
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2017/91339 Erection of detached dwelling Land Opp, 14, Bracken Hill, Mirfield, WF14 0EZ

APPLICANT

S Riley & B Fox

DATE VALID

02-May-2017

TARGET DATE

27-Jun-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Mirfield

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The application is brought to Heavy Woollen Planning Committee due to the significant number of objections received. Councillor Bolt has also requested the application to be heard at Committee due to the level of objection to the development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to a piece of land on Bracken Hill on which was previously sited the detached garage serving no.14 Bracken Hill, which is located on the opposite side of the highway to the site. The site is steeply sloping and has a long frontage onto Bracken Hill.

2.2 Bracken Hill itself is characterised by traditional stone detached and terraced properties whilst to the rear of the site, the properties on Bracken Grove are of a later period and comprise semi-detached bungalows and two storey dwellings of brick construction.

2.3 At the time of the case officer's site visit, a dwelling has been partially constructed on the site.

2.4 The site is unallocated on the Kirklees Unitary Development Plan proposals map.

3.0 PROPOSAL:

3.1 The proposal is a full application for the erection of a detached dwelling. The application has been received as the result of an enforcement complaint.

- 3.2 The site is elongated with a long boundary with Bracken Hill, it slopes from north to south; the building is two storey but split level to account for the topography of the site. The roof is twin pitched with gables to each end and is of natural slate. The facing material is natural stone; doors and windows have not yet been inserted but would be grey uPVC.
- 3.3 Outdoor amenity space would be provided in the form of a small garden to the south-west of the site and there would be two off street parking spaces to the side of the dwelling.
- 3.4 The application also includes a Coal Mining Risk Assessment and Geotechnical report detailing results of a bore hole intrusive survey.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 **COMP/17/0107.** Alleged unauthorised development. April 2017 - Case still open.

2015/91816. Erection of detached dwelling and demolition of detached garage - Approved.

2015/90489 Discharge condition 3 on permission 2011/92670 - Approved

2011/92670. Alterations and extension to existing garage to form dwelling, and formation of off street parking - Approved.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Discussions took place with the agent to submit amended plans and to verify the exact dimensions of what has been constructed on site. Amended plans submitted on 24 May 2017 which show the dormer removed from the plans.
- 5.2 Further amended plans were submitted 9 June 2017 showing the dormer removed from the block plans and the parking layout slightly adjusted to ensure the inter-visibility splays are entirely within the red line boundary.
- 5.3 A planning supporting statement was also received 9 June 2017.

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 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1-** Quality of design.
BE2- Design principles.
BE11 Materials
BE12 Space about buildings.
T10- New development and access to highways.
T19- Parking Standards.

Supplementary Planning Guidance / Documents:

- 6.3 None relevant.

National Planning Guidance:

- 6.4 **Chapter 6** - Delivering a wide choice of quality homes
Chapter 7 - Requiring Good Design
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11 - Conserving and enhancing the natural environment

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 The site is unallocated on the draft local plan.

Policies:

- PLP21** – Highway Safety and Access
PLP24 - Design
PLP53 – Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 21 individual letters of representation received, (3 of which are part-duplicates), and one on behalf of local residents from a Consultant. Issues raised are summarised as follows:

- Overlooking from dormer window to 1 and 3 Bracken Grove.
- Building too high, overbearing and dominates the street.
- Would add to excessive highway traffic.
- Overlooking from roof light of 12 and 14 Bracken Hill.
- Problems with service vehicles and other large vehicles accessing properties on Bracken Hill.
- Ground is unstable and has not been reinforced.

- Dormer windows would overlook houses to the rear.
- Poor visibility onto highway.
- Object to retrospective changes to permission.
- Increase in height affects outlook from nearby dwellings.
- Building reduces access to properties further on Bracken Hill.
- Children play in the street.
- Original approval was for natural stone with stone slate roof. The actual materials are grey slate and artstone.
- Poor build quality.
- Contempt shown for local community and planning approval.
- Loss of trees on the site.
- Insufficient amenity space.
- Kirklees has duty of care to make site safe.
- Street light has not been repositioned.
- Will affect value of property.
- The previous approval was the maximum reasonably acceptable on this site.

Mirfield Town Council: Objects on the basis of detrimental impact to highway safety (both access and egress), over intensification of site, overlooking to neighbouring properties, loss of privacy due to height of build, in contravention of Policy BE12. The objection refers to highway comments on the original application 2015/91816 and state that the practice of deliberately changing plans & applying for retrospective permission is becoming common and a lack of contact from building regulations to local residents is unacceptable.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – The details provided are acceptable for the development provided intervisibility splays are provided.

K.C Flood Management and Drainage –The proposed site plan has been amended removing the proposed soakaway and now showing surface water draining to the public sewer. No objection to the proposal subject to a condition being attached to any approval (comments from 2015/91816).

The Coal Authority – Awaiting response which will be reported to the members in the Update.

8.2 Non-statutory:

K.C Building Control - Concerns that no structural report has yet been submitted showing that the existing garage slab is capable of supporting the building.

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 unallocated on the Unitary Development Plan proposals map and on such sites there is a presumption in favour of development unless it would have a detrimental impact on residential or visual amenity, highway safety or the character of the area. At the heart of the NPPF is also a presumption in favour of sustainable development.
- 10.2 Two of the core principles of the NPPF are that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; and encourage the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value.
- 10.3 Planning permission has previously been granted on this site for the extension and alterations to the existing garage to form a dwelling and subsequently, the erection of a detached dwelling. As such, it is considered therefore that the principle of the development of this site for residential has been established.
- 10.4 Providing that the proposals would not cause harm to highway safety, residential and visual amenity or any other relevant considerations the principle of development is considered acceptable and in accordance with Policy D2 of the Unitary Development Plan and government guidance contained within the NPPF.
- 10.5 In terms of housing policy The NPPF provides a presumption in favour of sustainable development and requires housing applications to be considered in this context in order to boost significantly the supply of housing. For decision making it means approving development 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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or specific policies in the framework indicate development should be restricted.

Urban Design issues

- 10.6 The application site is located in a residential area of varying house types, however Bracken Hill itself is characterised in the main by traditional two storey terraced and detached dwellings constructed of stone. Bracken Grove, to the west, is characterised by brick bungalows and two storey dwellings.
- 10.7 The dwelling which is the subject of this application is 5.55m wide by 15.6m long with a pitched roof. It measures a maximum of 7m to the ridge at the lower side and 4.6m to the eaves. To the upper, north side it measures 5.2m to the ridge and 2.8m to the eaves. These measurements have been taken on site, and may not fully account for the finished ground level adjacent to the building.
- 10.8 With regard to the difference in ridge height this has been measured on site as being approximately 0.9m greater than previously approved although the Agent has stated this is actually 0.75m.
- 10.9 It is noted that the building is the same height to the eaves as previously approved; as such the main issue to assess is the increase in height to the ridge and difference in pitch. From the lower side of Bracken Hill the building is partly screened by some trees on the site, however it does appear as a prominent structure in the streetscene. It is also noted that other dwellings, for example 14 Bracken Hill, also have an imposing impact which is partly due to the sloping topography of Bracken Hill.
- 10.10 In terms of the pitch of the roof this is steeper than previously approved but does not look out of character with the building, nor with other nearby properties with similar slate roof.
- 10.11 With regard to the design detail this is similar to that previously approved and includes stone corbels to the eaves, stone sills and lintels and stone quoins. There would also be a section of timber boarding above the entrance doorway. The materials of construction are natural stone with blue/grey slate roof. It is noted that the original approval proposed natural stone slate tiles for the roof, however it is acknowledged by officers that the blue/grey slate also matches those used on the nearby terraced dwellings. Doors and windows would be of grey uPVC, again this is satisfactory given the location of the site.
- 10.12 On the basis of the above and on balance, the proposal is considered to be acceptable with regard to its design and impact on visual amenity, in accordance with Policies D2, BE1 and BE2 of the UDP and government guidance contained within the NPPF.

Residential Amenity

- 10.13 Policy BE12 of the UDP establishes that some minimum separation distances are provided between proposed new dwellings and existing development. The internal layout of the proposed development is such that most habitable room windows would be located to the east elevation. Due to the orientation of the building, it would not have a direct relationship with 12 Bracken Hill which is set back from the highway at this point and there is a separation distance of approximately 21m from the nearest point of the two buildings.

- 10.14 The row of terraced properties, nos. 2 to 10 Bracken Hill to the south would be slightly closer, being around 11m at the closest point; again this relationship would not be direct as the building is positioned at an angle to these dwellings. In addition the window to this part of the proposed dwelling serves a kitchen area of the dining /kitchen room at lower ground floor level. Given the above it is considered that the proposal would not result in a significant detrimental impact from overlooking to these properties from the east elevation.
- 10.15 With respect to the windows in the south elevation, two of these serve habitable rooms and directly overlook the parking area of the dwelling, with the garden area serving one of the terraced houses beyond at a distance of around 9m. There is no direct relationship with any nearby dwellings from these windows that would adversely affect residential amenity. The west elevation of the building will contain a large glazing area serving the dining/kitchen; this would be around 8.6m from the boundary and would be 18m from the nearest existing dwelling to this side, no 1 Bracken Grove, but would not have a direct relationship.
- 10.16 The garden to no 140 Stocks Bank Road and the gardens to properties on Bracken Grove are at a lower level than the application site. During the Case Officer's site visit these properties were visited to assess the potential impact from this side. Whilst the dwelling appears elevated, this difference is less pronounced where the large glazed area would be, and would appear to be around 1.0m and is to the side of a detached garage in the rear garden of no.148 Bracken Grove. The garden of this property wraps around the rear of the garden of no.140c Stocks Bank Road and there is some screening to this boundary.
- 10.17 It should also be noted that the site here is actually around 2m deeper than shown on the previous approval. As such the decking and dwelling are located further away from the rear boundary. Whilst previous approvals required that these windows were obscurely glazed it is the assessment of the officer that satisfactory screening can be achieved by the proposed timber fencing.
- 10.18 The main issue to address with this application are the differences between what was previously approved and the current application. It is noted that the dormer has been removed from the proposals because there was significant concern raised by officers that this element had the potential to result in an overbearing impact and could have caused significant degree of overlooking.
- 10.19 The remaining differences are in the number of roof lights, which have been reduced from 5 on the west facing pitch to 2 on the current proposals. One of these is of a high level design, serving the living area, and one serves a bedroom, again at high level. As such there is no potential for overlooking from these windows. On the east facing pitch a roof light has been inserted which will serve a room in the roof space; this does not have a direct relationship with any other dwellings and does not result in overlooking.

- 10.20 As noted previously the main difference between the previous approval and the current application (relating to the building as constructed), is the increase in roof pitch which has resulted in an increase in roof height of around 0.9m. This does result in a more prominent gable to the southern side and a more visible structure; however it is necessary to assess whether or not this would adversely affect residential amenity.
- 10.21 To the east side of the site across Bracken Hill is the row of terraced properties, some of which have a fairly direct view of the property, particularly the south eastern corner. Whilst this is the most prominent point on this side, it should be noted that there is a change in levels between the highway and the building such that the building is at a slightly lower level. As such, the impact would not be from the full height of the dwelling. It is also of note that due to the orientation of the building there would no significant overshadowing of these terraced properties apart from in the late evening during the summer months. There is also unlikely to be any loss of light from the development to the extent that it would affect residential amenity.
- 10.22 In terms of any increase to loss of outlook the main impact would be from the building up to eaves height which has already been approved. The pitch of the roof has increased and as a result the ridge height has also increased by approximately 0.9m. A greater impact would arise as a result of this. However it should be noted that the roof element of this building slopes away from these properties and as such the impact on outlook is therefore less than it would be for the same increase to a vertical element.
- 10.23 With regard to other properties on Bracken Grove, the property is be elevated but given this orientation is unlikely to cause a significant impact from overshadowing, and given the distance from these properties, would not result in a significantly detrimental overbearing structure.
- 10.24 With regard to the residential amenity of future occupiers of the dwelling, the proposals include an area of outdoor amenity space to the rear of the dwelling which is mainly grassed and a decking area adjacent to the dining/kitchen space. This area is approximately 80 sq. m and as such is considered to provide an acceptable level of provision.
- 10.25 On the basis of the above, it is considered by officers that on balance, the proposals would not be significantly detrimental to residential amenity and would accord with Policies D2, BE1 and BE2 of the Unitary Development Plan.

Landscape issues

- 10.26 The site is relatively small with the garden area to the south western part of the dwelling. The plans indicate that this area would be a lawn with a small section of decking outside the kitchen/dining room.

- 10.27 To the side and rear boundary is proposed 1.8m high hit and miss timber fencing. It is considered that given the proximity to neighbouring properties and the change in levels between those dwellings on Bracken Grove, solid timber fencing would be required. This is recommended to be secured via condition.
- 10.28 To the front boundary is proposed a small lawn area with a 1m high natural stone boundary wall, this is appropriate in terms of the material which would match others in the vicinity, and the height would help to maintain visibility on this corner.

Housing issues

- 10.29 The proposal would provide for an additional dwelling in this mainly residential area and in a sustainable location.

Highway issues

- 10.30 The proposed dwelling is a two/three bedroom property with a floor area of around 140 square metres, the threshold above which UDP parking standards require 3 parking spaces. The plans show two parking spaces which are in accordance with the details previously requested by condition. The parking spaces would be set back 2m from the edge of the highway and 2 x 2m inter-visibility would be provided.
- 10.31 A condition is recommended to be included to ensure that the surface is permeable and that the street lighting column adjacent to the site is moved. A bin storage area is also shown within the site boundary and accessible to service vehicles. Officers recommend that a condition is imposed requiring this to be provided before the development is first occupied.
- 10.32 There has been some concern with the issues surrounding bin collection which has not been possible on a number of occasions over the building period. It is important to point out that this is due to the scaffolding and site fencing and not the building itself which, as noted previously, does not project any further on the north east corner than the previous garage on the site. The issue has been discussed with the Council's cleansing service which has confirmed this to be the case. The Agent has been advised to ensure the highway is not obstructed.
- 10.33 Subject to condition the proposals, the proposals are considered to be in accordance with Policies BE1, T10 and T19 of the UDP.

Drainage issues

- 10.34 The proposal is to connect both surface and foul water to mains drainage. Given the slope of the site and the relationship with other dwellings to the west, it is doubtful whether there would be space to use soakaways. The Council's Strategic Drainage team were consulted on the previous application; however this is now below the threshold above which they would now be consulted.

10.35 In addition any connection to Yorkshire Water sewers would require permission from Yorkshire Water.

Representations

10.36 As noted above, 21 letters of representation have been received in response to site publicity, 3 of which were part-duplicates and one on behalf of local residents from a Consultant.

Officers respond to the issues raised as follows:

- Overlooking from dormer window of 1 and 3 Bracken Grove.
Response: *The dormer has been removed from the submitted plans.*
- Building too high, overbearing and dominates the street.
Response: *This has been assessed in the assessment section of the report.*
- Would add to excessive highway traffic.
Response: *This has been assessed in the assessment section of the report.*
- Overlooking from roof light of 12 and 14 Bracken Hill.
Response: *This has been assessed in the assessment section of the report.*
- Problems with service vehicles and other large vehicles accessing properties on Bracken Hill.
Response: *The main obstruction to service vehicles has been from the scaffolding and fencing associated with the building work.*
- The Ground is unstable and has not been reinforced.
Response: The NPPF sets out under paragraph 120 that “where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/ or landowner”. In this instance, consultation has been carried out with the Council’s Building Control. To date, no structural report has been submitted however, the stability of the building and any required mitigation will be dealt with as part of the Building Control process.
- Dormer windows would overlook houses to the rear.
Response: *This has been assessed in the assessment section of the report.*
- Poor visibility onto highway.
Response: *This has been assessed under the section “Highway Safety”.*
- Object to retrospective changes to permission.
Response: *The application has been assessed on the merits of the submission.*
- Increase in height affects outlook from nearby dwellings.
Response: *This has been assessed under the section “residential amenity”.*

- Building reduces access to properties further on Bracken Hill.
Response: *The siting of the building on the north east corner is the same as the garage previously located on the site. The access is no narrower.*
- Children play in the street.
Response: *The development is unlikely to significantly add to any highway safety issues already existing on Bracken Hill.*
- Original approval was for natural stone with stone slate roof. The actual materials are grey slate and artstone.
Response: *The materials used on the building have been assessed in the “visual amenity” section of the report*
- Poor build quality.
Response: *The quality and safety of the building would be an issue for Building Control. The planning officer has been liaising with the Building Control Officer during the application stage.*
- Contempt shown for local community and planning approval.
Response: *The application has been received for a partly constructed building and will be assessed on its merits.*
- Loss of trees on the site.
Response: *There are no mature trees on the site and no Tree Preservation Orders.*
- Insufficient amenity space.
Response: *This has been assessed under the “residential amenity” section of the report.*
- Kirklees has duty of care to make site safe.
Response: *The site safety is the responsibility of the developer and is overseen by the Health and Safety Executive.*
- Street light has not been repositioned.
Response: *This would need to be repositioned before the parking layout can be implemented.*
- Will affect value of property.
Response: *This would not be a material planning consideration.*
- The previous approval was the maximum reasonably acceptable on this site.
Response: *There is no definition as to what the maximum development is on a site; an assessment is carried out on each particular application as to whether or not what is being proposed is acceptable in terms of the scale and resultant impact.*

Planning obligations

- 10.37 The application is for one dwelling only as such there is no requirement for the applicant to enter into any legal agreements or obligations.

Other Matters

Coal Mining Risks

- 10.38 The site is within the Coal Mining High Risk area; a coal mining risk assessment and report detailing results of an intrusive investigation have been submitted. The Coal Authority has been consulted and a response is still awaited, which will be reported in the update.

Sustainable transport

- 10.39 Environmental Health has requested a condition requiring an electric charge point be provided within the site for electric vehicles. This is a reasonable request as it is important that new infrastructure for charging these vehicles is introduced to make them viable. Electric vehicles will have an immediate impact on improving local air quality, and, subject to more electricity being generated from renewable sources, help reduce carbon emissions.

Enforcement Complaint

- 10.40 The application has been received as the result of an enforcement complaint regarding unauthorised development. The Enforcement Officer and Planning Case Officer have been working together on this case and, following any decision, a view would be taken as to any enforcement action necessary to be undertaken.

Removal of permitted development rights

- 10.5 The rear dormer has been removed from the submitted plans and if permission is granted, this would be required to be removed from the building. It is important to remove permitted development rights for any alterations to the roof which could result in dormers being built (Part 1, Schedule 2, Class B).
- 10.6 Furthermore, Officers also recommend that given the constraints of the site, and the potential impact on visual and residential amenity, permitted development rights should also be removed under Classes A, C, D and E of the same schedule. Class A includes alterations which would prevent insertion of any new doors or windows.

11.0 CONCLUSION

- 11.1 There have been a large number of objections received in relation to this application and concern that the development has not been built according to the approved plans and is therefore unauthorised. A number of the issues raised refer to elements of the development which have been previously approved.

11.2 Notwithstanding the above, the application has to be assessed on the current application. The differences between the previously approved development and this submission has been carefully assessed, both by reference to the submitted information and by visiting the site, with regard to the impact on residential and visual amenity and highway safety.

11.3 It is concluded that whilst there would be some additional impact from the development, this would not cause significant harm to visual or residential amenity and highway safety. As such the proposals are recommended for approval.

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

1. Development to be carried out in complete accordance with the plans and specifications.

2. Permitted development rights under Classes, A, B, C, D and E of Schedule 2 of Part 1 of the GPDO to be withdrawn.

3. Before the development is first brought into use, private parking areas/driveways shall be surfaced and sustainably drained and thereafter retained.

4. Visibility splays of 2.0m x 2.0m measured from the back edge of the carriageway shall be provided, the parking spaces shall be set back from the edge of the carriageway by 2.0m, and there shall be no obstruction to visibility exceeding 600mm in height.

5. The bin storage area to be provided.

6. Boundary fence to the west and south boundaries of the site shall be 1.8m high and shall be close boarded.

7. An electric vehicle recharging point shall be installed in a position that is accessible to electric vehicles.

8. Street light column no.02 to be moved.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F91339>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2011%2F92670>

Certificate of Ownership – Certificate A signed and dated 13 April 2017.