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**Report of the Head of Development Management**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 18-May-2017**

**Subject: Planning Application 2016/92553 Erection of detached dwelling and reinstatement of access adj The Mill, 116, Low Road, Earlsheaton, Dewsbury, WF12 8BZ**

**APPLICANT**

Stercap (Properties) Ltd

**DATE VALID**

27-Jul-2016

**TARGET DATE**

21-Sep-2016

**EXTENSION EXPIRY DATE**

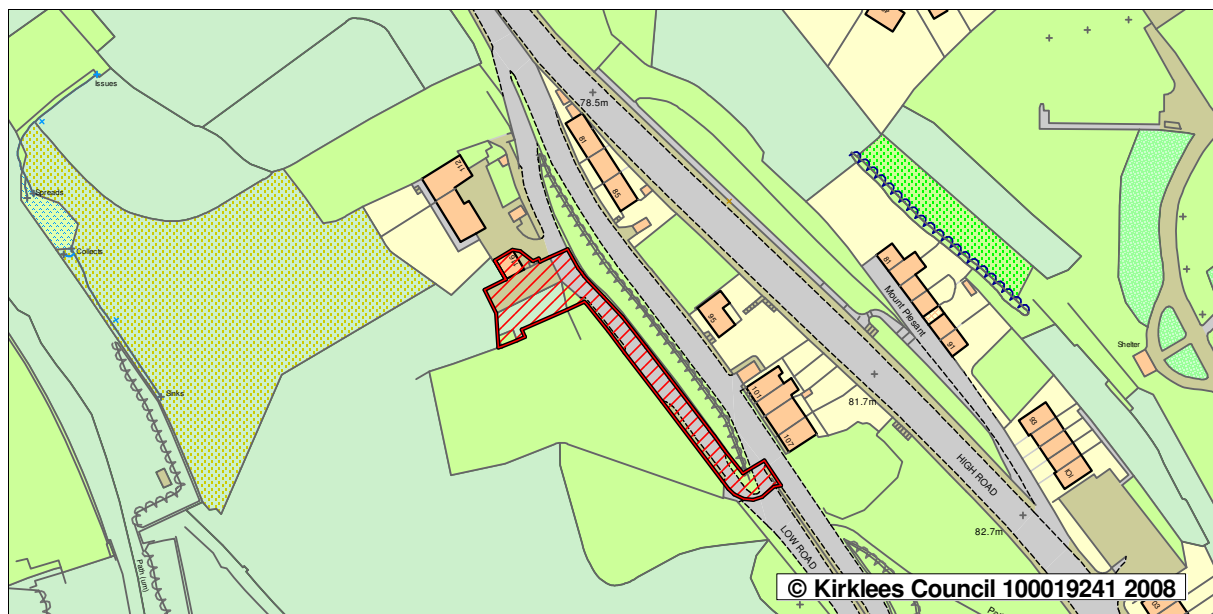
21-Dec-2016

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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: Dewsbury East Ward**

NO

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report and in order to allow for the expiration of site publicity (2<sup>nd</sup> June 2017).**

**1.0 INTRODUCTION:**

- 1.1 This application has been brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation due to the proposed development being a departure from the Kirklees Unitary Development Plan.
- 1.2 The erection of one detached dwelling on this brownfield site is considered to be acceptable as the benefit of locating residential development in this sustainable location would outweigh the loss of the site in terms of any ecological or visual impacts.
- 1.3 The design, scale, and layout of the proposed new dwelling is considered by officers to be acceptable. Furthermore the dwelling has been designed so that it would have no undue detrimental impact on the amenity of any adjoining occupants.
- 1.4 The site forms part of a wider area of land allocated as Provisional Open Land (POL). A building is already located on the site and it is considered that the redevelopment of the site will not prejudice any potential future development of the wider POL allocation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is a vacant piece of land off Low Road, Earlsheaton. The land did contain a large mill building but that has long since gone with only very limited remnants of the building remaining and the land has become overgrown but is unkempt in appearance. The land forms part of a much wider POL allocation which includes land to the south, west and north though rest of the allocation is at a significantly lower level and can only be accessed via Ridings Road off of the Dewsbury Ring Road.
- 2.2 The surrounding area is made up of residential development mainly comprising of terraced dwellings of a simple appearance. This section of Low Road currently serves one detached dwelling (112 Low Road) which is a fairly large detached dwelling, again of a simple design. Low Road itself is very narrow, in a poor state of repair and is quite steep especially at its junction with Middle Road which has extremely poor visibility.

## **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of one detached dwelling on land off Low Road, Earlsheaton. The dwelling would roughly be 'L' shaped and measure 14m x 11m with a height of 7m rising to 9.5m. Accommodation would be over three floors with the upper floor being in the roof space and having three pitched roof dormers. The design of the dwelling would include balconies, windows of varying designs and sizes and would be constructed using natural stone walls and stone roof slate.
- 3.2 Access to the dwelling would be taken from Low Road and include vehicle turning within the site. Private amenity space would be quite limited and consist of a small area to the north of the site and a small patio area around the dwelling (though this would involve large retaining walls as the land beyond drops away significantly).

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Application 2015/91964 – Erection of a single dwelling – refused for the following reasons:
  1. Low Road, by reason of its width, poor surfacing, lack of pedestrian facilities and its steep, acute angle at its junction with Middle Road, is considered to be unsuitable for any intensification in its use. The proposed development would result in additional vehicles and trips using Low Road to the detriment of highway and pedestrian safety. The improvements proposed of turning facilities and surfacing is not considered enough of a benefit to outweigh the significant issues with regard to the substandard nature of Low Road and its junction with Middle Road. The application would therefore fail to comply with Policy T10 of the Unitary Development Plan

2. The proposed development by reason of its design and appearance would have a detrimental effect upon the visual amenities of the surrounding area and wider street scene. The inclusion of dormer windows and balconies would be out of keeping with the simple nature of development within the area. The application would therefore fail to comply with Policies BE1 and BE2 of the Unitary Development Plan as well as Paragraphs 60 and 64 of the NPPF – National Planning Policy Framework.

Application 2009/93042 – Erection of 4 dwellings, withdrawn (concern over highways/access, design, scale and overdevelopment).

94/91851 – Change of use and alterations to convert warehouse to one dwelling with integral garage, approved.

89/00577 – Conversion of warehouse into six flats, approved.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Application 2015/91964 was for a similar proposal but was refused because of concerns relating to highway safety and also the design and appearance of the proposed new dwelling.
- 5.2 Due to issues surrounding land ownership the access has been revised and relevant notices been served and amended plans received to address officer concerns regarding design and highway safety.
- 5.3 Amended plans were submitted in order to address officer concerns regarding design. Discussions also took place regarding highway safety.

## **6.0 PLANNING POLICY:**

- 6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).
- 6.2 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 6.3 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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 (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is allocated as Provisional Open Land on the UDP proposals map.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

**D5** – Provisional Open Land

**BE1** – Design Principles

**BE2** – Design of new development

**BE12** – Space about buildings

**G6** – Development having regard to contamination

**EP11** – Incorporation of integral landscaping which protects or enhances ecology

**NE9** – Retention of mature trees

**T10** – Highway safety considerations

**T19** – Parking standards

6.5 Supplementary Planning Guidance / Documents:

None relevant

6.6 National Planning Guidance:

‘Core Planning Principles’

**Chapter 4** - Promoting sustainable transport

**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

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been readvertised and will expire on the 2<sup>nd</sup> June 2017. One letter of representation was received to the original proposals regarding access, loss of light and overlooking in addition to concerns regarding ownership. No representations have been received to the revised details to date.

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**KC Highways Development Management:** No objections.

8.2 **Non-statutory:**

**KC Flood Management & Drainage:** No objections

## 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 application has previously been assessed and considered to be greenfield for the purposes of considering development. Officers at the time recognised that the land did once contain a building and that these remains were considered to have blended into the landscape in the process of time (Annex 2 of the NPPF). Having undertaken site investigations it is considered that whilst the site is very overgrown there is clearly a building present that is considered to conflict with the view that the land blends in with surrounding land. As such officers consider that the site can be considered as brownfield and the development considered on this basis.
- 10.2 The application site includes land designated as Provisional Open Land (POL). Policy D5 of the UDP states that *“planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”*
- 10.3 The Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will also be the vehicle to assess whether there are exceptional circumstances to return POL sites back Green Belt or whether they may be suitable for allocation as Urban Greenspace. The Local Plan process is underway but is still some way from being sufficiently advanced to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.
- 10.4 The weight that can be afforded to policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 215 and 49.

- 10.5 In the context of paragraph 215, the wording of policy D5 is consistent with NPPF paragraph 85 concerning safeguarded land. However, with regard to paragraph 49 the Council is currently unable to demonstrate a five year supply of deliverable housing sites.
- 10.6 The weight that can be given to policy D5 in these circumstances was assessed in October 2013 by a Planning Inspector in his consideration of an appeal against refusal of permission for housing on a POL site at Ashbourne Drive, Cleckheaton (ref: APP/Z4718/A/13/2201353). The inspector concluded (paragraph 42):
- “The lack of a five-year supply, on its own, weighs in favour of the development. In combination with other paragraphs in the Framework concerning housing delivery the weight is increased. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date. Policy D5 clearly relates to housing and so it, too, is out of date and its weight is reduced accordingly. This significantly reduces the weight that can be given to the policy requirement for there to be a review of the plan before the land can be released. In these circumstances, the Framework’s presumption in favour of sustainable development is engaged.”*
- 10.7 NPPF paragraph 14 states that where relevant policies are out-of-date, permission should be granted “unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”.
- 10.8 Footnote 9 lists examples of restrictive policies but this does not include land allocated as Provisional Open Land.
- 10.9 The NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. It states that these roles are mutually dependent and should not be undertaken in isolation; “economic, social and environmental gains should be sought jointly and simultaneously through the planning system” (paragraph 8). The ‘economic’ role includes providing support for growth and development requirements. In this case this includes business opportunities for contractors and local suppliers during construction and demand for services from new residents. The ‘social’ role states the need to support communities by providing housing to meet the needs of present and future generations. This is particularly at a time of general housing need given the Council is unable to demonstrate a 5 year supply of housing land. The ‘environmental’ role includes contributing to protecting and enhancing the natural, built and historic environment. Although the proposal would develop a greenfield site, where national policy encourages the use of brownfield land for development, it also makes it 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.

- 10.10 As such, in the absence of both a five year housing supply and provided there are no significant and demonstrable adverse impacts that can be evidenced and substantiated and which outweigh the benefits when assessed against the policies in the framework taken as a whole, the principle of developing this site is considered to be acceptable.
- 10.11 Assessing the policies in the national planning policy framework as a whole in accordance with the paragraph 14 test, the provision of housing on this brownfield site, outweighs the environmental harm arising from the development and the proposal is considered to be sustainable development.

#### Urban Design issues

- 10.12 It is recognised that the application site is within an area which is not largely surrounded by development. That said there are still a number of buildings within close proximity which could be read in association with the application site.
- 10.13 The site contains a dilapidated industrial building which appeared to be three storeys high when viewing historic maps (despite the design and access statement saying it was four storeys). It appeared as though that the design and appearance of this building was very simple with uniform windows in terms of their size and position within the building. The same is true with other buildings within the locality on Middle Road, which are predominantly stone terraced dwellings of a simple design/appearance.
- 10.14 Paragraph 60 of the NPPF also states that it is proper to seek and promote/reinforce local distinctiveness. Para 64 goes on to say that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area. Policies BE1 and BE2 of the UDP also re-enforce this.
- 10.15 In this case, officers consider that the local distinctiveness of the area is characterised by simply designed buildings which have an element of symmetry. The original plans submitted have been revised through negotiation with officers to ensure the building proposed respects the design and scale of those in the vicinity. The former dormers have been removed and balconies replaced, ensuring local distinctiveness is protected.
- 10.16 Officers therefore consider that the design and appearance of the proposed dwelling would be acceptable when viewed within the context and would not harm the character and appearance of the surrounding area. The application would therefore comply with Policies BE1 and BE2 of the UDP as well as paragraphs 60 and 64 of the NPPF.

### Residential Amenity

- 10.17 The nearest existing residential dwelling to the proposed development would be 112 Low Road located to the north of the site. This dwelling is at a slightly lower level to the application site and there would be a distance of approximately 15m between the two buildings. This northern elevation of the proposed dwelling would only contain non-habitable rooms and as such, the distance between the buildings is considered to be acceptable.
- 10.18 Other dwellings within the area are located to the east on Middle Road and are approximately 25m away from the application site. Due to this distance together with the difference in levels it is considered that the proposal would not result in any undue impacts upon the residential amenities of these occupants.
- 10.19 To conclude, officers consider that the proposed development would not have a detrimental impact upon the residential amenities of any surrounding property and the application would comply with the aims of policy BE12 of the UDP.

### Highway issues

- 10.20 The access to the site is narrow and manoeuvring poor, as such there have been concerns with regards to highway safety. The dwelling would be accessed off Low Road which is a part-adopted highway which connects onto Middle Road. Low Road is a narrow, single width road which serves one dwelling (116 Low Road) and is a dead-end at its most southern point. Due to the levels difference, the gradient of Low Road at the junction with Middle Road is fairly steep with limited opportunity for improvement due to land levels.
- 10.21 The agent has provided a revised plan reference 6911\_01c that shows details of the revised access and retaining walls. The existing access from Middle Road is shown to be retained unaltered. Localised pothole repairs along the section of road are considered sufficient in order to improve the surface between Middle Road and the development site.
- 10.22 It is considered that, when taking into account the former use in addition to the access improvements shown, that the proposal for a single dwelling would, on balance, be in accordance with Policies T10 and T19 of the Kirklees Unitary Development Plan.

### Drainage issues

- 10.27 Initial plans and information provided no details regarding the proposed drainage. The application form states that surface water will be discharged to the mains sewer. There is a Yorkshire Water sewer in Low Road. However the site slopes downwards away from the road. Any form of a pumped surface water system would not be supported.

- 10.28 The applicant has confirmed that the site currently drains to the public combined sewer to the south west and that this is the intended point of discharge for the proposed development. This would be acceptable and in accordance with guidance contained within the NPPF.

### Representations

- 10.29 Concerns raised have been addressed in the main report. For the reasons outlined above it is considered that the development meets Kirklees Unitary Development Plan Policy and the NPPF. Any matters raised during the course of the period of readvertisement will be addressed in the update.

### Other Matters

- 10.30 *Ecology* – A bat scoping report has been submitted with the application. The survey found no evidence of bats during the time the scoping survey was carried out but does acknowledge that the surrounding woodland does provide good habitat. Within the recommendations, it states that two further surveys should be undertaken between May & August in order to fully establish the bat roost potential. A condition is recommended which requires these surveys to be carried out prior to development commencing. This would be in accordance with guidance contained within the NPPF.
- 10.31 *Trees* – There are a number of large trees just beyond the site boundary (going down the embankment), none of these are protected or meet the criteria for protection and as such there would be no concerns with regards to development in close proximity. The proposals would comply with Policy NE9 of the UDP.
- 10.32 *Coal Mining* – The site is within a high risk area for historic coal mining activity. The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Mining Report (July 2015, prepared by Avie Consulting Ltd), which accompanies this planning application.
- 10.33 The Mining Report correctly identifies that the application site may have been subject to past coal mining activity. The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth associated with coal which outcropped across the site.
- 10.34 The Mining Report has been informed by an appropriate range of sources of information; including a Coal Mining Report, BGS geological mapping, and historic OS mapping. Based on this review of existing sources of geological and mining information, Section 6 of the Report confirms that the risk to the site is from subsidence from unrecorded mine workings.
- 10.35 Accordingly, Section 7 of the Report recommends that a Phase 2 Intrusive Site Investigation is undertaken to determine the potential risks to the development and to identify any necessary remedial measures.

10.36 Subject to conditions, the development could be constructed without impacting upon any historic coal mining features and would therefore comply with guidance contained within the NPPF.

10.37 *Air quality* - In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of electric car charging points is recommended should the application be approved. This would be in accordance with the aims of the NPPF.

## **11.0 CONCLUSION**

11.1 To conclude, in accordance with NPPF there is a presumption in favour of sustainable development and planning permission should be granted "unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted". The proposal is considered to present a sustainable form of development. There are no other material considerations that outweigh this finding.

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

1. 3 year Time limit
2. Plans to be approved
3. Vehicle areas to be laid out
4. Specifications and gradients for driveways and access
5. Electric vehicle point
6. Materials for new dwelling
7. Removal of Permitted Development Rights
8. Intrusive investigation
9. Report from site investigations
10. Remediation strategy
11. Remediation works
12. In accordance with Bat report
13. Turning facilities to be provided
14. Provision of access from the southern section of Low Road
15. Retaining walls

## **Background Papers:**

Application file website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92553>

Certificate of Ownership – Certificate D signed with notice being served in the Dewsbury Reporter.

History file website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91964>