

**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: 2020/62/93274/E
Site Address: adj, 19, Burnside Close, Birstall, Batley, WF17 0NS
Description: Erection of 2 semi-detached dwellings
Recommending Officer: Sarah Longbottom

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: 18-May-2021

Officer Report

Site Description

The application site comprises the side garden of 19 Burnside Close, Birstall. The site is located at the head of the cul-de-sac, surrounded by two storey and single storey properties, within an established residential area.

Description of Proposal

Permission is sought for the erection of one pair of semi-detached dwellings to the side of No.19. These would have a similar footprint to those of the adjacent properties with off-street parking proposed to the front and with areas of private amenity space to the rear of each dwelling.

The proposed dwellings would be constructed of brick with tiled roofs.

History of negotiations/amendments received

Through the course of the application, an amended site plan was requested to address the concerns of Highways officers. An amended plan was also requested in relation to the design of the dwellings, in addition to a street scene plan demonstrating the relationship of the proposed development with neighbouring properties.

Relevant Planning History

None directly relating to the site.

2001/92434 – 28 Hillhead Drive (to the north) – Alterations to roof space to form bedroom in roof space – permitted development

2002/93075 – 20 Burnside Close (to the east) – Erection of two storey extension - approved

Representations

The application was publicised in accordance with statutory requirements. Eleven representations have been received following the site publicity (10 in objection and 1 in support).

The concerns raised are summarised as follows:

- The cul-de-sac where the plans are for is very tight; on-street parking is already a problem, as drives are too tight for all the cars
- The road also takes a lot of school traffic too

- The space the houses are to be built are very close to Hillhead Drive and will affect the back garden views of the houses are overlooking them
- The flooding that we currently experience will very likely become worse due to further constructions and hard landscaping.
- The new houses will contribute to increased noise level and traffic
- To add more cars to a small cul-de-sac would contribute to more air pollution
- Development would overlook adjacent gardens, invading privacy
- Safety concerns for children who play on the street
- Loss of trees in the property – Current owners have already destroyed trees and shrubs
- Query over site publicity end dates
- The development will cause a loss of sunlight and a feeling of being hemmed in

The representation in support welcomes the provision of family dwellings with off-street parking in Birstall.

Consultation Responses

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

KC Highways DM: Following receipt of amended plans, there are no objections subject to imposition of conditions

KC Environmental Services: No objections subject to imposition of conditions

The Coal Authority: No objections subject to the imposition of a condition requiring further intrusive site investigation works.

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 unallocated on the Kirklees Local Plan proposal maps.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 7** – Efficient and effective use of land and buildings
- **LP 11** – Housing Mix and Affordable Housing
- **LP 21** - Highway Safety and Access
- **LP 22** – Parking

- **LP 20** - Sustainable Travel
- **LP 24** – Design
- **LP 47** – Healthy, safe and active lifestyles
- **LP 51** – Protection and improvement of local air quality
- **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 5** – Delivering a sufficient supply of homes
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making efficient use of land
- **Chapter 12** – Achieving well designed places
- **Chapter 15** – Conserving and enhancing the natural environment

Supplementary Planning Guidance:

- **Highways Design Guide** Supplementary Planning Document
- **Residential Design Guide** Supplementary Planning Document

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:

Paragraph 11 of the NPPF and Policy LP1 of the KLP outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The

dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted.

The site is unallocated on the KLP. This is supported by Policy LP1 of the Local Plan and Chapters 1 and 5 of the NPPF which establish a general principle in favour of residential development.

In respect of housing land supply, 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 with 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).

As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost, significantly, the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

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 development site forms a small plot within a predominantly residential area. Although the Local Planning Authority can demonstrate a five-year land supply, the development of this windfall site could contribute to the housing delivery by providing two dwellings, likely to be built fairly quickly.

Notwithstanding the above, local and national policy require additional tests to ensure the proposed residential development is appropriate. Policy LP7 of the KLP and Chapter 11 of the NPPF establish a need to provide appropriate densities of dwellings. Policy LP11 of the KLP and Chapter 5 of the NPPF seek to ensure an appropriate mix of dwelling types and sizes.

With respect to density, Policy LP7 of the KLP establishes a minimum target density of 35 dwellings per hectare, where appropriate. The application site comprises an area of 0.04 ha, and 2 dwellings are proposed which is considered appropriate and in compliance with Policy LP7 and Chapter 11 of the NPPF.

The proposed development consists of 2 no 3 bed semi-detached dwellings. These would comprise the same house type. As the proposal relates to a small development, the proposed arrangement is considered acceptable by officers in respect of meeting the aims of Policy LP11 of the KLP and Chapter 5 of the NPPF. The principle of the proposed development is considered acceptable.

2 – Impact on visual amenity:

Relevant design policies include Policies LP2 and LP24 of the KLP and Chapter 12 of the NPPF. These policies seek for development to harmonise and respect the surrounding environment, with Policy LP24 (a) stating; *'[Proposals should promote good design by ensuring]: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*

The application site is located at the head of a residential cul-de-sac comprising two storey semi-detached properties. Surrounding the site to the side and rear on Harefield Drive and Hillhead Drive are both two storey dwellings and bungalows, although these are predominantly in semi-detached in nature.

In respect of layout, the proposed development would be set back from the head of the cul-de-sac in line with the existing property, 19 Burnside Drive. The footprint of the development would accord with that of the adjacent pair of semi-detached properties, also having a similar amount of amenity space to that of neighbouring dwellings. A submitted street scene elevation demonstrates that the proposed development would have a comparable ridge height to existing development.

With respect to the appearance of the development, this has been amended slightly through the course of the application. However, would be sympathetic to the character of the existing cul-de-sac utilising brick for external elevations and concrete tiled, pitch roofs.

The proposals are considered acceptable from a visual amenity perspective and would accord with Policy LP 24 of the KLP and guidance contained within Chapter 12 of the NPPF.

3 – Impact on residential amenity:

The application site is surrounded by residential properties to all sides. The neighbouring properties on Burnside Close and Hillhead Drive to the rear are two-storey in scale whilst to the north (side) are single storey. The gardens of these properties adjoin the site boundary.

The development would continue the existing alignment of dwellings at the head of the cul-de-sac, thereby replicating the existing relationship with properties on Harefield Drive to the rear. The new dwellings would bring development closer to the boundary with the bungalows on Hillhead Drive to

the north west, in particular Nos. 26 and 28 and the submitted section/street view plan indicates that these are set down by approximately 600m in relation to the application site. Notwithstanding this, a separation distance of over 14m would be retained between the rear elevation of the bungalows and blank side elevation of the development. Furthermore, the orientation of the new dwellings would be such that it would not have a direct relationship with the bungalows. For these reasons, this arrangement is considered, on balance to be acceptable and would not result in an adverse overshadowing or overbearing impact.

Habitable room windows would be located within the front and rear elevations of the dwellings, and again, adequate separation distances would be achieved between these elevations and the site boundaries. In addition, adjacent dwellings have outbuildings alongside the boundaries which provide some existing screening to their gardens. Notwithstanding this, it is considered reasonable to impose a condition removing permitted development rights for extensions and alterations to retain control over further development on the site, in the interests of residential amenity.

Adequate areas of amenity space would be provided to serve each dwelling, comparable to that of existing development.

In summary, the proposals are considered acceptable from a residential amenity perspective, and in accordance with Policy LP 24 of the KLP.

4 – Impact on highway safety:

The application site is located at the head of a residential cul-de-sac, where two off-street parking spaces would be provided to the front of each dwelling. Although the existing dwelling would lose its driveway and garage space, these would be replaced by a new driveway to serve two vehicles.

Whilst the proposed off-street parking is in line with the Council's Highways Design Guide, amendments to the originally submitted layout were requested to ensure improved accessibility, in addition to bin collection points. The amended parking layout was considered generally acceptable.

On the basis of the above, the proposals are considered to be acceptable from a highway perspective, subject to the imposition of a condition requiring the surfacing and drainage of parking areas, and a footnote relating to works within the highway. This would ensure that the development accords with Policies LP 21 and LP 22 of the KLP.

5 – Other matters:

Coal Mining Legacy/Contaminated Land

The site is located within an area defined as High Risk by the Coal Authority and, as such, the application was accompanied by a Coal Mining Risk Assessment. This details that the site is underlain by the Flockton Thin,

Flockton Thick and Middleton Main Coal seams. As such, the report has assigned a moderate risk from shallow coal workings and mine gas. From this, the report recommends an intrusive investigation to investigate the coal legacy at the site. It is also stated that should coal workings be identified, a detailed gas risk assessment should be undertaken. These matters can be addressed by condition to ensure that the proposals accord with Policy LP 53 of the KLP and Chapter 15 of the NPPF in respect of coal mining legacy and contaminated land.

Air Quality and Sustainable Transport

Along with reduction of air pollution, the NPPF also encourages the promotion of sustainable transport. The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. Taking this into account, it is considered that promoting green sustainable transport could be achieved on this site by the provision of electric vehicle charging points (EVCP) which can be conditioned to secure the charging points for the proposal to comply with the aims of Chapters 9 and 15 of the NPPF and Policies LP24, LP47 and LP51 of the KLP.

Climate Change Emergency

Chapter 12 of the Local Plan relates to climate change and states that: *‘Effective spatial planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development’. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development.*

The inclusion of a condition requiring EVCP, a residential development built to current Building Regulations standards and the use of reclaimed or locally sourced materials in the construction of the development could assist in contributing to climate adaptation and resilience in accordance with Chapter 12 of the Local Plan and Policy LP2 of the KLP.

6 – Representations:

The concerns raised in representations are addressed as follows:

The cul-de-sac is very tight; on-street parking is already a problem, as drives are too tight for all the cars.

Response: The development is considered acceptable from a highway perspective.

The road also takes a lot of school traffic.

Response: This is noted. However, the development is considered acceptable from a highway perspective.

The space the houses are to be built are very close to Hillhead Drive and will affect the back garden views of the houses which are overlooking them.

Response: The loss of a view is not a material planning consideration. The development is considered an adequate distance from existing properties and would not have an adverse impact upon residential amenity.

The flooding that we currently experience will very likely become worse as a result of further constructions and hard landscaping.

Response: The site is not located within a Flood Zone. A condition would be required in relation to permeable surfacing of parking areas.

The new houses will contribute to increased noise level and traffic.

Response: There may be some short-term disruption due to the construction process. However, a footnote is recommended in relation to hours of construction, and KC Environmental Health have separate powers to enforce this.

To add more cars to a small cul-de-sac would contribute to more air pollution.

Response: The proposals would result in two additional dwellings to the cul-de-sac. A condition requiring provision for electric vehicle charging points will be imposed in accordance with Policy LP 51 of the KLP.

Development would overlook adjacent gardens, invading privacy.

Response: The development would have a similar relationship with neighbouring gardens, as the existing property and would be located an adequate distance from the site boundaries to ensure that no significant detrimental impact upon residential amenity occurs.

Safety concerns for children who play on the street.

Response: Noted. Speed limits and Traffic Regulation Orders are not planning matter but are administered by the Highway Authority. Highways DM was notified of this application and has recommended a condition relating to the retention of parking areas, which has been imposed.

Loss of trees in the property – Current owners have already destroyed trees and shrubs.

Response: There are no protected trees on the site

Query over site publicity end dates.

Response: The application was advertised in accordance with statutory publicity requirements and has been pending consideration for a considerable length of time beyond the publicity end dates. As such it is considered that no third parties have been prejudiced in this respect.

The development will cause a loss of sunlight and a feeling of being hemmed in

Response: The development is considered acceptable from a residential amenity perspective for the reasons set out within the residential amenity section of this report.

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.

The development would result in the provision of two dwellings within an established residential area which would have no adverse impact upon residential or visual amenity or highway safety.

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: 2020/93274

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 LP 21 and LP24 of the Kirklees Local Plan.

3. Prior to development commencing on the superstructure of the dwellings hereby approved, samples of all facing and roofing materials shall be submitted to the Local Planning Authority for approval. The development shall be constructed of the approved materials and thereafter retained.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan.

4. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

5. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to Condition 4, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report Approved pursuant to Condition 5, further groundworks 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 safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 6. If 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 groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. 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 safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

8. 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. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site 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 safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

9. No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that the legacy of past coal mining activity has been adequately mitigated, in accordance with Policy LP 53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

10. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the

approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that the legacy of past coal mining activity has been adequately mitigated, in accordance with Policy LP 53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

11. Before the electrical system is installed a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- A Standard Electric Vehicle Charging point providing a continuous supply of at least 16A (3.5kW) for each residential unit that has a dedicated parking space Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interests of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

12. 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 or alterations included within Classes A 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 ensure that unsatisfactory extensions do not result in close overlooking of adjoining properties, in accordance with Policy LP 24 of the Kirklees Local Plan.

13. Prior to the development being brought into use, the approved vehicle parking areas shall 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; and thereafter retained.

Reason: In the interests of highway safety and to achieve a satisfactory layout, in accordance with Policy LP 21 of the Kirklees Local Plan.

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 (Kirklees Street Scene: 01484 221000) 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.

NOTE A Standard Electric Vehicle Charging Point is one which is able to provide a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is 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 least 16A (3.5kW) and have Type 2 socket outlet 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.

NOTE Noisy construction related activities shall not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays, 08.00 to 13.00 hours, Saturdays, with no noisy activities on Sundays or Public Holidays.

NOTE Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Site Location Plan	S20281_P-101	A	23.10.2020
Proposed Site Layout	S20281_P-107		13.05.2021
Proposed Floor Plans	S20281_P-103	A	01.03.2021
Proposed Elevations	S20281_P-104	B	01.03.2021
3D Views	S20281_P105	B	01.03.2021
Street View	S20281_P108	A	01.03.2021
Coal Mining Risk Assessment	C1173/20/E/1833		23.10.2021
Design and Access Statement			23.10.2020

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.

Report Dated: 30.04.2021