
Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 02-Nov-2017

Subject: Planning Application 2017/90143 Outline application for residential development Land adj, Lockwood Scar, Lockwood, Huddersfield, HD4 6BL

APPLICANT

S Mitchell

DATE VALID

21-Jul-2017

TARGET DATE

20-Oct-2017

EXTENSION EXPIRY DATE

01-Jun-2017

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: Newsome

Yes

Ward Members consulted

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 This is an outline planning application, with all matters reserved, for residential development.
- 1.2 This application is brought to Strategic Committee because the application site is part of a substantial area allocated as Urban Greenspace. Therefore the proposal represents a departure from the Kirklees Unitary Development Plan.

2.0 SITE AND SURROUNDINGS

- 2.1 Accessed from Lockwood Scar road, the application site has an area of 0.24ha. The site is brownfield land, previously used for storage and ancillary works associated with the neighbouring mill. Since the mill's conversion to residential, circa 2008, the land has been left vacant.
- 2.2 The site's topography is varied, including relatively level sections alongside steep banks. The east of the site slopes steeply upwards until reaching Enoch Lane. Enoch Lane has a terrace of three dwellings backing onto it. Trees, under the ownership of Kirklees Council, surround the site. Given the time the site has been unused it has devolved to a semi-vegetated state.
- 2.3 To the site connects to Spa Wood, to the north-east. To the north-west, on a lower ground level, are commercial units. Lockwood Scar road, to the south of the site, connects the site to Newsome and Lockwood local centres.

3.0 PROPOSAL

- 3.1 The application is submitted in outline seeking the principle of development residential development. All other matters; access, scale, layout, appearance and landscaping, are reserved.
- 3.2 Indicative plans have been provided, for informative purposes only. They show ten dwellings, arranged in two opposing rows. While the applicant

initially sought ten units, officers expressed concerns over the layout. It was agreed to remove the number of units from the description.

- 3.3 Whilst access is a reserved matter, the point of access is shown to be from the existing junction onto Lockwood Scar road.

4.0 RELEVANT PLANNING HISTORY

4.1 Application site

2004/92107: Erection of 28 no. Apartments in one block and conversion of mill to 19 no. apartments – Conditional Full Permission (part implemented)

2006/90463: External alterations for new windows and operations to existing mill conversion – Conditional Full Permission (Implemented)

2008/92821: Outline application for erection of residential nursing home and close care apartments – Conditional Outline Permission (Un-implemented, expired)

4.2 Surrounding area

The surrounding area has no relevant planning history.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Initially the applicant sought ten units with some matters under consideration. However officers expressed concerns with the details of the development. The applicant decided to amend the application to outline, with all matters reserved, simply seeking a determination on the principle of residential.

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 Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees..
- 6.2 On the UDP Proposals Map the site is part Unallocated, part allocated as Urban Green Space.

6.3 The site is allocated as Urban Green Space on the PDLP Proposals Map.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **G6** – Land contamination
- **D2** – Unallocated land
- **D3** – Urban Greenspace
- **NE9** – Mature trees
- **BE1** – Quality of design
- **BE2** – Design principles
- **BE11** – Building materials
- **EP4** – Noise sensitive locations
- **T10** – New development and access to highways
- **T19** – Parking standards
- **H1** – Housing strategy
- **H10** – Affordable housing
- **H18** – Provision of open space for new housing

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping
- **PLP3** – Location of new development
- **PLP11** – Housing mix and affordable housing
- **PLP21** – Highway safety and access
- **PLP22** – Parking
- **PLP24** – Design
- **PLP30** – Biodiversity and geodiversity
- **PLP33** – Trees
- **PLP52** – Protection and improvement of environmental quality
- **PLP53** – Contaminated and unstable land
- **PLP61** – Urban green space

6.6 National Planning Guidance

- **Paragraph 17** – Core Planning Principles
- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring a good design
- **Chapter 8** – Promoting healthy communities
- **Chapter 10** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 11** – Conserving and enhancing the natural environment

6.7 Other

- Kirklees Interim Affordable Housing Policy
- DCLG: Technical Housing Standards

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application has been advertised via site notice and through neighbour letters to addresses bordering the site. This is in line with the Councils

adopted Statement of Community Involvement. The end date for publicity was the 15th of September, 2017.

7.2 Two representations have been received in objection to the proposal. The following is a summary of the concerns raised;

- Development of the land may result in landslide from Enoch Lane. This would undermine the stability of properties which back onto Enoch Lane.
- Concerns of overlooking upon neighbours from new dwellings.
- Concerns over the scale and massing of new dwellings to front onto Enoch Lane.
- Loss of habitat for wildlife.
- Concerns that the redline encroaches onto council land.

Note: as detailed within section 5, history of negotiations, the application initially included layout, scale and appearance as considerations. The above representations were received in response to these.

Following the amendment of the scheme to all matters reserved the plans were labelled as indicative and re-advertised. No further representations were received.

8.0 CONSULTATION RESPONSES

8.1 Statutory

Yorkshire Water: No objection subject to condition.

8.2 Non-statutory

Crime Prevention: No objection to principle of development, however have requested conditions and further details at reserved matters stage.

K.C. Ecology Unit: No objection subject to condition.

K.C. Environmental Health: No objection subject to conditions.

K.C. Highways:

K.C. Lead Local Flood Authority: No objection subject to condition.

K.C. PROW: No objection, subject to path through the site being retained.

K.C. Trees: No objection to the principle of development.

9.0 MAIN ISSUES

- Principle of development
- Urban Design issues
- Residential Amenity
- Highway issues
- Other Matters
- Representations

10.0 APPRAISAL

Principle of development

Sustainable Development

- 10.1 NPPF Paragraph 14 and PLP1 outline a presumption in favour of sustainable development. Paragraph 7 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8).
- 10.2 The dimensions of sustainable development will be considered throughout the proposal. Paragraph 14 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Land allocation

- 10.3 The starting point for consideration is the Kirklees Development Plan which is the Kirklees UDP. On the Kirklees Unitary Development Plan the site is partly unallocated; however the majority of the site is allocated as Urban Greenspace (UGS). The site is on the southern edge of the larger UGS allocation of Spa Wood. Spa Wood is categorised as natural and semi-natural greenspace in the Kirklees Open Space Study 2015 (revised) (KOSS), given that the majority of the UGS is woodland. The importance of the woodland/treed area is a key consideration of the UGS.
- 10.4 Policy D3(i) stipulates that on Urban Greenspace sites planning permission will not be granted unless the development is necessary for the continuation and enhancement of the established uses or is a change of use to alternative open land uses, or would result in a specific community benefit (whilst protecting visual amenity, wildlife value and opportunities for sport and recreation). Or, as in part D3(ii), it includes an alternative provision of Urban Greenspace equivalent in both quantitative and qualitative terms to that which would be developed.
- 10.5 The community benefit element of D3(i) is not considered to be consistent with the National Planning Policy Framework, particularly paragraph 74. However, the majority of the policy is in accordance with the National Planning Policy Framework. As such Policy D3 should be afforded significant weight as it is not out of date for the purpose of paragraph 49 of the NPPF, which sets out:
- “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 LPA cannot demonstrate a five year supply of deliverable housing sites”*
- 10.6 Consideration must also be given to the Kirklees Publication Draft Local Plan (PDLP). The UGS has been extended within the PLDP, removing the unallocated land from the application. Therefore, within the PDLP, the entire site is allocated as UGS and Policy PLP61 is of relevance. PLP61 establishes a principle against the development of UGS land. The Local Plan

policies can now be afforded considerable weight but will not carry full weight until the local plan is adopted and consequently Policy D3 of the UDP is a key consideration in this case.

Planning balance

- 10.7 The proposals are for residential development where no alternative provision of greenspace is included within the scheme. Furthermore, the proposal would not be a continuation, enhancement of an established use, nor an alternative open land use.
- 10.8 However, the site does not form an integral part of the larger area of Urban Green Space, due to the ownership and previous use forming an apparent separation from the main woodland. Spa Wood is classed as natural and semi natural greenspace. The Kirklees Open Space Study (KOSS) identifies there being sufficient provision of natural and semi natural greenspace in the Newsome Ward when compared against minimum local standards of 2ha per 1,000 residents for natural and semi natural greenspace, with Newsome Ward having a provision of 4.56ha per 1000. The Woodland/treed area is considered to be of important value. Regardless, the proposal is outside of the main woodland, being contained within the brownfield site. As such the development would not result in the loss of the valued woodland, which is the valuable aspect of the Urban Green Space. The woodland is not under the applicant's ownership, being owned by Kirklees Council. It is therefore concluded reasonable to view the site separately from the larger area of Urban Green Space.
- 10.9 Consideration is also given to the state of the current site. The site is brownfield land and having been vacant for a period of time is currently used for fly tipping. A recent inspector's decision provided clarification on the public benefit aspect of policy D3 (ref. 2015/92944). The Inspector's opinion was that Policy D3 allows flexibility of the decision maker to consider the merits of a case, particularly if community benefits are deemed to exist. Considering the community benefit, the proposal would lead to an enhancement of the area, through the removal of the visually degraded site at present, while also creating a more accessible and safe access to the main woodland area. Furthermore, while not in itself sufficient to justify the development of Urban Green Space, the provision of residential units during a time of shortage does convey public benefit.
- 10.10 Considerable weight is given to the extant permission on site, 2004/92107, through which permission is in place for the erection of a three storey 24 apartment block. Planning applications must be determined in a consistent manner, with 2004/92107 establishing the principle of residential development on site. While the NPPF and PDLP have become material considerations since the determination of 2004/92107, as the permission remains extant they do not materially change the circumstances.

Principle of development; Conclusion

- 10.11 Reflecting on paragraph 14 of the NPPF, development should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF. 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 can be considered to be acceptable.

- 10.12 Considering the established principle for residential development on site, alongside the potential community benefits put forward, on balance it is considered the benefits of the proposal would outweigh the harm caused by the loss of this low valued part of the wider UGS in an area where there is currently sufficient provision of natural and semi natural greenspace, in accordance with Policy D3 of the UDP.

Design issues

- 10.13 While the application has been made at outline stage, with all matters reserved, an indicative layout has been provided as a guide to what could be achieved on site. The layout shows that the site can be developed in an efficient manner, although officers do hold some concerns to aspects of the layout. These concerns include proximity to the adjacent trees and proximity to neighbouring dwellings. Further details are also required on the extent of excavations and retaining structures. Nonetheless these concerns are not deemed to be insurmountable, with the proposal being subject to change at reserved matter stage.
- 10.14 More detailed aspects permitting a full visual amenity impact, including architectural features, roof design and facing materials, will be addressed at the reserved matters stage. The reserved matters will also provide the required details on required levelling works and other external features, including boundary treatment details. At this stage there is considered no prohibitive considerations which would prevent the proposed dwelling having an acceptable impact on the area's visual amenity and preventing the reserved matters application adhering to Policies BE1, BE2 and BE12 of the UDP, PLP24 of the PDLP and Chapter 7 of the NPPF.

Residential Amenity

- 10.15 Policy D2 of the UDP and NPPF paragraph 17 seek to protect residential amenity. Policy BE12 sets out the normally recommended minimum distances between habitable room windows. As the application is at outline stage with all other matter reserved the impacts the proposed development would have on the amenities of neighbouring dwellings and the future occupiers of the proposed development cannot be fully considered at this stage. However, the illustrative layout submitted with this application will be considered although the details may be subject to change.
- 10.16 To the east of the site is Enoch Lane. A terrace row of three dwellings backing onto Enoch Lane; these dwellings are shown to face the indicative plan's dwellings at 20.5m. This is a shortfall of 0.5m from BE12's standards for habitable to habitable room windows. Given this minor shortfall, and the notable level differences between the application site and the dwellings backing onto Enoch Lane, it is not considered that the proposed arrangement would be harmful to the amenity of neighbouring residents.
- 10.17 The indicative plans show the proposed dwellings arranged into two terrace rows facing one another at 20.0m. This is a shortfall of 1.0m from BE12's standards for habitable to habitable room windows. This is a cause for concern as the relationship would raise issues of overlooking and

overbearing. To the south of the application site is the converted residential mill. On the indicative plan the side window of the mill, which does host habitable room windows, is 11.0m from the side of the proposed dwellings. This is a shortfall of 1.0m from BE12's standard from habitable to blank walls.

- 10.18 The shortfalls of BE12's guidance is noted. However, the application is outline with all matters reserved. Given the shortfalls detailed above are minor they are not considered to prohibit residential development of the site. A full assessment will take place at reserved matters stage, where formal details on layout, scale and appearance (to include window arrangement) are provided.
- 10.19 Consideration must also be given to the amenity of future residents. To the north of the site is Spa Wood, with there being commercial units further to the north-west. Environmental Health express concern over the proximity of the units to the commercial units, and request a condition be imposed that a noise report is submitted. This is deemed reasonable. Some concern is held over the proximity of dwellings to the woodland in the inductive plan; being too close to woodland can cause concerns of overbearing and overshadowing, along with other nuisance such as leaf litter, which can cause pressure to fell. If minded to approve the proposal a note can be imposed bringing this concern to the applicant's attention.
- 10.20 In summary the residential development of the site is not anticipated to harm the amenity of neighbouring residents. This is subject to a detailed assessment of the relevant reserved matters. Nonetheless, as this stage, the proposal is considered to comply with Policy D2 of the UDP, PLP24 of the PDLP and Paragraph 17 of the NPPF in relation to residential amenity.

Highway issues

- 10.21 Access to the site is proposed from Lockwood Scar. There is an existing access point, serving the converted mill of 19 apartments. As part of 2004/92107 the access was part-improved to accommodate the development, which included the conversion of the mill and erection of a 24-apartment block.
- 10.22 At reserved matters stage further details will be required on the proposed access, as numbers will dictate whether further enhancements are required. Additional information on internal arrangements, including parking and swept path analysis for delivery/service vehicles will be required. Nonetheless, at this stage, there is no in-principle objection to the proposal from Highways Development Management.

Other Matters

Ground contamination

- 10.23 Given the history use of the site concern is held over ground based contamination. If minded to approve it is considered necessary to condition the investigation and remediation, along with other appropriate measures, to ensure the site is safe for habitation. This is to comply with the guidance of Policy G6 of the UDP.

Drainage issues

- 10.24 The site is within Flood Zone 1 and as the site is under 1ha a Flood Risk Assessment is not required.
- 10.25 Consultation has been undertaken with Yorkshire Water and the Lead Local Flood Authority. Subject to appropriate conditions neither group opposes the development.

Planning obligations

- 10.26 As the application is outline with all matters reserved the end number of units is unknown. To accord with Policy H10 of the UDP, PLP11 and the Kirklees Interim Affordable Housing Policy, if minded to approve, a condition can be imposed requiring the provision of affordable housing should 11+ units be sought.
- 10.27 Under Policy H18 of the UDP sites of 0.4ha require Public Open Space. Given the site's area of 0.24ha, this is therefore not required.

Ecological considerations

- 10.28 The application site adjoins, and partly overlaps, an area of the Kirklees Habitat Network, as designated on the Publication Draft Local Plan. This could be impacted on particularly through the process of engineering works and introduction of retaining structures within the application site to accommodate the proposals on this sloping site.
- 10.29 A Preliminary Ecological Appraisal has been submitted to support the proposal. The report is considered sufficient to determine that it is possible to develop the site for housing while avoiding significant ecological impacts and providing appropriate ecological enhancement. Further details will be required prior to development commencing however. K.C. Ecology have advised that a condition be imposed, requiring the submission of an ecological design strategy. This is considered appropriate and reasonable, so as to comply with Policy PLP30 of the PDLP and Chapter 11 of the National Planning Policy Framework.

Crime Prevention

- 10.30 Policies BE1 and BE23 of the UDP and PLP24(e) of the PDLP require consideration of crime prevention. Given the site's location adjacent to woodland, this is a particular concern.
- 10.31 The Police Architectural Liaison Officer has provided advise on crime mitigation and prevention measures. As the application is made at outline, with all matters reserved, it is not considered reasonable to impose any conditions at this stage. If minded to approve the PALO comments are to be placed as an informative, in the effort to ensure crime mitigation is considered during the design phase.

Impact on Trees

- 10.32 The site is adjacent to, and partly within, Spa Wood. Spa Wood is not protected by a TPO, however this is because it is under the ownership of Kirklees Council. Mature trees border much of the application site. The trees in question are not rooted in the application's red line although their crown spread does encroach. As the trees are not within the applicant's ownership, they would require permission from the landowner (Kirklees Council) to remove them.
- 10.33 From a policy context, Policy NE9 of the UDP requires development to retain and protect mature trees, with Policy PLP33 stating; *'the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity'*.
- 10.34 As the application is made with all matters reserved, officers are unable to assess the impact of the development on the adjoining trees. If minded to approve a note /informative can be imposed on the decision notice informing the applicant that any reserved matters application must give due weight to the neighbouring trees; considerations would include impact of leaf litter, shading and proximity to rooting.
- 10.35 Regarding the application site itself, it is primarily clear however there are some trees on site. These are young and self-seeded, of poor quality. They provide limited amenity value and officers do not object to their removal.
- 10.36 At this time there are considered no prohibitive reasons that the site could not be developed without detrimentally impacting on the neighbouring mature trees. Therefore the proposal is deemed to comply with NE9 of the UDP and PLP33 of the PDLP.

Representations

- 10.37 Two letters of objection have been received. Below are the issues which have been raised that have not been addressed within this assessment and the case officer's response.
- Development of the land may result in landslide from Enoch Lane. This would undermine the stability of properties which back onto Enoch Lane.
Response: The extent of excavation works is unknown at this time. Consideration of this will be given at the appropriate reserved matters stage.
 - Concerns that the redline encroaches onto council land.
Response: This was identified to be correct. The application was invalidated, and an amended redline was provided. The application was re-validated and the application re-advertised.

11.0 CONCLUSION

- 11.1 The site is allocated as Urban Green Space within the Kirklees Unitary Development Plan and Kirklees Publication Draft Local Plan. As such the residential use represents a departure. However the principle of a residential

use on this site has been agreed previously, with the site holding an extant permission for the construction of flats.

- 11.2 Whilst part of the wider Urban Green Space, the application site is a brownfield site in a neglected and dangerous state. Similarly, whilst the wider Urban Green Space allocation is valued for its woodland and habitat value, the application site consists primarily of low value young self-seeded vegetation. The appropriate development of the site would allow for the potential enhancement to the entrance of the valued woodland.
- 11.3 While limited weight is given to the provision of housing, given the site's Urban Green Space allocation, considering this along with the extant residential permission and state of the site, on balance in officers consider the departure to be acceptable.
- 11.4 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 Strategic Investment)

1. Standard OL cond (submission of reserved matters)
2. Standard OL cond (implementation of reserved matters)
3. Standard OL cond (reserved matters submission time limit)
4. Standard OL cond (reserved matters implementation time limit)
5. Highways
6. Ecology
7. Drainage
8. Affordable Housing (if Reserved Matters is for more than 11 dwellings)
9. Crime prevention
10. Noise Report
11. Contamination Reports

Note: Advisory text on ensuring works do not prejudice adjacent council owned trees.

Note: Regarding crime mitigation measures.

Background Papers

Application and history files can be accessed at:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90143>

Certificate of Ownership: Certificate A signed