
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 15-Mar-2018

Subject: Planning Application 2017/90312 Erection of 3 dwellings 49, Brooke Street, Cleckheaton, BD19 3RY

APPLICANT

M Hinchliffe

DATE VALID

07-Feb-2017

TARGET DATE

04-Apr-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: Cleckheaton

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 the Heavy Woollen Planning Sub Committee due to the significant number of representations received. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises an overgrown area of land to the rear (north) of Brooke Street, to the south of the Grade II listed St John's Church, and located between several industrial units and residential properties on St. John's Close to the east.

2.2 The site is located to the east of Cleckheaton Town Centre. The land slopes down from west to east. A row of protected trees runs along the northern boundary of the site.

3.0 PROPOSAL:

3.1 Permission is sought for the erection of three dwellings. These would be located within a two storey block, with Plot 3 stepped down in order to take account of the land topography. The proposed dwellings would be externally faced in artificial stone with concrete tiled, pitched roofs.

3.2 Access to the site would be taken from Brooke Street, between No.49 and 2 St John's Close, with two parking spaces to serve each dwelling, No.49 and a recently approved dwelling attached to No.49, in addition to a visitor parking space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2016/91631 – Erection of one dwelling (attached to No.49) – approved (not yet implemented)

- 4.2 Several refused and withdrawn applications for erection of commercial buildings/use to the west of the application site

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Through the course of the application, the applicant's agent was requested to make a number of amendments with regard to the design of the plots (taking into account the topography of the site) and number of units due to their proximity to No. 3 St John's Close. As such, the amended plan which is now under consideration shows the provision of 3 residential units in a terraced layout located on the north western part of the site

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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D2** – Unallocated Site
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway Safety
G6 – Land contamination
EP4 – Noise sensitive uses
NE9 – Retention of mature trees

Kirklees Publication Draft Local Plan:

- 6.3 **PLP 21** – Highway Safety and access
PLP 22 – Parking
PLP 24 – Design
PLP 28 – Drainage
PLP 30 – Biodiversity and geodiversity
PLP 33 – Trees
PLP 51 – Protection and improvement of local air quality

National Planning Policy Framework

- 6.4 **Chapter 6** – Delivering a wide choice of high quality homes
Chapter 7 – Requiring good design
Chapter 11 – Conserving and Enhancing the Natural Environment
Chapter 12 – Conserving and enhancing the Historic Environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was publicised by site notice and neighbour notification letter. As a result of the initial site publicity, four individual letters and two petitions of 6 and 35 signatures respectively were received. The concerns raised are summarised as follows:

Submitted Documents

- Application consists of a few documents only; would expect to see additional plans to show relationship of dwellings to nearby properties, in particular 3 St John's Close
- No.49 and approved terraced dwelling should be outline in blue and proposed parking areas to serve these shown in red
- Given nature of historic use of site, a Contamination Survey should have been submitted especially due to highly sensitive nature of proposed use
- There is no ecological report which is considered appropriate given the overgrown current state of the site

Contamination

- One of the historic uses of the site was as Bennetts Haulage and client is informed that there is still a commercial sized fuel tank buried under the site. This is not mentioned in the submitted documentation
- The site also appears to have been historically used for the tipping of waste and rubble which has raised the land level and whilst some of this has now been removed from site, it appears as though some remains and there is a potential issue caused by leaching of the waste.
- The Council's Environmental Health Team have had dealings with the site

Highways

- Brook Street is characterised by terraced houses with no provision for parking, leading to cars being parked on street. This is further exacerbated by parents parking on Brook Street for the nearby school
- The submitted plan indicates 13 parking spaces, including provision for the existing house and new end terraced house not yet built. In effect there will be 6 dwellings accessed by the private driveway. This exceeds the threshold of 5 dwellings and is contrary to guidance.
- Concern that proposals do include provision for a pedestrian footpath and proposed driveway is only 4.5m in width when it needs to be 4.8m wide to satisfy Highways requirements
- Position of bin store would result in wheelie bins being located close to entrance of private driveway on collection day, which are considered to reduce visibility for vehicles accessing and egressing the site, contrary to highway safety
- Concerned that Highways have responded to a scheme for 4 dwellings when the development requires the relocation of parking for Nos. 49 and 49A (therefore 6 dwellings)

- St John's Close is a privately owned driveway and the owner will not give permission for it to be used by emergency vehicles etc
- Do not consider that the access is to current standards. Would also expect to see plans submitted showing the proposed visibility splays and it as appears as though there are no details regarding this

Principle of Residential Development

- Accept that the principle of development is acceptable in this location, the finer detail of design, scale and layout are not.

Grain of Existing Development

- The proposal would result in a development which is uncharacteristic of the building line, providing a cramped appearance which is considered to have a detrimental impact upon the locality and upon the setting and appearance of the Grade II listed church to the rear.
- The substantial mass of the proposal is considered to result in unacceptable impact upon the open characteristic of the dwellings to the rear of Brooke Street and unacceptable levels of overshadowing and overbearing to the private areas and living accommodation of No.3 St John's Close.

Massing and Form

- No plans show the finished ridge heights of the scheme nor any street scenes showing the gable end of No.3 St John's Close.
- Proposals will create a dominant solid mass of development resulting in a cramped infill giving the impression of a continuous built boundary around the boundary of the church grounds. This is considered to have a detrimental impact upon both the street scene and the setting and appearance of the Listed Building.

Overshadowing and Overbearing

- The scale and proximity of the proposal to No. 3 St John's Close will lead to significant overshadowing to the internal living accommodation and garden/patio

External Appearance

- the proposed development will utilise materials such as concrete tiles and art stone which are considered of fairly low quality – would expect to see materials more akin to the locality

Impact upon St Johns Church (Grade II listed)

- Current scale and mass of the development in the location proposed would result in loss of views in and out of the church and considered to have a detrimental impact upon the appearance and setting of the listed building

Planning permission for 49 A Brooke Street

- This approval will need an application for the variation of condition submitting to address the change to the parking provision for this new dwelling

Other Matters

- Gable end of Plot 3 will be within 2 metres of wall of No.3 – concerns regarding the foundations of the development and impact this may have
- Access for emergency vehicles will not be given from St John's Close
- The applicant has previously removed trees at the entrance to the site
- The applicant has not consulted with the people that will be affected by this development
- Query where bins will be stored and impact of additional bins on pedestrian safety

7.2 The amended plans were re-advertised by neighbour notification letter. As a result, 2 further representations were received. The concerns set out above were re-iterated, in addition to the following:

- If permission is granted, request that restrictive covenants are put in place for additional extensions and outbuildings adjacent to boundary with Nos. 1 and 3 St Johns Close and to north of dwellings adjacent to boundary with church.
- If permission is granted, request that a restrictive covenant is put in place to restrict openings in side elevation of development to obscurely glazed.
- Advise that Laurel hedge between site and St Johns Close is not within the ownership of the applicant and request confirmation that this will be retained, in addition to request for confirmation as to proposed boundary treatment.

7.3 Councillor Andrew Pinnock has been in contact regarding the application after being approached by an objector. He was updated on the progress of the application following receipt of amended plans, however no further correspondence has been received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management: No objections subject to conditions

The Coal Authority: No objections subject to conditions

8.2 Non-statutory:

KC Environmental Services: No objections subject to conditions

KC Arboricultural Officer: Following receipt of further information, no objections

KC Ecology Officer: (informal): No objections subject to imposition of condition requiring bat boxes and footnote relating to nesting birds

KC Conservation and Design: (informal): No objections

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Impact on setting of Listed Building (St. John's Church)
- Residential amenity
- Highway issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated on the UDP and on the Draft Local Plan. Policy D2 of the Unitary Development Plan (UDP) states "planning permission for the development (including change of use) 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]". The relevant considerations are addressed later in this assessment. Subject to these not being prejudiced the proposal would be acceptable in principle in relation to policy D2.
- 10.2 The Council cannot currently demonstrate a five year supply of deliverable housing land. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. The NPPF states that the purpose of the planning system "is to contribute to the achievement of sustainable development" (para 6). NPPF notes that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples' quality of life (para 9). NPPF identifies the dimensions of sustainable development as economic, social and environmental roles (para 7). 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" (para 8). NPPF stresses the presumption in favour of sustainable development.
- 10.3 The site is located within a sustainable location in proximity to the local centre of Cleckheaton. A proposal for three dwellings provides economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be social gain through the provision of new housing at a time of general shortage. The principle of housing development is considered to be acceptable, in accordance with the aims of the NPPF.

Urban Design issues

- 10.4 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. Paragraph 60 of the National Planning Policy Framework (NPPF) stipulates that planning policies and decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however, proper to seek to promote or reinforce local distinctiveness.

- 10.5 Since submission of the original application, the design and number of proposed residential units has been amended. The proposed units would take into account the topography of the site, with Plot 3 stepped down in relation to Plots 1 and 2. The dwellings would have pitched roofs with lean-to porches to the front and constructed of artificial stone with concrete tiled roofs. The section included within the submitted plans indicates the ridge height of the dwellings in relation to the existing industrial units to the west, and No.3 St John's Close to the east which demonstrates that the development would not appear out of scale relative to these buildings.
- 10.6 The proposals would represent a lower density of development than that which exists immediately adjacent the site to the south and east, however taking into account the context of the church to the north, this is considered to be appropriate.
- 10.7 The development would include adequate areas of private amenity space to the rear to serve each plot, providing a good standard of amenity for future occupiers, and the viability of the trees along the northern boundary would be ensured. On this basis, the proposals are considered to accord with Policies D2, BE1, BE2 and BE5 of the UDP and government guidance contained within Chapters 7 and 11 of the NPPF

Impact on setting of Listed Building

- 10.8 The siting of the development is such that the setting of the listed St John's Church is not considered to be harmed, and the proposed materials of construction are considered to be acceptable, also given the separation of the development from the church. It would be reasonable to impose a condition requiring samples of materials to be submitted prior to commencement of development on the superstructure of the dwellings, to ensure the use of a good quality product.

Residential Amenity

- 10.9 UDP Policy BE12 recommends that new dwellings should be designed to provide privacy and open space for their future occupants and physical separation from adjacent property and land. Policy BE12 recommends minimum acceptable distances
- 10.10 The proposed development would be orientated with principal elevations, and therefore habitable windows, facing north and south. One bathroom and one en-suite window would be located in the west gable of Plot 1, whilst a landing window would be located within the east gable of Plot 3.
- 10.11 Adequate separation distances would be achieved between the development and the existing dwellings on Brooke Street to the south, whilst the church grounds are located to the north. There would be no adverse impact upon adjacent occupiers to the west since the adjacent site is in commercial, and not residential use.

- 10.12 Through the course of the application amendments were requested to address concerns over the close proximity of the development to No.3 St John's Close. The amendments received removed one of the plots and relocated the units further south within the site in order to eliminate the direct relationship between the eastern gable of the development and a bedroom window within the facing elevation of No. 3. The east elevation of Plot 3 would now be located approximately 8.2m from the facing elevation of No.3 St John's Close, although due to the re-siting of the development, this would avoid a direct relationship with habitable room windows of No.3. It is also noted that separation distances less than those set out in Policy BE12 do exist within the immediate locality which does provide a context for the character of existing surrounding development.
- 10.13 On the basis of the above, it is considered that the proposals would not have an adverse impact upon residential amenity and would accord with the aims of the relevant policies.

Highway issues

- 10.14 UDP Policy T10 sets out the matters against which new development will be assessed in terms of highway safety.
- 10.15 The application site is located to the north of Brooke Street, which connects St Peg Close to Central Parade and is subject to a 30 mph speed limit with street lighting along its length.
- 10.16 A new access and private driveway is proposed of an acceptable width from Brooke Street with two off-street parking spaces located to the front of each new residential unit, in addition to two off-street parking spaces to serve No.49 and the recently approved attached dwelling (2016/91631). One visitor parking space would also be provided, in addition to a bin collection point to the western side of the access.
- 10.17 Internal turning for a car is provided within the site, and as the development is within 45m of Brooke Street, emergency vehicle access is adequate in this respect.
- 10.18 Visibility onto Brooke Street is good in both directions and sightlines of 2.4m x 43m are achievable.
- 10.19 Subject to the inclusion of conditions to secure the above, the proposals are considered to be acceptable from a highway safety and efficiency perspective, in accordance with Policies D2 and T10 of the UDP, as well as policy PLP21 of the PDLP.

Representations

- 10.20 The concerns raised in representations are addressed as follows:

Submitted Documents

Response: Through the course of the application, the applicant submitted a section showing the development in relation to adjacent buildings.

KC Environmental Services were consulted on the application and requested the imposition of conditions requiring the submission of further site intrusive investigations and any subsequent details.

The red line boundary includes the relevant land which is the subject of this application and this is considered to be acceptable.

Contamination

Response: There are no objections from KC Environmental Services to the application, subject to the imposition of conditions requiring site investigations and remediation to be carried out, and relevant details to be submitted to the Local Planning Authority for approval. KC Environmental Services hold no records of this site regarding tipping or the presence of a fuel tank, however the imposition of conditions set out above would address the concerns raised by objectors and require the developer to fully assess the site and deal with any risks to human health.

Highways

Response: The proposals have been assessed by KC Highways DM and considered to be acceptable from a Highways perspective.

Principle of Residential Development

Accept that principle of development is acceptable, but finer detail is not.

Response: This is addressed in the residential amenity section of the Officer Report.

Grain of Existing Development

Response: The proposals have been amended since original submission to reduce the number of plots and re-site them away from the northern and eastern boundaries. The density of the development is lower than the majority of existing surrounding development.

Massing and Form

Response: The proposals have been amended since original submission to reduce the number of plots and re-site them away from the northern and eastern boundaries. The density of the development is lower than the majority of existing surrounding development.

Section drawings were submitted through the course of the application to demonstrate its relationship with adjacent buildings.

Overshadowing and Overbearing

Response: This is addressed in the residential amenity section of the report.

External Appearance

Response: This is addressed in the visual amenity section of the report.

Impact upon St Johns Church (Grade II listed

Response: The development is considered to have an acceptable impact upon the setting of the listed church, by virtue of its layout/siting and separation from the church.

Planning permission for 49 A Brooke Street

Response: Parking provision to serve the new dwelling approved under application ref 2016/19631 is shown to be included within the red line boundary of this application site, which amounts to a change to the approved plans. However, this does not prevent determination of the current application ref 2017/90312.

Other Matters – Impact on foundations:

Response: The proposals have been amended to remove one of the plots and increase the distance between the development and No.3.

Access for emergency vehicles will not be given from St John's Close

Response: The agent has confirmed that this is not intended to be the case.

Planning obligations

- 10.21 This application falls below the threshold for which any contributions would be sought.

Other Matters

Air Quality

- 10.22 In an application of this nature it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles is provided in accordance with the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group (WYLES). This can be conditioned.

Contaminated Land and Coal Mining Legacy

- 10.23 The site is located within 125m of a site that has been identified as potentially contaminated land due to its previous use as a landfill site. In addition, the site falls within the Development High Risk Area as defined by the Coal Authority. Coal Authority records indicate that part of the site is within an area of likely historic underground coal mine workings at shallow depth.
- 10.24 The application is accompanied by a Coal Mining Risk Assessment which concludes that there is a potential risk to the development from past coal mining activity. This recommends that intrusive site investigation works are carried out in order to establish the exact situation in respect of coal mining legacy issues on the site. Subject to the imposition of conditions requiring these investigations and any subsequent remedial works, KC Environmental Services and the Coal Authority raise no objections to the proposals with respect to the above matters.

11.0 CONCLUSION

- 11.1 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.
- 11.2 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 implementing permission
2. Development to be carried out in accordance with approved plans
3. Samples of materials
4. Surfacing of hardstanding areas
5. Electric vehicle charging points
6. Provision of turning facilities
7. Protective fencing (trees)
8. Site investigation and remediation
9. Noise Report
10. Removal of permitted development rights for extensions and outbuildings to all plots
11. Removal of permitted development rights for windows and openings within gable of Plot 3

Background Papers:

Application and history files.

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90312>

Certificate of Ownership – Certificate B completed with Notice served Streetscene and Housing, Huddersfield on 6.2.2017

Link in relation to previously approved application 2016/91631:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91631+>