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004.

2. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions

Reason. So as to ensure the satisfactory appearance of the development on completion.

3. No development shall commence until samples of facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials.

Reason. In the interests of visual amenity and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

4. No development shall commence until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwellings they relate to and shall thereafter be retained.

Reason. In the interests of visual amenity and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

5. No development shall commence until a comprehensive scheme for the landscaping treatment of the site prepared in accordance with the Local Planning Authority's Code of Practice Note 2 has been submitted to and approved in writing by the Local Planning Authority.

Reason. In the interests of visual amenity and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

6. Any planting, seeding or tree management works forming part of the landscaping scheme referred to in Condition 5 shall be carried out during the first planting, seeding or management season following the commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority, and shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced.

Reason. In the interests of visual amenity and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

7. Unless otherwise agreed in writing, prior to the development being brought into use the approved vehicle parking shall be surfaced and drained in accordance with the Communities and Local Government: and Environment Agencies "Guidance on the permeable surfacing of front gardens (parking area), published 13/5/09

(ISBN 9781409804864) as amended or superseded; and there after retained.

Reason. In the interests of the free and safe use of the highway, and to accord with Policies T10 and T19 of the Kirklees Unitary Development Plan

8. Before the development is brought in to use turning facilities for service vehicles shall be provided in accordance with the details shown on the approved plan. The turning facilities shall thereafter be made available for use at all times and shall be kept free of obstruction to such use.

Reason. In the interests of the free and safe use of the highway, and to accord with Policies T10 and T19 of the Kirklees Unitary Development Plan

9. No development shall take place until a scheme detailing proposed internal adoptable estate roads have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing surface finishes and treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any building is brought into use, the scheme shown shall be completed in accordance with the approved plans and retained hereafter.

Reason. In the interests of the free and safe use of the highway, and to accord with Policies T10 and T19 of the Kirklees Unitary Development Plan

10. Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason. To ensure the site is fit to receive the new development in accordance with Policy G6 of the Kirklees Unitary development Plan.

11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 10, development shall not commence until a Remediation Strategy 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 ensure the site is fit to receive the new development in accordance with Policy G6 of the Kirklees Unitary development Plan.

12. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 11. 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 the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, 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 ensure the site is fit to receive the new development in accordance with Policy G6 of the Kirklees Unitary development Plan.

13. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Reason. To ensure the site is fit to receive the new development in accordance with Policy G6 of the Kirklees Unitary development Plan.

14. No development shall take place until a report specifying the measures to be taken to protect the development from noise from activities at the Community Centre shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development (this is for housing think whether there would be alternative wording for other uses)
- (ii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

Unless otherwise agreed in writing with the Local Planning Authority the development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason. To ensure the residential amenities of the future residents in accordance with Policy EP4 of the Kirklees Unitary Development Plan

15. The site shall be developed with separate systems of drainage for foul and surface water on and off the site.

Reason. In the interests of the satisfactory drainage of the site, and to accord with the guidance contained in part 10 of the National Planning Policy Framework "Meeting the challenge of climate change, flooding and coastal change".

16 No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and of site works have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning

Authority there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason. In the interests of the satisfactory drainage of the site, and to accord with the guidance contained in part 10 of the National Planning Policy Framework “Meeting the challenge of climate change, flooding and coastal change”.

17. 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 development included within Classes A,B,C,D and 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. In the interests of residential amenity of proposed and existing dwellings, and to accord with Policy BE12 of the Kirklees Unitary Development Plan.

18. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new door or window openings other than those expressly authorised by this permission shall be constructed in the external walls or roof of the extensions at any time.

Reason. In the interests of residential amenity of proposed and existing dwellings, and to accord with Policy BE12 of the Kirklees Unitary Development Plan.

19. Prior to development commencing a scheme detailing the provision of bird and bat roost opportunities within the site shall be submitted for the written approval of the Local Planning Authority. This shall include numbers, locations and fixed positions on relevant dwellings. The approved details shall be implemented prior to the dwellings hereby approved being occupied, and thereafter retained.

Reason. To accord with the guidance contained in part 11 of the National Planning Policy Framework “Conserving and enhancing the natural environment”.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing site plan and sections.	15.107.111		11/12/15
Proposed site layout and sections	15.107.112		16/05/16
House type 1	15.107.113		16/05/16
House type 2	15.107.115		16/05/16
Designs and Access Statement			11/12/15
Geo Environmental Assessment			11/12/15

Plan Type	Reference	Version	Date Received
Coal Mining Risk Assessment			11/12/15
Tree/ Arboricultural Survey	12390/SR		11/12/15
Phase 1 Habitat Survey	1390a/JoC		11/12/15

Pursuant to article 35 (2) of the Town and Country Planning (Development Management