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**Report of the Head of Development and Master Planning**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 18-Jul-2019**

**Subject: Planning Application 2019/90606 Erection of 9 dwellings (modified house types) Land at, Stoney Bank Lane, Thongsbridge, Holmfirth**

**APPLICANT**

N Mannion

**DATE VALID**

05-Mar-2019

**TARGET DATE**

30-Apr-2019

**EXTENSION EXPIRY DATE**

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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: Holme Valley South**

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Ward Members consulted

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and secure a deed of variation to the previously approved Section 106 Obligations covering the wider site.

**1.0 INTRODUCTION:**

- 1.1 The application is brought to committee at the request of Cllr Nigel Patrick who has stated:

*“I think the retaining wall is awful. Is there no such thing as good design in the Local Plan? I understood once the Local Plan was adopted there would be no opportunity for developers to do something like this. It is hideous, ugly and unnecessary. Then I wonder if the wall is going to hold up the land behind it – what engineering evidence have you that this wall is fit for purpose? Apart from the impact on the existing neighbouring properties, the houses they build at the foot of the wall be in the dark. The back gardens will be cold, wet and miserable”*

- 1.2 The Chair has agreed to this application being brought to Sub-Committee for determination confirming Cllr Patricks’ reason for making this request is valid having regard to the Councillors’ Protocol for Planning Sub-Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site forms part of a larger residential development which has previously been granted planning permission for a total of 52 dwellings. The site generally slopes from south west to north east. At the top of the slope, and immediately adjacent to the site lies, Cobley Green and The Old Tankhouse (dwellings) in the south easterly and westerly corners of the site respectively. The site would be served off Stoney Bank Lane. This also carries a public right of way (PROW).

- 2.1 The application red line relates to a part of the overall site on the southern boundary of the previously approved site which involves 9 plots to accommodate one detached and four pairs of semi-detached dwellings.

### **3.0 PROPOSAL:**

- 3.1 The application is for the erection of 9 dwellings. These are in effect a modified proposal from the previously approved scheme for 9 dwellings in this part of the site. Whilst this is a standalone new application, the dwellings are to be sited in the same position and of the same scale (3 storey) as that previously approved, albeit with some minor alterations, to be served off the internal access road as previously approved as part of the larger scheme on this site, under application no.2017/93053.
- 3.2 The alterations proposed in comparison to the previously approved scheme are principally to re grade and level the rear gardens areas of the 9 plots to which this application relates to. This would result in excavations of the areas previously shown to be raised gardens areas to the rear of these plots. To accommodate the further engineering works, the proposals would result in a larger deeper retaining wall, to be positioned internally within and along the rear boundary of these plots. The retaining wall is shown to be of gabion construction.
- 3.3 The development would also result in minor internal alterations to the house types to incorporate the change in levels. In addition the proposals seek to swap the house types between plots 16/17 and 18/19.

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

- 4.1 2014/93248 – Outline application for residential development – approved by Members of Strategic Committee, subject to conditions and S106 Agreement
- 2017/93053 – Reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – granted by Members of Strategic Committee with S106 April 2018
- 2017/93609 – Erection of 4 dwellings and change of use of land as domestic garden area and areas of public open space lane - granted by Members of Strategic Committee with S106 April 2018
- 2017/94225 – Discharge of conditions 1-25 on previous permission 2014/93248 for outline planning application for a residential development – decision issued
- 2018/91513 – discharge of condition nos. 1-9 (not including 8) on 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – decision issued
- 2018/91535 - Discharge conditions 1-11 on previous permission 2017/93609 for erection of 4 dwellings and change of use of land as domestic garden area and areas of public open space – Pending consideration
- 2018/91538 - Discharge of condition 8. (public open space) on previous permission no. 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – Pending consideration

2018/92685 - Discharge condition 2 (materials) on previous permission 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – decision issued

#### Enforcement History

COMP/19/0083- Major site monitoring, ongoing

It is acknowledged works are continuing on site in relation to the previous permissions. We are also aware that engineering works to form the retaining walls the subject of this application have commenced. The Compliance Team are in dialogue with the developer regarding this breach of planning control.

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

- 5.1 Requested additional sections to demonstrate the difference between the previously approved ground levels and building heights and for a deed of variation to be prepared pursuant to the terms of the original S106 Obligations. The sections were received and now form part of the submission documents. Confirmation regarding the deed of variation is awaited and will be reported to Members in the update.

### **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site forms part of a larger housing site identified as no. HS189

#### Kirklees Local Plan (2019):

- 6.2 LP3 – Location of New Development  
LP7 – Efficient and effective use of land and buildings  
LP11 – Housing Mix and Affordable Housing  
LP20 – Sustainable Travel  
LP21 – Highway safety and access  
LP22 – Parking  
LP24 – Design  
LP27 – Flood Risk  
LP28 – Drainage  
LP30 – Biodiversity and Geodiversity  
LP32 – Landscape  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality

#### Supplementary Planning Guidance / Documents:

- 6.3 West Yorkshire Air Quality and Emissions Technical Planning Guidance  
National Planning Guidance  
National Planning Policy Framework

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised in the press, by site notice and neighbour letters. Additional information has also been advertised. One representation has been received. The concerns of which are summarised below:

- Additional houses will add to the current disruption caused by construction traffic and volume of traffic along Stoney Bank Lane
- Highway safety concerns on the surrounding highway infrastructure

7.2 Holme Valley Parish Council – support the proposals

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

KC DM Highways – do not raise any concerns (see assessment below)

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues & impact on surrounding development
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Planning obligations
- Other matters (conditions & further justification)

## **10.0 APPRAISAL**

### Principle of development

10.1 The principle of development on this site has been established under outline planning permission ref no. 2014/93248. At that time the number of dwellings was not set. However, the planning permission established that this site was acceptable for the provision of housing. Subsequently a further two applications as listed in the 'relevant history' section of the report have been granted. This includes the reserved matters for 48 dwellings pursuant to the outline permission and a full application for a further 4 dwellings. Furthermore, since the adoption of the Kirklees Local Plan, the site is a housing allocation. In summary the principle of residential development is acceptable. The number of dwellings proposed would not increase the quantum of development already approved.

### Urban design issues & impact on surrounding development

10.2 The scheme comprises of 4 pairs of semi-detached, three storey dwellings and one detached dwelling to provide accommodation on split levels. In terms of design, scale and materials the house types proposed are not dissimilar to the previously approved scheme for these plots under application nos. 2017/93053 and 2017/93609.

- 10.3 As stated above, in comparing the current proposals with that previously approved, the primary differences on the current scheme is the lowering of ground levels within the rear gardens of these plots and the depth of the retaining wall consequently required to accommodate these level changes.
- 10.4 Additional section drawings were requested during the course of the application. These demonstrate the proposed depth of the retaining wall in comparison to the previously approved retaining structure/wall. In comparing the two schemes, Officers are of the opinion the proposed retaining walls would have no more of an impact on the visual amenity of the surrounding development which would continue to integrate with the wider development of this site and surrounding area.
- 10.5 In summary, with the exception of the proposed ground levels within the rear gardens, the layout, design and external appearance of the dwellings and associated development on these plots as now proposed would largely remain as previously approved. Overall it is not considered that the development would cause unacceptable harm to the character and appearance of the surrounding area and accords with Policy LP24 of the Kirklees Local Plan and guidance in the NPPF.

#### Residential Amenity

- 10.6 Guidance in the NPPF indicates that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects on living conditions and the natural environment, as well as the potential sensitivity of the site of the wider impacts that could arise from the development. Policy LP24 of the Kirklees Local Plan requires developments to provide a high standard of amenity for future and neighbouring occupiers.
- 10.7 The two dwellings and most likely to be affected, lying in close proximity of these plots are Cobley Green and the Old Tank House. Firstly considering the impact on Cobley Green, as noted above proposed development involves reducing the land levels within the site by approximately 3-4m. Each of the proposed dwellings would be set approximately 4m lower than the garden area of Cobley Green. Consequently, each of the three storey houses would be set approximately 5m lower than the floor level of the existing dwelling at Cobley Green. Therefore, despite each dwelling being 3 storeys in height, the second storey windows would generally face the upper slope of the garden associated with Cobley Green and each dwelling would have a level rear garden and a retaining wall approximately 5m in height where it meets the garden of Cobley Green. The ridge height of the proposed dwellings would be slightly lower than the existing ridge height associated with Cobley Green. It would not be apparent from Cobley Green that the closest dwellings are 3 storeys in height.
- 10.8 With regards to the impact on The Old Tank House, a distance of 11m would be retained between the two properties and the scale of the dwelling on plot no. 13 (this being the nearest to The Old Tank House) would remain as previously approved. Other than a bathroom opening in the side elevation facing the Old Tank House, the gable would be blank.

- 10.9 The revised arrangements for the rear garden areas needs to take into account the amenity of future occupiers of the affected plots. The proposed retaining walls are up to around 5m in height at their deepest point. The rear gardens are around 12 metres in length and south facing. The previously approved proposed included a level garden area of 4m in length from the ground floor of the properties followed by a stepped change in level of 2m created by the first section of retaining wall. Although the depth of retaining walls is increased by this revised scheme, so has the useable garden areas. The level of light into the rear of the properties would be increased by removing the first section of retaining wall and by providing a single retaining feature at the very end of the garden.
- 10.10 The proposals are considered to ensure that existing occupiers retain sufficient standards of residential amenity and that future occupiers of the plots concerned would have a good standard of amenity. Consequently the application is considered to comply with Policy LP24 of the Kirklees Local Plan and guidance within the NPPF.

#### Highway issues

- 10.11 Highways matters were fully considered at outline stage (2014/93248) and this included the point of access. Therefore, whilst it is acknowledged that there are a number of objections relating to impacts on the surrounding highway network, the impact on the highway network has previously been established and considered as part of the outline.
- 10.12 This proposal although a new application seeks alterations internally within the plots of nos. 13- 21. No alterations are proposed to the internal access road approved as part of development on the larger part of the site where these plots would be served off Stoney Bank Lane.
- 10.13 Each of the proposed house types would have two off-street parking spaces on driveways and a further parking space within an integral garage. These proposals are considered acceptable to Highways Development Management who raise no objections.
- 10.14 As the outline permission deals with the internal access road which would serve these plots and others within the larger part of the site it would not be necessary to impose conditions relating to the internal access road. It is however reasonable to condition that the dwellings only be occupied on completion of the internal access road (shown within the blue line) in accordance with the details approved pursuant to conditions on the outline permission. Although the outline permission addresses matters relating to storage and access for collection of waste together with electric vehicle charging points, as this would be a stand-alone application it is necessary to re-impose conditions on any forthcoming permission.

#### Drainage issues

- 10.15 Drainage of the whole of the site including the current application site has previously been considered at the time of the outline application, where a number of conditions were imposed and needed to be satisfied prior to development commencing on site. Consequently, the details were submitted under application no. 2017/94225, and considered appropriate for drainage proposals including the flow of surface water flow rates and attenuation.

- 10.16 In summary, it would be necessary to condition the development be completed in accordance with the approved drainage scheme/proposals pursuant to the outline permission, prior to occupation of any new dwelling, for the drainage matters to be dealt with appropriately and to accord with Policy LP28 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

#### Representations

- 10.17 Addressed in the preceding paragraphs.

#### Planning obligations

- 10.18 In this instance the proposals for nine dwellings would not trigger the requirement for any planning obligations. As the previous permission on the site as a whole, benefits from two S106 Obligations to address matters relating to affordable housing, education, public open space and highway improvement works, a deed of variation is now required as this is a stand-alone application. The agent was informed of this requirement at the outset of this application and agreed to submit this to form part of the submission documents for consideration by Legal Officers. This matter will need to be addressed should Members be minded to approve the current application.

#### Other Matters (conditions & further justification)

- 10.19 Other than the conditions referred to in the previous paragraphs, it would also be necessary to condition the external facing materials to be in accordance with the approved materials (natural stone) for the walls and roofs pursuant to the details previously approved for the larger part of the site.
- 10.20 In addition, it is considered necessary to withdraw permitted development rights for extensions/outbuildings and alterations to the roofs on all these plots to avoid over development of the plots and for the amenities of the future residents of the plots. Also for the dwellings to be completed in accordance with the finished floor levels and ground levels, as shown on drawing no. 4563-16-06-018. The finished floor levels shown on this drawings are consistent with those previously approved under discharge of condition details for these plots.
- 10.21 Turning to the structural stability of the proposed retaining wall, paragraph no. 178 of the NPPF states decisions should ensure that a site is suitable for its proposed use taking into account ground conditions and any risk arising from land instability. The NPPF also sets out clearly where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or land owner.
- 10.22 Further justification/evidence was requested in relation to the design approach in relation to the proposed retaining wall, particularly the additional element of retaining wall now shown within plot nos. 15 and 16, adjacent to the boundary with Cobley Green. The following justification is received:

*“the proposed changes within this application were primarily centred around the removal of the bridge structures and consequently, the split rear access arrangement currently approved, in favour of larger and more accessible rear gardens to plots 14-21. The removal of the bridges allows us to lower the level of the rear gardens so that they can be accessed from the ground floor, and in addition allows more light to the ground floor rooms on the rear elevations, improving their amenity. This improved relationship is achieved via the introduction of a higher retaining wall to the rear of these properties.*

*With regards to the principles taken into account, our Structural Engineering Consultant has designed the retaining wall to provide structural stability to the land it is retaining, and allows the rear garden levels to be dropped to accommodate the much improved rear garden arrangement. The gabion provides a facing material to the structure which is in keeping with the area.*

*The additional walls illustrated within the gardens of plots 15 and 16 are required to facilitate the foul drainage route, which has been agreed with Yorkshire Water as part of a Section 185 agreement. This additional feature still ensures a sufficient garden size for each of the properties is provided”*

- 10.23 In summary, officers consider the proposals would ensure the quality of the previously approved scheme is not materially diminished. Whilst, the retaining walls are to be deeper internally within the site, they would not appear higher than the previously approved retaining structures from outside the site. Furthermore, the proposed works would result in more usable external garden areas for the future occupants

## **11.0 CONCLUSION**

- 11.1 The principle of development on this site has previously been granted and implemented on site. The layout, density, design and scale of the development proposed is considered to be acceptable given the site's context and would be largely consistent to that previously approved schemes. The changes to the ground levels of the rear gardens and the retaining wall to necessitate the change in levels in the rear gardens of these plots is also considered acceptable and would provide future occupiers with a good standard of amenity.
- 11.2 The layout provides acceptable separation to existing and new dwellings. The height of the three storey dwellings on this part of the site would sit relatively comfortably within this setting. The buildings respect the topography of the wider area which rises up from north to south.
- 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.
- 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. Time limit
2. In accordance with approved plans
3. External facing materials as previously approved
4. Internal access road to be completed in accordance with details pursuant to outline conditions
5. Drainage scheme to be completed in accordance with details pursuant to outline conditions
6. Withdraw permitted development rights
7. Finished floor & ground levels in accordance with drawing no. 4563-16-06-018
8. Storage and collection of wastes
9. Electric vehicle charging points.

**Background Papers:**

Application and history files.

Website link to be inserted here

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90606>

Certificate of Ownership –Certificate A signed by agent