

**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:	2024/62/90368/E
Site Address:	The Coach House, Clough Mills, Bradford Road, Cleckheaton, BD19 4BE
Description:	Formation of vehicular access
Recommending Officer:	Elenya Jackson

DECISION – CONDITONAL 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.

John Holmes

AUTHORISED OFFICER

Date: 22-Jul-2024

OFFICER REPORT

Planning Application: 2024/90368

Development: Formation of vehicular access

Site: The Coach House, Clough Mills, Bradford Road, Cleckheaton, BD19
4BE

1. Introduction

This application seeks the grant of planning permission for engineering operations to form a new vehicular access from the Coach house onto Oxford Road.

2. Site

The proposed access would be to the south of the site outlined as part of the application; however, the site forms part of a larger cluster of development which are set down from Bradford Road.

To the north of the site, Bradford Road extends over the M62 via a bridge.

The frontage of the site adjacent is bound by a low timber fence, the application property is on a slightly lower plateau of land. This land is currently used as hard standing in association with the properties.

The proposed development consists of the introduction of a dropped kerb to the west of the application site to provide a new access

3. History of negotiations/amendments received

Details of the visibility splays were required to support the application.

4. Relevant Planning History

The site has the following planning history:-

Planning Applications

2018/92650: Discharge of condition 12 (retaining wall) on previous application 2015/93769 for erection of two storey warehouse. Conditional full permission

2015/93769: Erection of two storey warehouse. Conditional full permission

5. Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015). The application has been publicised on the Council's website and by neighbour notification. The expiry date of the publicity period was the 11th April 2024.

No representations have been received

6. Consultation Responses

The following consultees were notified in relation to this application, a summary of these and their comments are as follows:

National Grid – No objections

Highways Development Management – following the submission of amended plans, no objections subject to conditions.

Environmental Health – no objections

The coal authority – no comments received

7. 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. National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The statutory Development Plan for Kirklees includes the Local Plan (adopted 27th February 2019).

The site is unallocated within the Kirklees Local Plan, the site is within an area identified as being at risk of ground movement as a result of former mining activity.

National Planning Policy Framework

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 9 – Promoting Sustainable Transport
- 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

Kirklees Local Plan Policy

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping

- LP3 – Location of New Development
- LP21 – Highways and Access
- LP24 – Design
- LP31 – Strategic Green Infrastructure Network
- LP33 – Trees
- LP52 – Protection of Improvement of Environmental Quality

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.

8. Assessment

Principle of Development

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

The proposed development is located on land unallocated with the KLP. As such the principle of development can be considered acceptable having regard to KLP policy LP1, LP2 and LP3, NPPF chapters 2 & 4 and HVNDP insofar as the proposed development accords with the development plan. In this instance relevant development plan policies aim to achieve good design with regard to visual and residential amenity, safe use of the highway network, protection of the natural environment and meeting the challenges of climate change.

On the basis the development has an acceptable impact upon visual amenity, residential amenity and access / highway safety considerations, as well as all other relevant considerations, the principle of development is considered to be acceptable in this case.

Design

In visual amenity terms LP24 of KLP, Policies within chapter 12 of the NPPF aim to achieve good quality design which respects and enhances the character of the landscape. The area is mixed use with a vacant field across from the application site, several stone built dwellinghouses and a new build development in the wider area. Land immediately around the site is largely made up of vegetated areas principally including a number of mature trees leading to a less urban character.

The details submitted do not confirm what the hardstanding would be constructed from. The opening of the site will result in the hard standing will be able to be viewed from the public realm. However, most of the proposed development will be at a slightly lower level than Oxford Road resulting in the visual impact from the public realm, not being significant.

It is noted the works would involve some form of building up of a driveway / supporting structure for the access. It is considered that; the proposed alterations would not be significantly out of keeping with the wider area due to their scale, location and nature as there are several variations in access design visible in the public realm. In addition, the site is not located within a Conservation area. As such, it is considered any proposed materials used in construction would have minimal impact on the character of the area, particularly taking account of the scale of any such works to facilitate the development.

The proposed access is not considered to be contrary to LP24 or chapter 12 of NPPF in terms of general visual amenity.

Residential Amenity

Chapters 12 & 15 of NPPF along with KLP policies LP24 and LP52 also aim to protect residential amenity and in particular protection from noise, vibration with regard to LP52. The applicant has not provided any substantial information setting out the need for the proposed new access. However, KC Environmental health have been consulted on the application and have not raised any objections.

Whilst the proposal would allow for increased vehicle movements, it is considered the impact of the proposal would not be significant in terms of additional noise and disturbance.

It is considered that the proposal will not negatively impact upon the residential amenity of neighbouring dwellinghouse contrary to KLP policies LP24, LP52 and chapters 12 & 15 of NPPF.

Highway Impact

KLP policy LP21 and NPPF chapter 9 seek to prevent unsafe accesses and significant impact on the highway network. Upon initial consultation Highway Development Management comment that there is insufficient information within the application to properly assess the impact of the development. However, further information was provided relating to sight lines.

The proposed development would see an access from a highly trafficked road whereby vehicle speeds can be high. The submitted visibility splays have been confirmed as acceptable by the Highways Team.

The proposal would alter a structure which supports the existing highway, and as such land stability is considered to be a key matter which must be assessed in this case, in the context of impact upon a public highway.

Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

Within their response the Highways Team set out the requirement for two conditions, these being the following:

- Submission of a scheme detailing the proposed modification to the existing burr wall supporting A651 Bradford Road to form a new vehicular access
- Surfacing being 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.

On the basis of the inclusion of the recommended conditions, the proposal is concluded to be acceptable in this regard, and would not be contrary to KLP policy LP21 and NPPF chapter 9.

Climate Change

Carbon Budget

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 predates 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 application relates to the erection of an access to support an existing use on site. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Coal mining legacy

Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The application site falls within an area at High risk of ground movement as a result of past mining activities as determined by the Coal Authority. The Coal Authority has not responded to consultation regarding the proposal. Given the extent of intrusive ground works is unlikely to be significant in this case, it is not considered necessary for further information to be submitted in relation to coal mining legacy issues which may affect the site.

As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with policy LP53 and paragraphs 180 and 189 of the National Planning Policy Framework.

Statutory Undertakers

National Grid and National Gas have confirmed they have no objection with no National Grid Electricity Transmission assets affected by the proposal.

Conclusion

The proposal has been assessed against relevant policies with the development plan and all other material considerations, the impact the new access has on visual amenity is inconsequential, the overall impact is considered acceptable.

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 for the Formation of vehicular access at The Coach House, Clough Mills, Bradford Road, Cleckheaton, BD19 4BE 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
Decision Authorisation - Delegated Powers
Application Number: 2024/90368

Approve

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 accord with Policies LP01, LP02, LP3, LP21, LP24, LP31, LP33 & LP52 of the Kirklees Local Plan, and Policies within Chapters 2, 4, 9, 12, 14 and 15 of the National Planning Policy Framework

3. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the works, all works 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 in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works 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 policies within section 15 of the National Planning Policy Framework.

4. Development shall not commence until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls and building retaining walls adjacent to the existing highway including any modifications to the existing burr wall supporting A651 Bradford Road has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented prior to the development being brought into use and thereafter retained.

Reason: This is a pre commencement condition required in the Interests of highway safety to accord with policy LP21 of the Kirklees Local Plan and policies within Chapter 9 of the National Planning Policy Framework.

5. 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 Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout.

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) regarding obtaining 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: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.*

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays
08.00 and 13.00hours, Saturdays
With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction/ sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Location Plan	CH802202	24.05.2024
Site Plan	CH8022024	24.05.2024
Proposed dropped kerb		24.05.2024

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, including the receipt of amended plans. The agent was informed of objections to the proposal.