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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 07-Jun-2018****Subject: Planning Application 2017/94311 Erection of detached dwelling 264, Whitehall Road East, Birkenshaw, BD11 2LL****APPLICANT**

D Price

**DATE VALID**

09-Jan-2018

**TARGET DATE**

06-Mar-2018

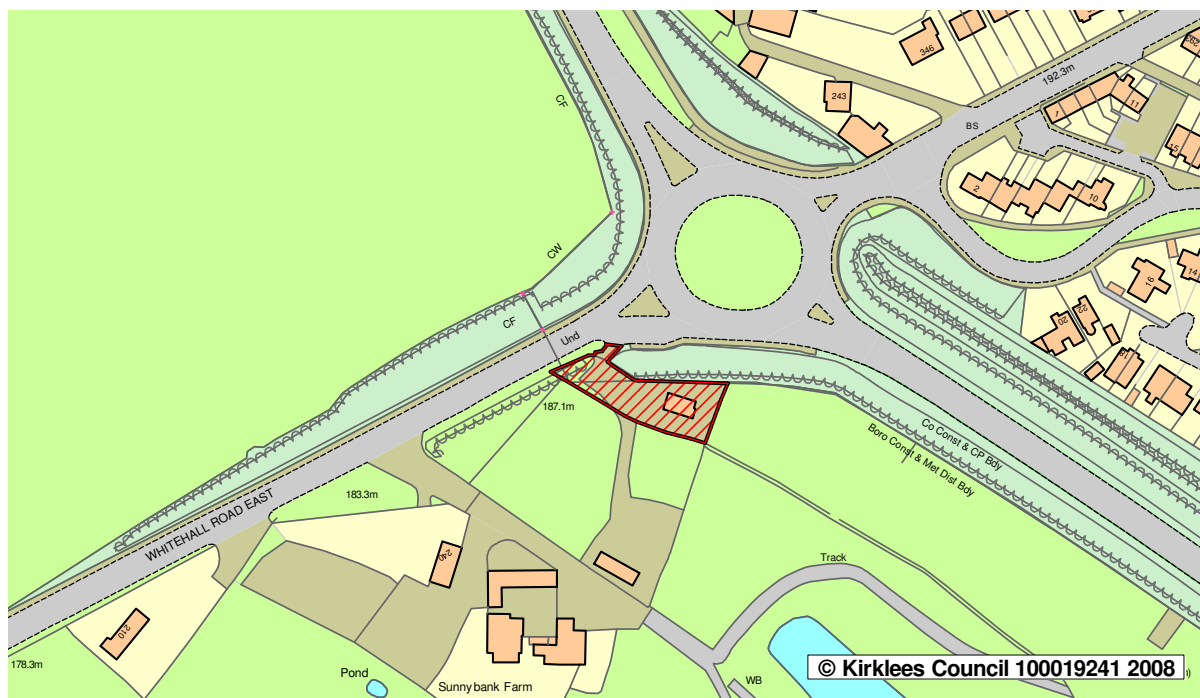
**EXTENSION EXPIRY DATE**

30-Mar-2018

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

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**Electoral Wards Affected:**

No

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:**

**Await formal determination of the duplicate application at Leeds City Council**

**Complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to Strategic Committee as the application is a cross boundary application crossing into Leeds City Council area. The vehicular access in the north east corner of the site falls within the Leeds city council borough and the remainder of the site including the area where the dwelling is to be sited falls within the borough of Kirklees Council.
- 1.2 Officers at Leeds City Council have raised no objections to the proposed development, but this is on an informal basis and in recent correspondence have indicated they will issue their decision in due course. Formal confirmation of Leeds City Council's decision is required prior to the issuing of any decision on the application by Kirklees Council.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located on Whitehall Road East and is accessed directly off the Drighlington by-pass roundabout which is also the boundary between Leeds City Council and Kirklees. The main part of the site occupies an elevated position sloping up from the main highway.
- 2.2 The site forms a level plateau on which a single storey building is located. The building is a stone single storey with mono pitch roof. It is currently in use as a dwelling. A small single storey prefabricated detached garage lies adjacent to the host building in addition to a touring caravan and wooden shed/playhouse.
- 2.3 The site is well screened from the road/roundabout below with 2 metre fencing in addition to a number of trees and hedges. To the south of the site there is a 2m high fence clearly defining the residential curtilage with the open fields beyond. The whole site is located within the Greenbelt as defined within the UDP.

### **3.0 PROPOSAL:**

- 3.1 The application relates to the erection of a replacement dwelling. The proposed building forms an “L” shape and measures 17.0 metres by 11.2 metres at its widest.
- 3.2 The highest part of the ridge measures 4.1 metres.
- 3.3 Materials of construction proposed are stone with slate roof. External areas are to be tarmac and paving. The site will accommodate 3 off street parking spaces,

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2010/93035 – Extension to time limit to previous permission no 2007/94510 for demolition of existing bungalow and erection of detached dwelling and garage – Approved

2007/94510 – Demolition of existing bungalow and erection of detached dwelling and garage – Approved

2007/91130 – Demolition of bungalow and erection of detached house and detached garage – Withdrawn (large 2 storey dwelling)

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

- 5.1 An existing plan was requested to show the relative difference between the existing and proposed buildings.

### **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 BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
T10 – Highway safety  
T19 – Parking standards

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

**PLP1** – Presumption in favour of sustainable development  
**PLP2** – Place shaping  
**PLP21** – Highway safety and access  
**PLP22** – Parking  
**PLP24** – Design  
**PLP30** – Biodiversity and geodiversity  
**PLP52** – Protection and improvement of local environment  
**PLP57** – The extension, alteration or replacement of existing buildings

National Planning Guidance:

- 6.4 **Chapter 4** - Promoting Sustainable Transport  
**Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring Good Design  
**Chapter 9** – Green Belt  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** – Conserving and enhancing the Natural Environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application has attracted a representation from the Peak & Northern Footpaths Society. This relates to clarification of the public right of way.

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**K.C Highways Development Management** – No objections

**Coal Authority** – No objections

8.2 **Non-statutory:**

**K.C Environmental Services** – 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 NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90 of the NPPF.
- 10.2 The replacement of an existing building within the Green Belt is included within the 6 exceptions listed at paragraph 89 'provided the new building is in the same use and not materially larger than the one it replaces'. This is mirrored by PLP57 of the PDLP. The Unitary Development Plan is silent in regards to replacement buildings. Paragraph 89 point 6 also allows for the partial or complete redevelopment of a brownfield site.
- 10.3 Paragraph 14 of the National Planning Policy Framework states that there is a presumption in favour of sustainable development. For 'decision taking' this paragraph goes on to state that this means where relevant policies are out-of-date, planning permission should be granted *"unless any adverse impacts ... would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted"*.
- 10.4 Publication Draft Local Plan Policy PLP1 outlines 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).
- 10.5 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.
- 10.6 The proposed building is to be a dwelling, therefore in the same use as the existing building and acceptable in principle subject to considerations relating to size and impact on the openness of the green belt. There is no accepted definition of what constitutes 'materially larger', however, comparing the existing building to that proposed, the new dwelling would increase the footprint and consequently the volume. The height of the building is not proposed to be materially larger than the existing building. It is worth noting that the existing dwelling could take advantage of permitted development rights and extend the existing building and this fall back position adds weight to the justification for allowing the increase in footprint. Taking into account this position Officers have concluded that circumstances exist to justify the scale of the dwelling. Furthermore, due to site specific considerations in relation to the existing character and openness, the development would have limited impact on the openness of the Green Belt it is considered that the replacement building can be justified in this instance. A condition will be imposed to ensure the removal of existing buildings within the site to off- set the increase in footprint in addition to removal of permitted development rights.

- 10.7 Furthermore point 6 of paragraph 89 is applicable. The redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt and the purposed of including land within it than the existing development can be applied in this case. The land within the site red line is all hardstanding with the main building located within it in addition to a number of outbuildings. Temporary buildings are excluded from considerations relating to redevelopment but it is considered that the replacement of the existing buildings within the site with the dwelling proposed would not have any greater impact on the openness and functions. A landscaping plan is to be requested to improve the amenity of the site particularly in view of its rural location.
- 10.8 Given the above officers are of the opinion that the development would comply with paragraph 89 of the NPPF or Policy PLP57.

#### Urban Design issues

- 10.9 Policies BE1 and BE2 of the UDP are 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. Furthermore, 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.
- 10.10 The site is reasonably well screened to surrounding areas although it is visible to users of the public footpath that runs adjacent to the site. The existing buildings are basic and have a negative impact in terms of amenity and character to the area. The existing dwelling cannot be described as agricultural in character despite its semi-rural location. It appears more utilitarian being functional at one time. It does not represent the usual characteristics of a domestic building. Despite the increase in footprint the replacement building appears subservient but its appearance is one that is domestic but will contribute more positively. The removal of all the existing buildings will result in tidying up the site. The proposed materials of construction include natural stone and slate roof improving the quality of the built environment.
- 10.11 A landscape plan is required to ensure the scheme introduces areas of soft landscaping where hardstanding exists. The overall scheme will result in a positive contribution in place of an untidy area. Existing boundary treatments will be retained and therefore continue to offer screening to the development.
- 10.12 It is considered that the development proposed is acceptable from a visual amenity perspective and is in accordance with Policies BE1, BE2 and D2 of the UDP as well as the aims of chapters 6 and 7 of the NPPF.

### 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 As such, it is considered by officers, that the development would not result in any material harm to the amenity of nearby residents and an acceptable standard of amenity would be provided for the future occupants of the development, subject to considerations relating to noise discussed later in the report, thereby according with Policy D2 of the UDP as well as the aims of policy BE12 of the UDP in terms of residential amenity.

### Housing issues

- 10.15 The development would contribute to the aims of Policy H1 of the UDP in that it would provide additional housing in a sustainable location.

### Highway issues

- 10.16 The development proposed is similar to that which gained approval in 2010. The site benefits from ample grounds and the proposal would not result in any significant intensification of use of the existing access. Nor would it result in any additional demand for parking. The site will retain adequate off street parking. As such, with the inclusion of appropriate conditions relating to the surfacing of the access road, the proposals would not materially add to any undue highway safety implications, complying with the aims of Policies T10 and T19 of the UDP.

### Representations

- 10.17 Clarification of public right of way  
**Response:** It is not considered that the development would interfere with any existing right of way and any matters of concern associated with the existing on site situation are being progressed by Officers in PROW.

### Other Matters

- 10.18 *Coal Mining Legacy:*  
A Coal Mining Risk Assessment has been submitted with the application and comments received from the Coal Authority. There are no objections to the proposals providing conditions are imposed to ensure there is no risk as a consequence of development. The inclusion of such conditions would ensure that the proposals comply with the aims of chapter 11 of the NPPF.
- 10.19 *Sustainable transport:*  
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.” As such, this development should encourage the use of ultra-low emission vehicles such as electric vehicles.

#### 10.20 *Air Quality*

This development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size of the development is less than that of prescribed values set out in this document, which is why it is regarded as a minor development. The development is also in an area of poor air quality and proposes to introduce relevant receptors to elevated pollutant levels. A condition is required for the submission of an Air Quality impact assessment determining the introduction of receptors into area of poor air quality and also a condition requiring the installation of 1 electric vehicle charging point.

#### 10.21 *Noise*

There are concerns that future occupants may be subjected to elevated levels of noise being located adjacent to the A58 and A650. As such it is recommended that a noise report is submitted prior to development commencing and mitigation measures being incorporated into the replacement dwelling as necessary. The submitted plans show that the bungalow proposed is to be sited within the same location as the existing dwelling and is set behind a landscaped bund with a fence proposed on top of the bund. Should the fence be required to be acoustic as part of any mitigation measures to protect the occupants of the new dwelling these details will be required by condition and would be implemented prior to occupation of the dwelling. The development proposals are considered acceptable and in accordance with Policy EP5 of the Unitary Development Plan and PLP52 of the Publication Draft Local Plan.

#### 10.22 *PROW*

The position of the PROW has been checked on mapping systems and it is not considered that the replacement building will interfere with this. A footnote will be imposed on any consent ensuring that it is not interfered with.

### 11.0 **CONCLUSION**

11.1 The proposed erection of a replacement dwelling is considered to comply with current planning policies relating to development in the Green Belt and it is the opinion of officers that there would be no significant adverse impact in terms of impact on openness, visual or residential amenity. Furthermore there would be no issues with regard to highway or pedestrian safety. Conditions are proposed to deal with details of any air quality and noise mitigation. For the reasons detailed above, it is considered by officers that, subject to the imposition of appropriate conditions, the proposal is acceptable.

11.3 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 – 3 years**
- 2. Plans and specifications**
- 3. Areas to be surfaced and drained.**
- 4. All buildings within the red line to demolished**
- 5. Materials**
- 6. Removal of PD rights**
- 7. Vehicle charging point**
- 8. Scheme of intrusive site investigations**
- 9. Scheme of remedial works**
- 10. Implementation of remedial works**
- 11. Reporting unexpected contamination**
- 12. Air quality impact assessment**
- 13. Noise report and mitigation measures**
- 14. Landscaping plan to be submitted**

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f94311>

Certificate of Ownership –Certificate A signed by the agent: A Oldroyd