
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 19-Dec-2019****Subject: Planning Application 2019/93329 Demolition of 3 dwellings and barn and erection of 2 detached dwellings with car ports, parking and gardens Land off, Sugden Street, Oakenshaw, BD12 7HS****APPLICANT**

David Bradley, Pure Haus

DATE VALID

14-Oct-2019

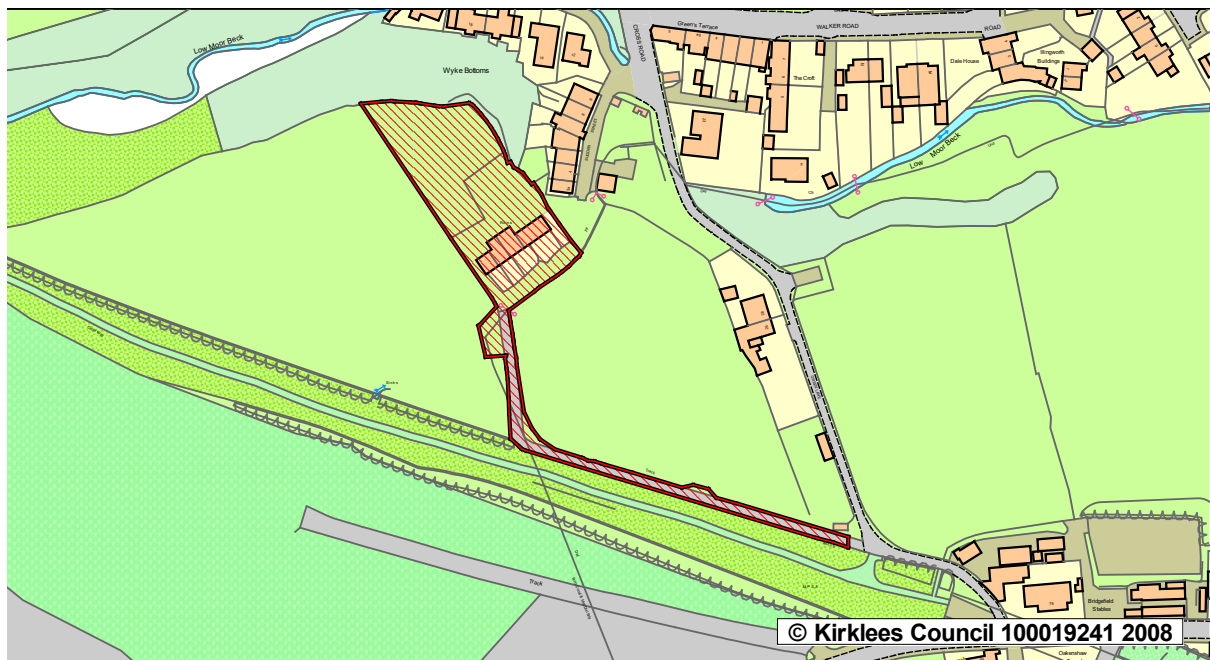
TARGET DATE

09-Dec-2019

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☐ Yes

Ward Members consulted

RECOMMENDATION:

Kirklees Council to devolve its development control functions to Bradford Metropolitan District Council for the determination of the application.

1.0 INTRODUCTION:

- 1.1 This application is reported to the Strategic Planning Committee as the application is for a cross boundary application with Bradford Metropolitan District Council.
- 1.2 Officer's seek approval of the Strategic Planning Committee to devolve the decision making authority to Bradford Metropolitan District Council.

2.0 BACKGROUND:

- 2.1 A full planning application has been submitted to Bradford Metropolitan District Council (Bradford MDC) at land off Sugden Street, Oakenshaw, BD12 7HS for the demolition of three dwellings and barn and the erection of 2 no. detached dwellings with car ports, parking and gardens.
- 2.2 The majority of the application site (including the dwellings, gardens and parking) lies within the administrative boundary of Bradford MDC, with only the vehicular access from Green Lane to the site (but excluding a small section of this access) within the administrative boundary of Kirklees Council. The application to Kirklees is under application reference 2019/93329.
- 2.2 In circumstances where the application site crosses the administrative boundary between two Local Planning Authorities, two identical applications should be submitted, one to each of the Local Planning Authorities, seeking permission for the development of land falling within each administrative area.

- 2.3 From our records it would appear that four previous planning applications have been submitted to and considered by Bradford MDC. The applications are as follows:
- | | |
|----------|--|
| 08/06879 | Outline permission for the redevelopment of 3 no. empty dwellings and adjacent barn to create 3 terrace dwellings with extend curtilages
Granted |
| 11/05061 | Renewal of permission 08/06879 for the outline permission for the redevelopment of 3 no. empty dwellings and barn to provide three new terrace dwellings and extended curtilages |
| 14/05259 | Redevelopment of 3 empty dwellings and adjacent barn to create 3 town houses with parking and gardens
Granted |
| 17/03513 | Redevelopment of 3 empty dwellings and adjacent barn to create 3 town houses with parking and gardens
Granted |
- 2.4 Kirklees Council did not receive a corresponding application for the application for extension to time to the previous outline permissions. However, Kirklees were consulted on applications 08/06879 and 14/05259.
- 2.5 A duplicate application for the Bradford MDC application reference 14/93765 was submitted to Kirklees. The application was considered by Officers and presented at Strategic Committee on 5th March 2015 where the Committee members resolved to 'Delegate its Development Control powers to Bradford Metropolitan District Council with concerns raised by the Committee in relation to the intensification of use of the existing sub-standard access be asked to be taken into account in consideration of the application by Bradford MDC'. The application was approved with attached conditions relating to access and parking.
- 2.6 A further application was approved in 2017 which was also referred to the Strategic Committee on 15th December 2017. The decision was taken by the Committee to devolve powers to Bradford MDC with concerns raised regarding the access track to be considered by Bradford MDC in consideration of the application. It is noted that Kirklees Highways DM raised no objections to the proposal.
- 2.7 The applicant is applying for amended house types to the approved 2017/03513 application.

3. OPTIONS FOR CONSIDERATION:

- 3.1 Paragraphs 73 - 74 of the Communities and Local Government Circular 04/08 sets out the procedures in respect of payment of the application fee for a cross boundary application as follows:

'The planning fee is payable solely to the Authority of whichever area contains the larger or largest part (within the red line boundary) of the whole application site.'

- 3.2 In this case, the majority of the application site falls within the administrative area of Bradford MDC. Thus, the application fee is paid solely to them.
- 3.3 The obligation on applicants to submit their application to the relevant Local Planning Authority's should be unaffected by the administrative arrangements put in place between Local Planning Authorities for the determination of cross boundary planning applications. Accordingly, where an application site falls within the administrative areas of two Local Planning Authorities the applicant should submit an application to each Planning Authority.
- 3.4 Paragraph 73 of Circular 04/2008 states that where an application site straddle one or more Local Planning Authority boundaries, it is necessary to submit identical applications to each Local Planning Authority, identifying on the plans which part of the site is relevant to each.
- 3.5 It is strictly possible and lawful for an applicant to formulate two distinct planning applications for each Local Planning Authority. However, such an approach would be artificial since each Local Planning Authority would need to know the details of the development as a whole in the other Local Authority's administrative area in order to make an appropriate determination of the application. For example – Kirklees Council would need to know what the access would serve and Bradford MDC would need to know how the development would be accessed.
- 3.6 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the Local Planning Authority whose administrative area the development is proposed to be carried out. In the case of cross boundary applications, this can lead to two Local Planning Authorities making individual determination, imposing different conditions on the permissions and entering into separate Section 106 Agreements. In some cases they may come to different outcomes. This is considered to be undesirable in terms of achieving a coordinated approach to delivering development.
- 3.7 Section 101(5) of the Local Government Act 1972 authorises two or more Local Planning Authorities to discharge any of the functions jointly. This arrangement can be achieved through the establishment of a joint committee. In practice, this type of arrangement is usually established for larger application or if it is likely that there will be a number of cross boundary applications. Kirklees and Bradford could choose to establish a joint committee and determine the cross boundary application collectively. In practice, however, this approach is not considered to be an efficient use of Council resources for such a small planning application.
- 3.8 An alternative solution is that Kirklees Council could devolve its decision making powers to Bradford Metropolitan District Council in respect of its determination of any cross boundary planning application submitted to it. Bradford Council, who has been paid the full application fee in any event, would then determine both the application submitted directly to it and the application initially submitted to Kirklees but delegated to Bradford. This is considered by officers to be the preferred option available to the council.

- 3.9 If Bradford Metropolitan District Council was minded to grant consent for the cross boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two original planning applications. The same applies should Bradford be minded to refuse the application.

4.0 RECOMMENDATION:

- 4.1 Officers consider that it would be appropriate in this case for Kirklees Council to devolve its development control functions to Bradford MDC for the following reasons:

- The proposed development within Kirklees' administrative boundary comprises of the proposed access only;
- Four previous applications have been approved which included this access; and,
- No objections were raised to the most recent application although concerns were raised by Members at the Committee meeting with regards to the existing use of the single access track.

- 4.2 The Committee should also note that Kirklees Council has the opportunity to comment on the application that has been submitted to Bradford MDC and Kirklees Highways DM Officers have provided comments in respect of their consultation which will contribute to the Officer's decision.

5. Implications for the Council

- 5.1 None to note

6. Consultation responses

- 6.1 Kirklees Council Highways Officer raises no objection to the proposed development in view of the history of approved development proposals on the site. It should be noted that as with the previous approved planning applications, the development will provide some highway improvements to the access in respect of the provision of a passing place and an increase in the width of the bend.

7. Officer Recommendation

- 7.1 Officer's recommend that in accordance with Section 101(1) of the Local Government Act 1972, the Strategic Planning Committee devolves its development control powers to Bradford Metropolitan District Council in respect of application 2019/93329 for Full permission for the demolition of 3 no. dwellings and erection of 2 no. detached dwellings with car ports, parking and gardens.

8. Background Papers and history of decisions:

8.1 Link to current application 2019/93329:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91491>

8.2 Link to application 2017/92026:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92026>

8.3 Link to application 2014/93765:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f93765>

8.4 No details are recorded for application 2011/05061 (Bradford MDC application).

8.5 No details are recorded for application 2008/06879 (Bradford MDC application).

Certificate A signed and dated 15.10.2019