

**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: 2021/62/92041/E

Site Address: adj, 41/43, Bank Street, Mirfield, WF14 9QF

Description: Erection of two dwellings

Recommending Officer: Lyle Robinson

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.

Emma Thompson

AUTHORISED OFFICER

Date: «Current_Date»

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Officer Report

Site Description

The application site relates to an area of open space at the junction of Nab Lane and Bank Street in the settlement of Mirfield. The surrounding area is predominantly residential in character, consisting of mixture of housing stock with a variety of forms and finishes. Levels fall southwards with the lay of the land. The site is unallocated in the Kirklees Local Plan.

The site benefits from extant planning permission 2020/92723 and footings had been constructed and heras fencing erected at the time of the case officer's visit in connection with this.

Description of Proposal

This is an application for full planning permission for the erection of 2no. link detached two and a half storey dwellinghouses, some 9.3m in height from finished floor level to roof ridge. The proposed houses would have an enclosed rear amenity space with a small enclosed yard to the frontage and driveway. Plot 1 has 2 no. vehicle parking spaces to the frontage and a garage space. Plot 2 has 1 no. parking space to the frontage and a garage space.

This application is a re-submission of approved planning application 2019/92723. The difference here is that the roof ridge height has been raised slightly vis-à-vis the extant permission to facilitate altered roofspace arrangements. An additional rooflight and brackets to the eaves have been added.

History of negotiations/amendments received

This planning application has been assessed on the basis of drawings originally submitted with the current application with the exception of a revised site plan depicting a visibility splay to Nab Lane. No further drawing amendments were sought thereafter.

Relevant Planning History

2019/92723 Erection of two dwellings *Approved 06/JUL/2020*

Representations

Publicity is being taken in accordance with statutory requirements. In this neighbour notification letters were sent out with an expiry date of 13th July 2021. Following this publicity period 2no. letters of representation were received matters raised are addressed in the report.

Consultation Responses

KC Highways – no objection but requests revised site plan depicting visibility splay which can be conditioned *N.B. This has now been received.*

KC Environmental Health – no objection subject to conditions

The Coal Authority – no objection; recommends condition.

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 in 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 52** – Protection and improvement of environmental 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 20th July 2021, 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 6 – Building a strong competitive economy
- • Chapter 8 – Promoting healthy and safe communities
- • Chapter 11 – Making effective use of land
- • Chapter 12 – Achieving well-designed places

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/Planning Balance

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 (KLP). This policy stipulates that proposals that accord with policies in the KLP 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 application site was formerly an area of open green space which was previously within the ownership of Kirklees Council. Although the site was formerly a small area of green space implementation of the previous permission is underway and the site cleared. It was noted previously that there are nearby urban green spaces which can be used by local residents. Chapter 5 of the National Planning Policy Framework states that it is the Government's objective to significantly boost the supply of homes. As the proposal is for the erection of 2 no. dwellings, the proposed development supports this aim.

The application site is in a settlement where development such as this is acceptable subject to the satisfactory taking into account of material considerations.

2 – Impact on visual amenity and character of the area:

Policy LP24 of the Kirklees Local Plan, consistent with chapter 12 of the NPPF, states, inter alia, that the form, scale, layout and details of all development respects and enhances the character of the townscape.

The application site is set within a predominantly residential area with a mixture of build types. The proposed scale and design of the dwellings is considered to be acceptable within the site context. The site is made up of a mixture of tenures and built form and so there is no specific character as such. The dwellings would be stepped following the development pattern of existing dwellings on Bank Street and gradient of the land.

As was found in the determination of the extant permission, the elevation facing Nab Lane is the North elevation of the attached garage which is set back. The dwelling elevation also hold 2 no windows. The difference in roof heights and windows add interest to this elevation which is directly adjacent to the Nab Lane street scene. The dwellings would be constructed from tumbled and dyed stone with a grey Calderdale slate roof. The predominant material of construction within the vicinity of the site is stone, however there is a mixture of red brick and render also. Therefore, the proposed materials are considered acceptable.

The development therefore would also be acceptable in terms of general visual amenity and would accord with policy LP24 of the KLP and chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan require of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

The closest neighbouring residential dwellings are 109 Nab Lane; 28 Bank Street; 43 and 41 Bank Street and 106 Nab Lane.

As has been found in the determination of the extant permission:

109 Nab Lane is a detached two storey dwelling set to the West of the application site with a separation distance of 8.5m at an angle to the rear of the proposed dwellings. There are no windows within the side elevation of the neighbouring dwelling. There are no concerns on the impact of residential amenity of residents.

28 Bank Lane is a two storey semi-detached dwelling set to the North East of the application site which is separated by Bank Street. There are no windows within the West elevation of the neighbouring dwelling. There are no concerns on the impact of residential amenity of the residents.

43 and 41 Bank Lane are two storey, back-to-back dwellings set to the South of the application site. There is a distance of 1.4m between the dwellings although the application site is set a slightly higher level.

106 Nab Lane is a detached bungalow set to the North of the application site. The site is bordered by a boundary wall and fence therefore there are limited views of the dwelling from the street scene, therefore there are no considered impacts on residential amenity.

The material difference in this application proposal is the introduction of rooflights which would present no further impact on residential amenity. An additional window is shown within the side elevation (south west) which is not considered to result any material impact on the neighbouring occupants given the use and position. There would also be a slight raise in roof ridge height however given the minor change and the space about the property it is not considered that this would materially affect transmission of light levels to surrounding residential property more than that of the extant permission scheme.

All told therefore policy LP24 in terms of residential amenity would be complied with.

4 – Impact on highway safety:

The application proposal is supported by a revised site plan requested by highways indicating a visibility splay on to Nab Lane which will be conditioned within the standard plans condition. Parking arrangements would be unchanged from those of the extant approval which was deemed acceptable.

The development therefore is concerned to be acceptable in terms of highway safety and parking and inconsistent 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.

Taking into account the above, in order to successfully address the climate change challenge, a condition has been added to the secure vehicle charging points within the development in order to reduce the emissions associated within the proposed development. When considering the small scale of proposed development, the electric vehicle charging points are considered to be proportionate to the scale of the development.

Coal Mining

The Coal authority concur with the findings of the submitted detail and the extant approval has been commenced and site remediation has taken place in connection with this such that the condition relating to Coal Mining is no longer necessary, as has been detailed in the submitted detail. A condition ensuring compliance with the findings of the Coal Mining Risk Assessment will be appended to the Decision Notice.

Trees

The Tree Officer assessed the application proposal that is extant and found that the mature tree that was on site did not meet the criteria for a TPO and that the loss of this tree was on balance acceptable. The case officer has visited site since and this tree appears to have already been removed.

Further Conditions

Environmental Health have recommended a condition restricting construction hours this is in view of the residential nature of the surrounding area, of relatively high density, however it is considered that this should be added as a footnote.

A condition was appended to the extant approval 2020/92723 stating that prior to development commencing, the wall on the corner of the junction of Bank Street and Nab Lane shall be constructed as shown on the approved plan and that all obstructions to visibility with the exception of existing telecommunications infrastructure shall be removed. As these obstructions have now been removed this condition is no longer appropriate or necessary.

6 – Representations:

A representation has been received relating to Highway safety and parking of cars. This application does not materially differ from the previous extant permission in respect of highway safety and has been found to be acceptable in this regard.

A further letter of representation from the same address reiterates comments made and further comments on highway issues. This comment requests that a site visit is made. This has been undertaken by the case officer, who surveyed the area along Nab Lane and Bank Street.

7 – Conclusion/Planning Balance:

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: 2021/92041

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

3. Unless otherwise agreed in writing, 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 and to accord with Policies LP21, LP22 and LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

4. The development hereby approved shall be carried out in total accordance with the recommendations set out in the Ground Stabilisation Completion Report ref. E21/7790/R002 received by the Local Planning Authority on 27th September 2021.

Reason: To identify and remove unacceptable risks to human health and the environment from coal mining history in accordance with Policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. Prior to occupation of the dwellings, an electric vehicle charging point shall be installed for each dwelling hereby approved. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. Thereafter the electric vehicle charging point so provided shall be retained.

Reason: To promote the use of ultra-low emission forms of transport in the interests of achieving sustainable development and to accord with guidance in the National Planning Policy Framework.

6. Before development commences on the superstructure of the dwellings hereby approved, details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety, in accordance with Policy LP 24 of the Kirklees Local Plan.

7. The development shall be in accordance with the approved Ecological Design Strategy by David Watts Associates Ltd ref. BE-1342.1 dated April 2020. The Ecological Design Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure the development hereby permitted provides ecological enhancement measures in accordance with Policy LP 30 of the Kirklees Local Plan.

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 (that part of) 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. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To comply with Policy LP53 of the Kirklees Local Plan

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: 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 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.

NOTE: All contamination reports shall be prepared in accordance with Model Procedures for the Management of Land Contamination – Contaminated Land report 11 (CLR11), National Planning Policy Framework (NPPF) and the Council’s Advice for Development documents or any subsequent revisions of those documents.

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.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which written permission of the Council as the Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regards to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings with the highway is deemed to be major works for the purpose 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 Specification

Plan Type	Reference	Version	Date Received
Location Plan	A(10)-01		17/MAY/2021
Site Plan	A(20)-01		27/SEP/2021
Proposed Floor Plans and Elevations	A(10)-01		17/MAY/2021
Ground	E21/7790/R002		27/SEP/2021

Stabilisation Completion Report			
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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.