

**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:         | <b>2022/62/90804/E</b>                                                    |
| Site Address:         | Bell Cabin, Long Lane, Earlsheaton, Dewsbury, WF12 8LG                    |
| Description:          | Erection of dwelling, formation of access and other associated operations |
| Recommending Officer: | Callum Harrison                                                           |

**DECISION – CONDITIONAL FULL PERMISSION**

**I hereby authorise the approval of this application for the reasons set out in the committee decision authorisation annexed below in respect of the above matter.**

Julia Steadman

***AUTHORISED OFFICER***

**Date: 25/07/2023**

## **Decision Authorisation – Committee Decision**

**Committee:** Heavy Woollen Planning Sub-Committee

**Date of Committee:** 16<sup>th</sup> March 2023

**Application Number:** 2023/90804

**Officer Recommendation:** Refuse

**Committee Decision:** **DELEGATE** Conditional Full Permission, contrary to officer recommendation.

### **Summary of Committee Decision:-**

Members felt that very special circumstances (vsc) existed to allow, what would otherwise be inappropriate development in the Green Belt. Members considered the vsc to be: Landscaping (tree and shrub planting) on the wider application site and subsequent wildlife enhancement.

The application was delegated to officers to approve subject to 1) resolve the outstanding concerns relating to the ecological impact of the development; 2) resolve the outstanding concerns relating to the coal mining legacy; 3) impose all necessary and appropriate conditions; 4) to issue the decision. Should points 1 and 2 not be resolved, the application is to be referred back to Heavy Woollen Planning Committee for determination.

The above matters have been resolved to the satisfaction of officers and the conditions set out below have been agreed with the applicant's agent.

### **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, to preserve the open rural character of the Green Belt in accordance with Policies LP24 and LP57 of the Kirklees Local Plan, Chapters 12 and 13 of the National Planning Policy Framework and the House Extensions and Alterations Supplementary Planning Document.

3. Notwithstanding the submitted plans, samples and details of the facing materials for the external walls, doors, window openings, and roofing of the development hereby approved, shall be submitted to and approved in writing

by the Local Planning Authority. The construction shall then be carried out using the approved materials and retained thereafter.

**Reason:** In the interests of visual amenity and in accordance with Policies LP1, LP2, and LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development under Classes A (extensions), B (additions to the roof), D (porches) and Class E (outbuildings) of Schedule 2, Part 1 shall be erected in the area edged red on the approved site location plan without the prior consent, in the form of a planning application, of the Local Planning Authority.

**Reason:** To maintain the openness of the Green Belt and prevent inappropriate development and in the interests of end user safety from the risks posed by the Coal Mining Legacy, as to accord with Policies LP53 and LP57 of the Kirklees Local Plan and the aims of Chapters 13 and 16 of the National Planning Policy Framework.

5. Before the development commences, a scheme detailing the location and fully dimensioned cross-sectional information along with the proposed design and construction details for all new retaining walls adjacent to the existing highway including public footpath (Ref DEW/138/10), together with any modification to the existing highway retaining wall supporting Long Lane shall be submitted to and approved in writing (via the submission of AIPs) by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained.

**Reason:** So as to ensure the development hereby approved does not impact on the structural integrity and safety of the adjacent highway in accordance with Policy LP21 of the Kirklees Local Plan, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

6. Before the development commences, a full structural dilapidation survey of the existing highway retaining wall supporting Long Lane shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Local Planning Authority for record purposes. A further structural dilapidation survey of the retaining wall shall be submitted following the completion of the works and any defects arising in the highway retaining wall due to the works associated with the proposed development shall be made good to the satisfaction of the Local Planning Authority via the Council's Structures team, at the developer's expense.

**Reason:** So as to ensure the development hereby approved does not impact on the structural integrity and safety of the adjacent highway. To accord with Policy LP21 of the Kirklees Local Plan, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

7. Prior to commencement of the superstructure of the dwelling or ramp hereby approved, all remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary,

shall be implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

**Reason:** As to ensure safety to for the end user, the occupiers and users of adjacent land and those responsible for the build out of the approved development as to accord with Policy LP24 and LP53 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

8. Notwithstanding the submitted plans hereby approved, before development commences, an Ecological Impact Assessment (EclA) shall be submitted to and approved in writing by the Local Planning Authority. The EclA shall be informed by the PEA and demonstrate how the proposals shall deliver a measurable biodiversity net gain of at least 10%. The submitted information shall include the following:

- a) Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat.
- b) The pre-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 2.0 (or latest version, if available).
- c) The post-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 2.0 (or latest version, if available).
- d) Details of any offsite habitat enhancement required to achieve a biodiversity net gain, including pre-development and target biodiversity value.

**Reason:** To ensure significant ecological harm is prevented and that a final scheme provides a biodiversity net gain in accordance with the NPPF and Policy LP30. This is a pre-commencement condition to ensure the scheme design is able to account for the baseline ecological value of the site and so can be designed in accordance with the ecological mitigation hierarchy, as required under Policy LP30.

9. Prior to the commencement of the development hereby approved, technical highway details of the proposed access ramp shall be submitted to and approved in writing by the Local Planning Authority. The details shall include full sections, drainage works, surface finishes, finished levels, gradients, and the treatment of sight lines. Before the dwelling is occupied, the access ramp shall be fully completed in accordance with the approved plans and details and retained thereafter.

**Reason:** To ensure that suitable access is available for the development; to ensure the development does not material impact the highway safety; and to achieve a satisfactory layout, in accordance with Kirklees Local Plan Policies LP21 and LP22, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

10. Works shall be carried out in complete accordance with the landscaping scheme hereby approved. From its completion, be maintained for a period of five years to ensure establishment. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, including existing vegetation and trees on the site, it shall be replaced with others of similar size and species, in the next planting season, unless the Local Planning Authority gives written consent to any variation.

All hard and soft landscape works shall be carried out in strict accordance with the approved details. The works shall be carried out prior to the use of dwelling hereby approved unless otherwise agreed with the Local Planning Authority.

**Reason:** To ensure the site is improved visually from its current state thus ensuring an enhancement to the Green Belt setting and adapt for climate change, enhance and conserve the visual amenity of the built environment as well as the natural environment in accordance with Policies LP24, LP32, LP35 and LP59 of the Kirklees Local Plan as well as Chapters 12, 15 and 16 of the National Planning Policy Framework.

11. 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) by a suitably competent person 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. 183 and 184 of the National Planning Policy Framework.

12. Submission of a Phase 2 Intrusive Site Investigation Report - Condition Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 11, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person 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.

13. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 12, further groundworks shall not commence until a Remediation Strategy by a suitably competent person 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. 183 and 184 of the National Planning Policy Framework

14. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 13. 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 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. 183 and 184 of the National Planning Policy Framework

15. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report by a suitably competent person 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. 183 and 184 of the National Planning Policy Framework

16. The visibility splays as shown on plan 5541-2001-P02 shall be maintained and kept clear of obstructions to visibility above 0.9m measured from the ground at all times.

**Reason:** To ensure adequate intervisibility is provided and maintained in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

17. Prior to the occupation of the development, one electric vehicle charging point shall be installed and be available for use. The charging point shall provide a continuous supply of at least 16A (3.5kW). The charging point installed shall be retained thereafter.

**Reason:** In the interest 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.

#### **Plans and Specifications Table:-**

| <b>Plan Type</b>                    | <b>Reference</b>  | <b>Version</b> | <b>Date Recieved</b> |
|-------------------------------------|-------------------|----------------|----------------------|
| Location Plan                       | -                 | 1              | 07/03/2022           |
| Proposed Site Plan                  | 2840 (100)01      | 2              | 04/07/2023           |
| Proposed Landscaping Layout         | 2840 (100)10      | 2              | 04/07/2023           |
| Proposed House Plans and Elevations | 2840 (100)02      | 2              | 04/07/2023           |
| Proposed Site / Block Layout        | - (Web Id 980129) | 2              | 07/03/2023           |
| Highway Visibility Splays           | 541-2001          | P02            | 23/02/2023           |

|                                                    |                           |     |            |
|----------------------------------------------------|---------------------------|-----|------------|
| Proposed Access to Site                            | 5541-4001                 | P01 | 13/02/2023 |
| Earthworks Sections                                | 5541-5002                 | P01 | 13/02/2023 |
| Earthworks Sections                                | 5541-5001                 | P01 | 13/02/2023 |
| Earthworks Layout                                  | 5541-5000                 | P01 | 13/02/2023 |
| Earthworks Mine Shaft Capping Arrangement Plan     | 5541-2001                 | P01 | 13/02/2023 |
| Earthworks Mine Shaft Capping Arrangement Sections | 5541-Hjce-Zz-Xx-Dr-C-2002 | P01 | 07/03/2023 |

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 Planning 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. Extensive negotiation and discussion took place with regard to land stability, risk from coal mining legacy, contaminated land, landscaping, highway safety, visual amenity, the principle of development in the Green Belt, the ecological impacts and the discrepancies in the plans.

**Report Dated:** 25/07/2023