

**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: 2020/62/92302/E
Site Address: 58, The Common, Thornhill, Dewsbury, WF12 0LJ
Description: Change of use of land to form vehicular access
Recommending Officer: Josh Kwok

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: 25-Sep-2020

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Officer Report

Site Description

58 The Common, Thornhill comprises a two-storey stone built semi-detached house, a lawn and driveway to the front, a detached garage to the side and a two-storey extension to the rear. The site is enclosed by stone walls and timber fences.

The Common is a classified B road connecting Thornhill Lees and Thornhill Edge. It is characterised by predominately two-storey stone-built houses of various sizes. The stone frontage of these houses contributes positively to the local street-scene.

Description of Proposal

Planning permission is sought for the change of use of land to form a vehicular access. The existing access would be closed and replaced by a new access, measuring 4.5m in width and recessed from the edge of the road by 3.0m. The existing stone wall to the front of the site would be altered to improve visibility from the new access.

History of negotiations/amendments received

The location plan has been amended to include a section of the walkway between the application site and the highway. The land ownership certificate has been updated to reflect the ownership of the site.

Relevant Planning History

2013/91225 – Erection of detached dwelling and garage (adj. 58, The Common) – Refused

2008/91029 – Change of use of agricultural land to form vehicle access (58, The Common) – Approved

2007/94865 – Formation of vehicle access (58, The Common) – Withdrawn

Representations

This application was publicised by neighbour letter, which expired on 15-Sep-2020. Following this publicity, no written representations have been received.

Consultation Responses

No consultations required for this application.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 partly unallocated and partly within the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 21** – Highway safety and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **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 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 2 – Achieving sustainable development
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- 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
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The proposed development would fall partly within the Green Belt. Therefore, it would need to be considered in terms of the Green Belt policies in the KLP and the NPPF. In this case, the proposal is for releveling of part of the site to create a new driveway and alterations to the boundary wall. As such, it could be considered an engineering operation for the purpose exception (b) of paragraph 146 of the NPPF. This paragraph states that engineering operations, amongst certain other forms of development, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

Based on the cross-sectional drawing, officers are satisfied that the work in question would not cause substantial changes to the current land level of the site and, therefore, would not prejudice the openness of the Green Belt. It is noted too in the planning history section that a similar scheme was approved in 2007. Furthermore, given the scale and nature of development under consideration, there would be no harm to the purposes of the Green Belt identified in paragraph 134 of the NPPF. The Kirklees Local Plan does not have a specific policy in relation to engineering operations in the Green Belt. Overall, it is considered that the proposal could be supported from a Green Belt perspective, in accordance with paragraph 146 of the NPPF.

2 –Impact on visual amenity:

The proposed development would involve minor alterations to the boundary wall and excavations of the front garden. In addition, a 0.9m high timber fence would be erected along the south-eastern boundary to replace the existing fence. In terms of the scale of development, it is considered acceptable because it would have no effect on the overall appearance of the house. The boundary wall, as proposed, would be constructed with stone to match existing. The new fencing, also, would be of similar dimensions and appearance as existing. As such, the design and materials of this proposal would be satisfactory in terms of visual amenity.

In short, the development concerned would be of a satisfactory quality in scale, design and materials. It would preserve the overall appearance of the host building and harmonise with the street-scene of The Common. The proposal would, therefore, be appropriate from a visual amenity perspective, complying with policy LP24 of the KLP and chapter 12 of the NPPF.

3 – Impact on residential amenity:

The proposed development by reason its scale, nature and position would not affect the residential amenity of the occupants of the houses nearby. It could be supported in terms residential amenity, in accordance with policy LP24(c) of the KLP.

4 – Impact on highway safety:

This application would not intensify the residential use of the site but would affect its access arrangement. Referring to the proposed site plan, the existing driveway would be closed and a new one would be created to the eastern corner of the site. Also, the existing boundary wall would be altered to improve visibility from the driveway.

It is considered that the sightline from the proposed access would be improved, compared with the current situation, and there would be enough room within the site for internal turning. Furthermore, given the proposal is for a replacement access as opposed to an additional access, officers consider that the impact on highway safety and efficiency could be acceptable, despite the site location being on a classified B road.

In the interest of highway safety and parking, a condition would be imposed to required that all areas shown to be used for parking and access should be appropriated drained and surfaced in accordance with the relevant guidance. They shall thereafter be retained for access and parking. Subject to this condition, the proposal would accord with policies LP21 and LP22 of the KLP.

5 – 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.

The proposal is a small-scale domestic development to an existing dwelling. As such, no specific measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in place in terms of Building Regulations, which will need to be adhered to as part of the construction process and which will require compliance with national standards.

Contaminated land

The application site is in the proximity of a historic landfill. However, given the scale and nature of development proposed, there is considered no unacceptable risk in terms of land contamination. To comply with policy LP53 of the KLP and chapter 15 of the NPPF, a footnote would be inserted to the decision notice, advising the applicant further on the potential of land contamination.

Ecology

The site is located within a bat alert layer. Based on the site photos, the building appeared to be well sealed and there was no evidence of bat roosts or bat roost potential was found. A footnote has been added to the decision notice to provide the applicant with advice should bats or evidence of bats be found during construction. This would accord with the aims of policy LP30 of the KLP and chapter 15 of the NPPF.

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

6 – Representations:

No representations received for this application.

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:2020/92302

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, to preserve the openness of the Green Belt, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The boundary walls hereby approved shall be constructed with regular coursed natural stone to match those used in the construction of the existing walls abutting The Common.

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

4. The development hereby approved shall not be brought into use until all areas shown to be used for access and parking on the approved site plan have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies '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) this shall be so retained, free of obstructions and available for access and parking thereafter.

Reason: In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements and parking and to ensure that any hard standing area within the site is appropriately drained in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, and Chapter 14 of the National Planning Policy Framework.

NOTE: The applicant is hereby advised that the site lies adjacent to a closed landfill site. It is therefore advised that the applicant should consider carrying out landfill gas monitoring prior to development to establish whether landfill gas levels are significant. In the event significant levels are discovered appropriate mitigation measures shall be included in carrying out the development to protect against hazard caused by landfill gas migration.

NOTE: Due to its location, a bat roost may be present on 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.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 0800 7318765) to obtain this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes 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
Proposed site plan	2036/110		03-Aug-2020
Location plan	2016/100	B	07-Aug-2020
Proposed street view drawing and Existing cross-sectional drawing	2036/111	B	17-Aug-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 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. In this case, the location plan has been amended to include a section of the walkway between the application site and the highway. The land ownership certificate has been updated to reflect the ownership of the site.

Report Dated: 23-Sep-2020

