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**Report of the Head of Development Management****HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 15-Dec-2016****Subject: Planning Application 2015/91717 Outline application for residential development (maximum 3 No. Dwellings) rear of 40, Church Road, Roberttown, Liversedge, WF15 7LR****APPLICANT**

N Palmer

**DATE VALID**

05-Aug-2015

**TARGET DATE**

30-Sep-2015

**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

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**Electoral Wards Affected:**

**Liversedge and Gomersal Ward**

**YES**

Councillor David Hall  
Councillor Lisa Holmes

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**RECOMMENDATION: Grant outline planning permission subject to the delegation of approval to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by the Committee)**

**1.0 INTRODUCTION:**

- 1.1 The proposals are brought forward to the Heavy Woollen Planning Sub-Committee for determination due to the level of representations initially received. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site forms a large roughly triangular area of land to the rear of properties on Church Road. The site appears to be open agricultural land that was overgrown at the time of the site visit. The site is level and contains no notable features. Access is via Bullace Trees Lane to Church Road.
- 2.2 The land is bound by open agricultural land to the north, Bullace Trees Lane to the east beyond which are three large detached dwellings, and established residential development to the south and west. The locality is on the periphery of an established residential area which comprises of a mixture of house types, scale, and designs.

**3.0 PROPOSAL:**

- 3.1 The application is for outline planning permission with access included for consideration and all other matters reserved. The application description has been amended in agreement with the agent to allow no more than 3 dwellings on the site. There are no details of size, scale or layout submitted with the application. Access would be via Bullace Trees Lane from Church Road.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2004/92862 – residential development – refused (presumption against development)

2004/90835 – Reserved matters for erection of 4 detached dwellings with garages – refused (insufficient information regarding siting and design in addition to access) (NOTE: *the access proposed as part of this refused application was different to that proposed as part of this current application*)

SP 18747A – Outline application for residential development, including land within the current application site 1973 – the rest of the site was developed in the mid- 1970s to form nos. 40-44 and 56-66 Church Road. The outline planning permission granted the principle of development only and no other matters were approved at that stage.

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 During the course of the application discussions took place with the applicant's agent and resulted in the submission of:-
- Revised certificate of ownership
  - Revised access plan details
  - An additional indicative layout plan
  - Drainage information

#### **6.0 PLANNING POLICY:**

- 6.1 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. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan will be published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (adopted 1999) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design

BE12 – Space about buildings  
T10 – Highway safety  
T19 – Car parking standards  
H1 – Meeting the housing needs of the district  
R13 – Public Rights Of Way

Supplementary Planning Guidance / Documents:

6.3 None relevant

National Planning Guidance:

6.4 National Planning Policy Framework.

Chapter 6 - Delivering a wide choice of high quality homes  
Chapter 7 - Requiring good design  
Chapter 8 - Promoting healthy communities  
Chapter 11 - Conserving and enhancing the natural environment  
Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been re-advertised following the submission of amended details (including revised certificates of ownership, revised access plan details and additional indicative layout plan).

7.2 Six letters of representation have been received. The main comments raised are summarised as follows:

- The effect on walkers/riders/cyclists has not been assessed
- No provision for ensuring safety during construction and after
- Surfacing is inappropriate
- Safe margin is not wide enough
- Poor access and parking
- Loss of value
- Presumption should be in favour of brownfield sites
- Flood risk
- Congestion
- Increase traffic
- Loss of light

7.3 The following summarises the Comments received following the initial publicity period for the application:

**Objections:**

- Poor access
- Pedestrian safety
- Increased traffic
- Congestion

- Parking
- PROW/Bridleway
- Green belt
- Loss of greenfield site
- Loss of privacy
- Loss of light
- Light pollution
- Loss of house value

**Support:**

- The site is unallocated
- It does not lie within the green belt
- Sustainable location
- Is appropriate for housing

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**KC Highways Development Management:** No objections however, attention is drawn to the comments provided by the PROW officer (summarised below).

**Environment Agency:** No objections subject to conditions.

**Coal Authority:** No objections subject to conditions.

### **8.2 Non-statutory:**

**KC Environmental Health:** No objection.

**K.C. Public Right of Way** – Concern has been raised in relation to the surfacing of the PROW.

**K.C. Ecology & Biodiversity Officer** – No objections subject to condition.

**K.C. Flood Management and Drainage** – Drainage details are currently being considered.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations

- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.2 Paragraph 14 of the NPPF introduces a presumption in favour of sustainable development. For decision taking, unless material considerations indicate otherwise, this means:
- *‘approving development proposals that accord with the development plan without delay; and*
  - *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
    - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
    - *Specific policies in this Framework indicate development should be restricted.’*
- 10.3 Footnote 9 lists examples where specific policies within the Framework indicate that development should be restricted. The examples include land designated as Green Belt and Local Green Space. The application site does not fall into either of these categories.
- 10.4 The NPPF sets out at paragraph 49 that ‘housing applications should be considered in the context of the presumption in favour of sustainable development.’ Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At present, the Council is unable to demonstrate a five-year supply of housing land and therefore the provision of new housing to meet the shortfall is a material consideration that weighs in favour of the development proposed.
- 10.5 Whilst the NPPF encourages the use of brownfield land for development, it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.
- 10.6 The site comprises of land that is greenfield (previously undeveloped). As such, consideration needs to be given to any harm which would result from the loss of this open land. The specific impacts of the development, for example, the visual and ecological impacts, are addressed later in this

assessment but, in principle, it is considered by officers that there is no overriding reason why development on this land would be inappropriate, subject to consideration of the UDP policies listed above.

#### Urban Design issues

- 10.7 At the time of site visit the land appeared rural in character being used as pasture land possibly. It was overgrown and whilst it abuts the designated Green Belt to the north, has a different character to it. The application form describes it as “vacant land” and does not provide the previous use but it is likely that it was used as part of the wider land for farming purposes at one time. Whilst it is clear that it is greenfield, it is unallocated on the Kirklees UDP proposals map. An assessment has to be made as to whether its loss in terms of visual amenity would be detrimental to the character of the area and whether the benefit of development would outweigh its loss as a greenfield site. This is very much a balanced case in this instance. The land is bound by existing residential development to three sides with the only aspect being to the north into open agricultural land. Development has encroached round the site resulting in it being almost enclosed. It is considered that the site results in very limited contribution to the visual amenity of the area and development would actually continue the established character of development along and to the rear of Church Road. It is therefore considered, by officers, that the benefit of development for 3 dwellings would outweigh its loss as a greenfield site.
- 10.8 Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history, and reflects the identity of local surroundings and materials. As the application is in outline with all matters reserved there are no details of scale, materials or design. The nature of existing residential development that surrounds the site is mixed in scale and character, with no single style or design of property taking precedent. As such, it is the view of officers that development could be appropriately designed without detriment to the character of the area, in accordance with Policy D2 of the Kirklees UDP as well as chapter 7 of the NPPF.
- 10.9 The application site received outline planning permission in 1973 as part of a wider site for development. This was partly implemented and a reserved matters application for the remainder (i.e. the site subject of this application) was submitted but refused due to insufficient information regarding siting and design, as well as unacceptable details in respect of means of access and parking. The current application is in outline with access included for consideration. The access point is different to the refused application referred to and the current submission shows a layout that is considered appropriate by officers when considering the context, in addition to the proximity to the Green Belt. The submitted layout plan has taken on board concerns raised by officers and ensured that the proposed buildings would follow the same line as existing. This would ensure that an area of open space (albeit garden) is retained between the development and the Green Belt, significantly reducing any impact and forming a buffer.

- 10.10 It is considered by officers that the development proposed is of a scale and level commensurate with the surrounding area and as such is in accordance with Policies BE1, BE2 and D2 of the Kirklees UDP, as well as the aims of chapters 6 and 7 of the NPPF.

#### Residential Amenity

- 10.11 In assessing the impact of the development on both dwellings externally surrounding the site and the dwellings proposed within the site, Policy BE12 of the UDP is of relevance.
- 10.12 The application description has been amended to include “maximum of 3 No. dwellings”. It is noted that properties located along Church Road have habitable room windows in the rear elevations and the dwelling 52/52a also contains a non-habitable room window in the side. Any subsequent application for reserved matters should take into account the location of existing windows and observe recommended distances outlined in Policy BE12. In this instance, it is considered by officers that the site can accommodate 3 modest dwellings, as shown on the indicative layout submitted, whilst meeting appropriate distances and maintaining space about buildings. It is anticipated that two storey dwellings would be located within each plot of a scale and design akin to those located within the vicinity. Taking into account the size of the site in addition to the topography it is considered that any future development would avoid any loss of amenity to nearby occupants through being overbearing or overshadowing.
- 10.13 It is considered by officers that residential development can be appropriately designed so that it would accord with Policy D2 of the UDP as well as the aims of policy BE12 of the UDP in terms of residential amenity and as such is acceptable.

#### Landscape issues

- 10.14 Landscaping is not included for consideration and is retained as a reserved matter.

#### Housing issues

- 10.15 The development would contribute to the aims of Policy H1 of the UDP in that it would provide additional housing in a sustainable location.

#### Highway issues

- 10.16 The minor improvements to the track (Bullace Trees Lane) are considered a potential safety feature to assist in any conflict adjacent to the site, the proposed widening of the track would allow two vehicles to pass, and with the site accommodating a maximum of 3 dwellings, Highways DM consider these proposals acceptable from a highway safety perspective.



- 10.17 Additional detail regarding the proposed construction details and given that the proposal includes the removal of verges, adequate drainage needs to be included. This can be covered by a condition.
- 10.18 Public Rights of Way (PROW) have raised concern with the proposals in terms of the surfacing of the access. However, a condition for a scheme for the provision of the additional width of public bridleway along with its surfacing (either a creation agreement or dedication of the bridleway), would be required.
- 10.19 To summarise, with the inclusion of appropriate conditions, the proposals would not materially add to any highway safety implications and would comply with the aims of Policies T10 and R13 of the UDP.

#### Drainage issues

- 10.20 In light of comments received from the Council's Flood Management & Drainage officer regarding the development, the agent has submitted further information. This is currently being considered by the Council's Flood Management & Drainage officer. It is considered to be likely that the site can be developed and adequately drained so as to prevent any concerns regarding flooding and in order to comply with the aims of chapter 10 of the NPPF.

#### Representations not addressed above

- 10.21 The effect on walkers/riders/cyclists has not been assessed.  
**Response:** The effect on various users of the access has been carefully considered by officers. As set out in this assessment, concern has been raised by the Council's PROW officer. In taking a pragmatic approach to determining the application, it is considered reasonable in this instance to impose a condition relating to the submission of a scheme for the improvement works to the access, which is a public bridleway (Spenborough 126). This is considered to be in accordance with the aims of Policy R13 of the Kirklees UDP.
- 10.22 No provision for ensuring safety during construction and after.  
**Response:** Should planning permission be granted, a standard footnote relating to ensuring that the public bridleway is not obstructed etc, is recommended to be attached to any subsequent decision notice.
- 10.23 Surfacing is inappropriate.  
**Response:** As set out in paragraph 10.21, the suggested condition would include details in relation to the surfacing of the access.
- 10.24 Safe margin is not wide enough.  
**Response:** The proposed increase in width of the access has been assessed by KC Highways DM. This proposed improvement to the access is considered sufficient. As set out previously, full details of the improvement

works would need to be submitted for approval by the Local Planning Authority as part of the suggested conditions.

10.25 Loss of value.

**Response:** House value is not a material consideration.

10.26 Presumption should be in favour of brownfield sites.

**Response:** The NPPF sets out at paragraph 49 that 'housing applications should be considered in the context of the presumption in favour of sustainable development.' Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At present, the Council is unable to demonstrate a five-year supply of housing land and therefore the provision of new housing to meet the shortfall is a material consideration that weighs in favour of the development proposed.

10.27 Flood risk.

**Response:** The Council's Flood Management and Drainage team have been consulted and further information sought. It is likely that matters regarding drainage and flood risk can be addressed and as such it is not considered that the development would result in any increased flood risk

10.28 Congestion/Increase traffic.

**Response:** The development proposed has been fully assessed by KC Highways DM. The application includes improvements to the access that are considered sufficient. The proposed number of properties proposed has been limited to 3. As such it is not considered that the vehicular movements associated with the proposed development would result in any detriment to highway safety or other users of the highway network.

10.29 Loss of light.

**Response:** It is not considered that development of the site would result in a loss of light to any adjoining occupant. The scale of development would be considered at reserved matters stage.

Other Matters

10.30 **Ecology & Biodiversity:**

An ecological survey has been submitted and has been assessed by the Council's Biodiversity Officer. It is not considered that the site offers significant ecological interest so as to justify refusal of the development proposed and appropriate mitigation and enhancement measures should be included as part of any reserved matters application. The Council's Biodiversity officer has been consulted and agrees with the findings of the report.

10.31 The inclusion of conditions would ensure that the proposal would improve biodiversity within the local area, complying with current guidance contained within the NPPF.

**10.32 Coal Mining Legacy:**

A Coal Mining Risk Assessment has been submitted with the application and comments received from the Coal Authority. There are no objections to the proposals providing conditions are imposed to ensure there is no risk as a consequence of development.

**10.33 Sustainable transport:**

Paragraph 35 of the national Planning Policy guidance states that “Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to...incorporate facilities for charging plug-in and other ultra-low emission vehicles.”

10.34 As such, this development should encourage the use of ultra-low emission vehicles such as electric vehicles. A condition is recommended in relation to the provision of facilities for charging plug-in electric vehicles.

**11.0 CONCLUSION**

11.1 The proposal is considered to comply with current planning policies and it is the opinion of officers that there would be no significant adverse impact in terms of visual or residential. Furthermore there would be no issues with regard to highway or pedestrian safety. For the reasons detailed above, it is considered by officers that, subject to the imposition of appropriate conditions, the proposal is acceptable.

11.2 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.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

**It is proposed that the following planning conditions would be included should planning permission be granted:**

- 1-4. Standard conditions to secure Reserved Matters.
5. In accordance with approved plans.
6. Finished ground levels relating to ordnance datum (or an identifiable datum).
7. Facing material to be natural stone and samples to be provided for walls and roofing.
8. Removal of Permitted Development Rights for the erection of further extensions/outbuildings.

9. Laying out of areas to be used by vehicles.
10. Development to be carried out in accordance with Flood Risk Assessment.
11. A scheme for intrusive site investigations (in relation to Coal Mining).
12. Undertaking of the scheme of intrusive site investigations (in relation to Coal Mining).
13. Submission of a report of findings arising from the intrusive site investigations (in relation to Coal Mining).
14. Submission of a scheme of remedial works for approval (in relation to Coal Mining).
15. Implementation of those remedial works (in relation to Coal Mining).
16. Scheme for provision of low emission charging points.
17. Ecological method statement.
18. Ecological Design Strategy.
19. A scheme for the improvement works to the access/bridleway (Spenborough 126).
20. Drainage details

### **Background Papers:**

Application and history files.

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91717>

Certificate of Ownership – Notice of the application has been published in the Telegraph and Argus on the 17<sup>th</sup> September 2016 and Certificate D duly signed.