

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

#### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

1 JULY 2021

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#### Local Plan Policy Update

The following text updates paragraphs 6.4 of the reports on the agenda:

The most relevant SPG/SPD documents for the Strategic Committee Agenda of 01/07/21 are the following:

- Highways Design Guide SPD (2019)
- Kirklees Interim Affordable Housing Policy (2020)
- Providing for Education Needs Generated by New Housing (2012)

A Housebuilder Design Guide SPD and Open Space SPD were also adopted on 29th June 2021. A Biodiversity Net Gain Technical Advice Note was approved at the same time and provides guidance on how Biodiversity Net Gain should be achieved by development within Kirklees in the intervening period before the introduction of the Environment Bill.

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#### Planning Application 2019/90902

Item 9 – Page 75

#### Outline application for the demolition of 1no. dwelling and erection of 98no. dwellings with consideration for access landscaping and layout

rear of, 271, Cliffe Lane, Gomersal, Cleckheaton, BD19 4SB

At the time of publication the case officer has received two emails from the applicant's solicitor.

The main points are:

*There has been a number of difficulties in relation to a lost engrossments, one of the concerned parties being in America and delays arising in relation to corresponding with the mortgage company of one of landowners due to the covid pandemic.*

*The resolution allowed the head of planning to determine if refusal, in the absence of a S106, was appropriate. It does not require refusal of the permission and so the decision to refuse would be an officer decision. The site is allocated for development and I understand assumed to be deliverable in the Councils 5 year land supply. I am not aware of any changed circumstances since the resolution to grant permission that would alter the suitability of the proposed development.*

*In light of the above and as it is clear that the section 106 agreement is close to being signed by all parties and returned to the council, an extension of time is requested for concluding the Section 106 Agreement. The extension sought is until the next committee meeting after the 1 July committee.*

*Where such an extension is not granted and planning permission is refused, my client is intending to appeal. As advised previously where an appeal is required, in circumstances where the permission is refused for want of a section 106 agreement the outcomes are;*

- The Council will have created unnecessary delay (the site will come forward later anyway) to the ability to bring forward a suitable development on an allocated site that contributes towards the Council's development plan and 5 year land supply; not really positive planning seeking to bring forward sustainable development.*
- An appeal will be inevitable, with all the costs and time involved in that; for the Council and the applicant.*
- The outcome of the appeal with a Section 106 agreement in place will be pretty well inevitable and costs would be likely to be awarded against the Council in that instance.*

*In the circumstances, it does not seem to be in either my client or the Council's interests to see the application refused. Targets for determination of applications, if indeed relevant here given the time past already, would seem to an unfortunate reason for refusal and certainly no defence to any costs claim on appeal, especially in light of the fact that the section 106 agreement is one signatory out of five away from being completed. Further given that the last signatory is a corporate company which has clearly been significantly impacted by the pandemic.*

*It is hoped that this final signature will be obtained imminently. Whilst your deadline of last Friday (18<sup>th</sup> June 2021) was not met this was not due to lack of effort from either the landowners nor the developer, all of whom put significant efforts into signing the document despite your refusal to allow electronic signatures or for the parties to sign separate documentation. Where an appeal in this matter is required (which we sincerely hope it is not) we shall refer to the refusal of the council to facilitate the signing of the section 106 agreement by electronic means and / or for the parties to sign separate copies in relation to the issue of costs. We do not consider that costs of appeal (where the same is required) should be borne by our client given the fact that the section 106 agreement is so close to being completed.*

**Officer response:** The Council's Legal Services have explained that they can only accept 'wet signatures' and not 'electronic signatures.' It is acknowledged that majority of the parties may have now 'electronically' signed the section 106 agreement. However, officers cannot be sure if and/or when the remaining party will sign the section 106 agreement and when the Council will receive an acceptable 'wet' signed Section 106 agreement. It is considered that the necessary time has been given by officers for this agreement to be signed by the concerned parties since the planning application was last presented to strategic planning committee on 19<sup>th</sup> December 2019.

It should be noted that the decision on the planning application at the 19<sup>th</sup> December 2021 strategic planning committee was made prior to the adoption of the Housebuilding Design Guide Supplementary Planning Document, Open Space Supplementary Planning Document and Biodiversity Net Gain Technical Advice Note. These documents were adopted by Cabinet at a meeting that took place on 22<sup>nd</sup> June 2021.

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## **Planning Application 2019/93644**

**Item 10 – Page 121**

**Change of use and alterations to existing building to workshop, catering business (B1) and restaurant cafe (A3) and business/storage and distribution (B1/B8) and change of use of land to form associated parking area (within a Conservation Area).**

**Former agricultural building at, Field Lane, Farnley Tyas, Huddersfield, HD4 6BS**

### **Ward Members Comments**

**Cllr Armer-** Kirkburton Ward

*I have previously indicated to the (then) Officer that I am very supportive of the application, which I feel is important to the local economy and to the social and communal development of Farnley Tyas. I am surprised to see that the Report says that Ward Cllrs have not been consulted, and does not record my full support as Ward Cllr.*

### **Residential Amenity**

10.22 Following concerns raised by Officers in respect to the impact of the development on residential amenity, the applicant proposes amended hours of use as follows:

- **Mondays and Tuesdays** (excluding bank holidays) – Closed to the public, however the premises would be open for the preparation of food for outside events.
- **Wednesdays and Thursdays** – 10.30 – 22.00
- **Fridays and Saturdays** – 08.30 – midnight
- **Sundays and Bank Holidays** – 10.30-20.00

Following further consultation with KC Environmental Health (Pollution and Noise Control), Officers consider that given the location of the site in close proximity to residential properties, and the level of activity which could result from the proposed restaurant/café use, that opening hours of 08.30-23.00 on Fridays and Saturdays would be most appropriate in this instance. The proposed hours of use for the remainder of the week are considered to be acceptable.

10.23 It remains the view of Officers that it would be reasonable in this instance to impose a condition that would grant permission for the uses within the building for a period of 12 months in order to allow the impact of the uses to be assessed during that period. A condition is also recommended to ensure that the development is carried out in accordance with the approved plans. The submitted plans indicate the extent of floorspace to be used for the café/restaurant use and as such the recommended condition would require that to be retained as shown on the submitted plan.

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