
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Nov-2017

Subject: Planning Application 2017/90324 Erection of 10 semi-detached houses Land at, Warwick Road, Batley, WF17 6AR

APPLICANT

S Patel, S Patel & Y
Jasat

DATE VALID

06-Mar-2017

TARGET DATE

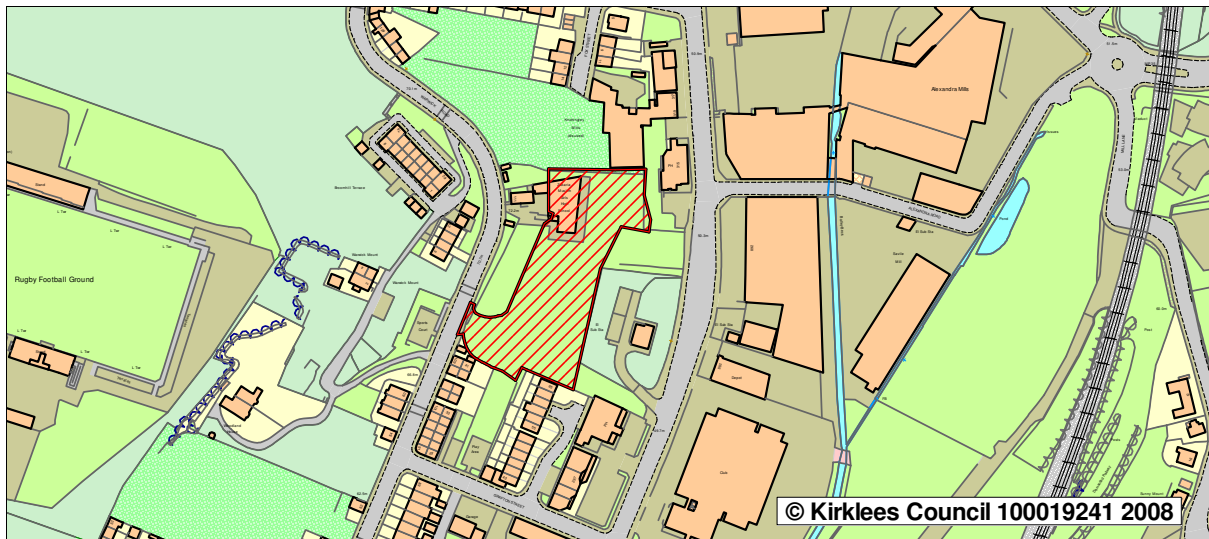
05-Jun-2017

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: Batley East Ward

Yes

Batley East 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 and to secure a S106 agreement to cover the following matters:

- 1. Public open space provision**
- 2. 20% of total number of dwellings to be affordable**

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application is brought forward to the Heavy Woollen Planning Sub-Committee for determination as the site is for residential development in excess of 0.5 hectares in area. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The existing site forms the lower half of a large area of land which slopes steeply from Warwick Road to the west down towards Bradford Road to the east. The site includes the main Zakariya Muslim Girls School building. The remaining land is overgrown but is believed to have been playing fields at some time in the past.
- 2.2 The western area of land neighbouring the site is subject to planning application 2017/90322, for the erection of seven dwellings.
- 2.3 The site is located adjacent to high density residential development around the Warwick Road area with more commercial activities to the east located along Bradford Road. The Legends Public House neighbours the site.

3.0 PROPOSAL:

- 3.1 The application site forms part of a larger site that has been subdivided into two separately submitted planning applications. Application 2017/90322 is for seven detached dwellings which are located to the west of the site access and front Warwick Road. This application 2017/90324, is for 10 dwellings. Both applications are submitted in full.
- 3.2 The application subject of this report, reference 2017/90324, is for 5 pairs of semi-detached dwellings located in a row and accessed off a new road through the site. The dwellings are two storeys to the front and three to the rear, providing 4 bedroom accommodation. Each property has off street parking to the front and a reasonable sized garden area to the rear.
- 3.3 The materials proposed for construction are artificial stone and artificial slate roof.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 As referenced above, application 2017/90322 for development of the western area of land shares the same access proposed under application 2017/90324, the subject of this report. The two applications result in a total of 17 dwellings and in order to avoid incremental development, the two applications are being considered as a whole for the purposes of contributions to affordable housing and public open space. The application for seven dwellings is delegated to officers for determination.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Officers engaged with the agent to discuss the potential for revisions to the layout, inclusion of public open space, matters of ecology, in addition to access arrangements. Revised details have been received in respect of the aforementioned concerns and reconsidered by officers and relevant consultees.

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 The application site is unallocated on the UDP proposals map and as Urban Green Space (school playing fields) on the Draft Local Plan.

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

D2 - Unallocated land

B4 – Change of use of land and buildings last used for business or industry

BE1 – Design principles

BE2 – Quality of design

BE12 – Space about buildings

BE23 – Crime prevention

H10 – Affordable housing

H18 – Provision of open space

T10 – Highway safety

T19 – Parking standards

G6 – Land contamination

EP4 – Noise sensitive development

EP11 – Ecological landscaping

6.4 Supplementary Planning Guidance / Documents:

Interim Affordable Housing Policy

6.5 National Planning Policy Framework:

Chapter 4 - Promoting Sustainable Transport

Chapter 6 – Delivering a wide choice of high 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

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

Policies:

PLP1 – Presumption in favour of sustainable development

PLP2 – Place shaping

PLP21 – Highway safety and access

PLP22 – Parking

PLP24 – Design

PLP30 – Biodiversity and geodiversity

7.0 PUBLIC/LOCAL RESPONSE:

7.1 One representation received raising concerns regards proximity of residential development to the public house.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – No objection in principle.

8.2 Non-statutory:

K.C Environmental Services – No objections.

K.C. Ecology – No objections.

K.C. Strategic Housing – Contribution required.

K.C. Landscaping – On site provision required.

Yorkshire Water – No objections subject to conditions.

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 The site is proposed as a new urban green space allocation in the submitted Publication Draft Local Plan on the basis of it being part of the school grounds. It is not considered that due to the stage the Publication Draft Local Plan (PDLP) has reached significant weight can be afforded to it. There is no risk of prematurity in this instance as the site is not considered to be of a strategic nature. Furthermore, site inspection shows that the land has become dissociated with the school and has an overgrown and unkempt appearance leading to the conclusion that the grounds are not in active use, nor have they been in use recently. The topography and accessibility to the site prevent effective use of the land.
- 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 eastern area of land, subject of this planning application, comprises of land that is considered to be 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.
- 10.7 Other relevant UDP policies relate to residential use on a site of this size and scale and the interim affordable housing policy and policy H18 (Provision of Public Open Space). These matters are dealt with in detail in the consultation section, however for clarity, the issues of affordable housing and Public Open Space (POS) will be the subject of a S106.

Urban Design issues

- 10.8 At the time of the officer’s site visit, the land was overgrown and the school building in a state of disrepair. Although the supporting statement describes this grassed area of land as former playing fields it is clear that the land is not maintained as such nor is access easily obtainable. Whilst it is clear that the site has not previously been developed (i.e. 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. There is no merit in the retention of the school building which currently has a negative impact on the area. The site is bound by high density residential development to the south with the area to the north being occupied by the school in addition to further residential properties. Residential development is proposed to the west with mixed commercial uses to the east.

- 10.9 Due to the quality of the land and topography of the site it is considered that the site has very limited contribution to the visual amenity of the area and development would provide wider benefit in providing housing in place of the loss of a greenfield site in addition to replacing the existing school building with an improved built form.
- 10.10 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. The scale, design and materials of construction have been considered. The nature of existing residential development, in the vicinity of the site, is mixed in scale and character with no single style or design of property taking precedent. Policies BE1 and BE2 of the UDP reiterate considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 7 of the NPPF emphasises the importance of good design.
- 10.11 The scheme has been designed so as to take advantage of the topography of the site and views to the east. The dwellings proposed are in pairs and are two storey to the front increasing to three storey at the rear, each with a balcony at ground floor level. The development complements the character of the local townscape and the design of existing houses in the area, particularly by following the linear form of development predominant within the immediate vicinity. The size, height, scale, window proportions, roof pitch and choice of materials (artificial stone and slate) have been given careful consideration to create a development that is both sympathetic towards and integrates well with its surroundings and it is considered that it achieves these aims.
- 10.12 An area of planting/green space is incorporated at the entrance to the development, softening the visual impact the development will have. The landscaped area is located around a bank of parking and as such softens the hard landscaping. Taking into account the development of the site with hardstanding/access roads, the incorporation of areas of green space are welcomed. It is considered on balance, that the details would provide a development that would meet the aims of chapter 7 of the NPPF by contributing positively to the surrounding area and would also be in accordance with Policies BE1, BE2 and D2 of the Kirklees UDP.

Residential Amenity

- 10.13 In assessing the impact of the development on both dwellings externally surrounding the site and the dwelling proposed within the site, Policy BE12 of the UDP is of relevance. This policy recommends a separation distance of 12m between existing habitable room windows and non-habitable room windows and 21m between habitable room windows of any two dwellings. A distance of 10.5m is recommended from a habitable room window and the boundary of any adjacent undeveloped land and 1.5m between any wall of a new dwelling and the boundary of any adjacent land other than a highway.

- 10.14 The dwellings are located in a row fronting the new access road and provide off street parking to the front thereby setting them back from the road frontage. The distances to the dwellings proposed opposite exceed 21 metres as recommended by Policy BE12 and would thus be well in excess of 21m from the existing row of four cottages on the opposite side of Warwick Road.
- 10.15 The layout of the development takes advantage of land levels resulting in dwellings that are two storey at the front including a lower level at the rear and therefore three storey in appearance. Each dwelling incorporates a balcony. As the pairs of dwellings are identical it is considered that the relationship to each adjacent property is acceptable.
- 10.16 With regard to the existing dwellings to the south of the site, such as no.65 Grafton Street, the gable of plot 1 would face towards this property. There are no openings in the gable of the existing dwelling and therefore, there would be no loss of privacy to these occupants when in their property. In order to retain the privacy when in their garden area, a 2.0m high fence is proposed to be erected along the shared boundary, which can be secured via condition. Due to the land level differences, whilst officers are of the opinion that a satisfactory development is proposed, it is recommended that a condition relating to finished floor levels is imposed in order to ensure that there would be no overbearing impact created upon the existing residents.
- 10.17 With regard to nos. 109 Warwick Road and no.41 Grafton Street, which are back to back properties located to the south of the site, there are windows in the gable of these properties which face towards the application site. The proposed dwellings would be set back from these windows and therefore, no direct relationship would be created between the dwellings. The proposed access into the application site would also be separated from the gable of these properties by the proposed soft landscaped area and parking spaces.
- 10.18 To summarise, it is not considered that the design will result in any loss of amenity to any existing occupants and those purchasing any of the dwellings will be fully aware of the relationship. Each dwelling includes ample amenity space to the rear for future occupants. It is considered that the scale, design and layout of development accords with the aims of Policy D2 of the UDP as well as policy BE12 of the UDP in terms of residential amenity and as such is acceptable.

Landscape issues

- 10.19 The application includes two areas of greenspace proposed for planting. Discussions are ongoing with Landscaping with regards to the provision of access to the existing play space on Grafton Street in addition to matters regarding securing further provision of POS, which shall form part of the s106 agreement.
- 10.20 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. A revised Ecological Assessment has been submitted during the course of the application. The revised report addresses Officer concerns and the recommendations, although general in nature, are appropriate for the proposed scheme. Conditions are recommended to provide more certainty in the biodiversity outcomes. The lighting scheme will need to take account of

the adjacent Kirklees Wildlife Habitat Network, and an appropriate condition in this respect is recommended. The scheme has been assessed by the Council's Ecologist, and providing mitigation and enhancements are conditioned, the proposals would comply with the objectives of paragraph 109 and 118 of the NPPF.

- 10.21 The development is considered to be in accordance with Policy EP11 of the UDP and with the inclusion of the recommended conditions would ensure that the proposal would improve biodiversity within the local area, complying with current guidance contained within the NPPF.

Housing issues

- 10.22 Paragraph 47 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. In terms of how planning applications should be dealt with, paragraph 49 advises: "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." Kirklees cannot demonstrate a five year housing land supply therefore its policies that relate to the supply of housing cannot be considered up to date and the presumption in favour of sustainable development applies.
- 10.23 The development would contribute to the aims of Policy H1 of the UDP and chapter 6 of the NPPF in that it would provide additional housing in a sustainable location.

Highway issues

- 10.24 Access to serve the proposed development, along with the application for seven dwellings (201790322), is proposed to be taken off Warwick Road, to the north of nos. 109 Warwick Road and no.41 Grafton Street. The point of access is considered acceptable from a highway safety perspective to serve the number of dwellings proposed, including sight lines of 2.4m x 43m.
- 10.25 During the course of the application, a revised layout plan has been submitted which is considered to incorporate a suitable internal turning area for vehicles to manoeuvre in and out of the proposed driveways as well as an adequate turning head between plots 8 and 9.
- 10.26 Officers accept that this is a steeply sloping site however, during the course of the application additional information has been submitted which demonstrates that satisfactory gradients for the internal road and driveways can be achieved. Further detail of the internal road, which shall be to an adoptable standard, is recommended to be secured via condition.
- 10.27 To summarise, the proposals, with the inclusion of the recommended conditions, are considered satisfactory from a highway safety and efficiency perspective, in accordance with policies D2 and T10 of the UDP.

Drainage issues

- 10.28 Final comments awaited from the Council's Strategic Drainage officer and will be reported to members in the update to ensure that the proposal complies with the aims of chapter 10 of the NPPF.

Representations

- 10.29 One representation was received regarding the issue of proximity of their establishment to the site. The application has been assessed taking into account the proximity to the business and an acoustic report has been considered acceptable subject to conditions.

Planning obligations

- 10.30 *Affordable Housing:*
Further to comments provided by Strategic Housing the Council are applying the Council's interim affordable housing policy requirement of 20% of the development being affordable. This will be secured via a S106 Agreement.
- 10.31 *Public Open Space*
The application is for 10 semi-detached dwellings with an additional 7 being proposed under application 201/90322. Due to the site area, the application will need to deliver public open space either on site or as an off-site contribution. Discussions are ongoing with the Landscape team to deliver the provision of POS which will be secured via the S106 Agreement.

Other Matters

- 10.32 *Noise*
The application site was assessed due to its vulnerability to potential noise disturbance from the nearby substation and adjacent entertainment establishment. Environmental Health has recommended specific noise attenuation measures to be incorporated into the development, to be validated prior to any occupation. These are to be secured via suggested conditions and would ensure that the proposals accord with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.
- 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.
- 10.35 There are no other matters considered relevant to the determination of this application.

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 amenity. 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 Strategic Investment)

1. Time limit for implementation – 3 years
2. Plans to be approved
3. Materials (art stone and slate)
4. Remove permitted development rights for new extensions / outbuildings
5. Areas to be surfaced and drained
6. Access sightlines to be provided
7. Details of internal adoptable roads
8. Details of the method of storage/access for waste
9. Noise mitigation in accordance with submitted report
10. Specification of acoustic barrier
11. Ventilation scheme
12. Scheme for provision of electric vehicle charging points
13. Ecological mitigation and enhancement plan
14. Finished floor levels
15. Boundary treatments

Background Papers:

Link to planning application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90324>

Certificate of Ownership – Notice served on the Zakariya School

Link to the planning application for 7 dwellings (2017/90322)

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90322>