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Wednesday 4 May 2016

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 12 May 2016**.

(A coach will depart the Town Hall, at 10.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber.)

This meeting will be webcast live.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Planning Sub-Committee (Huddersfield Area) members are:-

Member

Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Jean Calvert
Councillor Donald Firth
Councillor Mark Hemingway
Councillor Musarrat Khan
Councillor Carole Pattison
Councillor Amanda Pinnock
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor John Taylor
Councillor Linda Wilkinson
Councillor Andrew Marchington
Labour Group Vacancy

When a Planning Sub-Committee (Huddersfield Area) member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
N Patrick
G Wilson

Green

K Allison
A Cooper

Independent

T Lyons
Edgar Holroyd-
Doveton
C Greaves

Labour

E Firth
S Hall
K Rowling
G Turner
S Ullah

Liberal Democrat

C Burke
J Lawson
A Pinnock
P Scott

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of previous meeting

1 - 12

To approve the Minutes of the meeting of the Committee held on 31 March 2016.

3: Interests and Lobbying

13 - 14

The Councillors will be asked to say if there are any items on the Agenda about which they might have been lobbied. The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application 2015/91857

Erection of agricultural building land off, Lumb Lane, Almondbury, Huddersfield.

Estimated time of arrival at site – 10.15am

Contact – William Simcock, Planning Officer

Wards

Affected: Almondbury

8: Site Visit - Application 2015/91832

Variation of conditions 27 (hours of opening) and 39 (floodlights) on previous permission 2011/92600 for demolition of existing building and erection of food store with associated car parking. Landscaping, highways works and relocate existing substation at Lidl UK GmbH, Huddersfield Road, Holmfirth

Estimated time of arrival at site – 10.35am

Contact – Adam Walker, Planning Officer

Wards

Affected: Holme Valley South

9: Site Visit - Prickledon Mills, Woodhead Road, Holmfirth

Discharge of condition 24 (Construction Management Plan),
Planning Application 2012/90738, Prickledon Mills, Woodhead
Road, Holmfirth

Estimated time of arrival at site – 10.50am

Contact – Kevin Walton, Senior Planner

Wards

Affected: Holme Valley South

10: Site Visit - Application 2016/90576

Formation of a porch to front at 3 Digley Cottages, Bank Top Lane,
Holmbridge, Holmfirth

Estimated time of arrival at site – 11.10am

Contact – Ayesha Saleem, Planning Officer

Wards

Affected: Holme Valley South

11: Site Visit - Application 2016/90499

Erection (750 square metres) of portable modular buildings at Moor
End Academy, Dryclough Road, Crosland Moor, Huddersfield

Estimated time of arrival at site – 11.35am

Contact – Farzana Tabasum, Planning Officer

Wards**Affected:** Crosland Moor and Netherton

12: Local Planning Authority Appeals

15 - 30

The Sub Committee will receive a report setting out decisions of the Planning Inspectorate in respect of appeals submitted against the decision of the Local Planning Authority.

Contact: Teresa Harlow, Development Control

Wards**Affected:** Greenhead; Holme Valley North

13: Application 2015/93052, Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield

31 - 50

The Planning Sub Committee will consider the grounds for refusal of Application 2015/93052, erection of detached dwelling and new entrance gates (listed building) at Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield.

Contact – Adam Walker, Planning Officer

Wards**Affected:** Almondbury

14: Prickledon Mills, Woodhead Road, Holmfirth

51 - 60

To consider a recommendation to discharge condition 24 (Construction Management Plan) attached to Planning Application 2012/90738 at Prickledon Mills, Woodhead Road, Holmfirth

Contact – Kevin Walton, Senior Planning Officer

Wards**Affected:** Holme Valley South

15: Planning Applications

61 - 134

The Sub Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 9 May 2016. To pre-register, please contact richard.dunne@kirklees.gov.uk or phone 01484 221000 (extension 74995)

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Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 31st March 2016

Present: Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Jean Calvert
Councillor Donald Firth
Councillor Mark Hemingway
Councillor Carole Pattison
Councillor Amanda Pinnock
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor John Taylor
Councillor Linda Wilkinson
Councillor Andrew Marchington
Councillor Bill Armer
Councillor Sheikh Ullah

Apologies: Councillor Molly Walton

1 Membership of the Committee

Councillor S Ullah substituted for Councillor M Khan.

Councillor B Armer substituted for Councillor K Sims.

2 Minutes of previous meeting

RESOLVED - That the Minutes of the meeting of the Committee held on 18 February 2016 be approved as a correct record.

3 Interests and Lobbying

In connection with item 13 – Planning Applications, Members declared interests and identified planning applications in which they had been lobbied as follows:-

Councillors Hemingway and Wilkinson declared that they had been lobbied on Application 2015/93052.

Councillors Bellamy and D Firth declared an 'other' interest in Applications 2015/92993, 2016/90010 and 2015/93001 on the grounds that they were Members of the Holme Valley Parish Council.

Councillor Marchington declared that he had been lobbied on Application 2016/90383.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Site Visit - Application 2015/93052

Site visit undertaken.

7 Site Visit - Application 2015/92993

Site visit undertaken.

8 Site Visit - Application 2016/90010

Site visit undertaken.

9 Site Visit - Application 2015/94008

Site visit undertaken.

10 Site Visit - Application 2015/92227

Site visit undertaken.

11 Site Visit - Application 2015/92802

Site visit undertaken.

12 Local Planning Authority Appeals

RESOLVED - That the report be noted.

13 Planning Applications

The Sub Committee considered the schedule of Planning Applications. Under the provisions of Council Procedure Rule 37, the Sub Committee heard representations from members of the public in respect of the following applications;

- (a) Application 2015/93052 – Erection of detached dwelling and new entrance gate (Listed Building) at Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield – David Hunter and Nick Willock (objectors), Jim Harris (applicant), Michael Owens (agent) and Councillor Judith Hughes (Local Ward Councillor)
- (b) Application 2016/90010 – Variation condition 4 (opening hours) on previous permission 2009/93008 for change of use from bakery to pizza takeaway (within a Conservation Area) at Master Pizza Bar, 75 Huddersfield Road, Holmfirth – Councillor Ken Sims and Councillor Nigel Patrick (Local Ward Councillors)
- (c) Application 2015/92802 – Modified proposals for erection of extensions and boundary treatment at 9 Princewood Lane, Birkby, Huddersfield – Michael Chow (architect)

- (d) Application 2016/90383 – Outline application for erection of 18 dwellings (amended access) adjacent to 23 Ashford Park, Golcar, Huddersfield – Robert Beal (agent)
- (e) Application 2015/93001 – Conversion and extensions of offices and coach house to form 2 dwellings and erection of 3 dwellings at Woodville, Carthill Road, Thongsbridge, Holmfirth – Councillor Ken Sims (Local Ward Councillor)

RESOLVED - That the Applications under the Planning Acts included in the list submitted for consideration by the Sub Committee be determined as now indicated and that the schedule of decisions be circulated to Members.

14 Exclusion of the Public

That acting under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act, as specifically stated in the undermentioned Minute.

15 Application 2015/92227 - Land to rear of Row Street, Crosland Moor, Huddersfield

(Exempt information under Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006, as it contains information relating to the financial or business affairs of any person (including the Authority holding that information)).

The report was considered in private because it contained commercially sensitive information, including information about a third party. It was considered not in the public interest to disclose the information as it could compromise commercial confidentiality, which was considered to outweigh the public interest in disclosing the information including accountability, transparency in greater openness in Council decision making.

The Sub Committee received financial viability information in relation to the application prior to determining the application at Agenda Item 13.

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KIRKLEES COUNCIL
LIST OF PLANNING APPLICATIONS DECIDED BY
PLANNING SUB-COMMITTEE (HUDDERSFIELD)
31 MARCH 2016

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/93052	<p data-bbox="528 215 1433 322">J Harris- Erection of detached dwelling and new entrance gates (Listed Building) - Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield</p> <p data-bbox="528 362 1444 618">REFUSAL – CONTRARY TO OFFICER RECOMMENDATION (THE SUB COMMITTEE CONSIDERED THE DESIGN OF THE PROPOSED DEVELOPMENT WOULD BE INAPPROPRIATE IN THE GROUNDS OF A LISTED BUILDING; THAT IT WOULD IMPACT ON HIGHWAY SAFETY; AND WOULD HAVE A DETRIMENTAL IMPACT ON THE VISUAL AMENITY OF THE NEIGHBOURING PROPERTIES)</p> <p data-bbox="528 658 1410 730">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 770 1219 808">(1) A vote to support the officer recommendation</p> <p data-bbox="528 848 1278 887">FOR: Councillors Pattison and AU Pinnock (2 Votes)</p> <p data-bbox="528 927 1374 1034">AGAINST: Councillors Armer, Bellamy, Calvert, D Firth, Hemingway, Lyons, Marchington, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (12 Votes)</p> <p data-bbox="528 1075 804 1113">(2) A vote to refuse</p> <p data-bbox="528 1153 1433 1261">FOR: Councillors Armer, Bellamy, Calvert, D Firth, Hemingway, Lyons, Marchington, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (12 Votes)</p> <p data-bbox="528 1301 1353 1339">AGAINST: Councillors Pattison and AU Pinnock (2 Votes)</p>
2015/92993	<p data-bbox="528 1357 1374 1464">Acumen Designers & Architects Ltd - Outline application for erection of residential development - land off, Butt Lane, Hepworth, Holmfirth</p> <p data-bbox="528 1505 1410 1688">DEFERRED (TO PROVIDE THE OPPORTUNITY FOR THE ENVIRONMENT AGENCY TO BE RE-CONSULTED ON THE ADDITIONAL INFORMATION RELATING TO DRAINAGE ISSUES AND TO BE CONSIDERED BY THE SUB COMMITTEE AT A FUTURE MEETING)</p> <p data-bbox="528 1729 1410 1800">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 1841 1433 1948">FOR: Councillors Armer, Bellamy, Calvert, D Firth, Hemingway, Lyons, Marchington, Pattison, AU Pinnock, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (14 Votes)</p> <p data-bbox="528 1989 820 2027">AGAINST: (0 Votes)</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/90010	<p data-bbox="528 215 1422 360">Mr A Latif - Variation condition 4 (opening hours) on previous permission 2009/93008 for change of use from bakery to pizza take-away (within a Conservation Area) - Master Pizza Bar, 75, Huddersfield Road, Holmfirth</p> <p data-bbox="528 398 1445 618">REFUSED – CONTRARY TO OFFICER RECOMMENDATION (THE SUB COMMITTEE CONSIDERED THAT HAVING OPENING HOURS LATER THAN 11PM WOULD CREATE AN UNACCEPTABLE INCREASE IN DISTURBANCE AND DETRIMENTAL IMPACT ON THE RESIDENTIAL AMENITY OF THE ADJACENT RESIDENTIAL PROPERTIES)</p> <p data-bbox="528 656 1410 730">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 768 1417 842">FOR: Councillors Armer, Bellamy, D Firth, Hemingway, Lyons, Marchington, AU Pinnock, J Taylor and Wilkinson (9 Votes)</p> <p data-bbox="528 880 1422 954">AGAINST: Councillors Calvert, Pattison, Sarwar and Sokhal (4 Votes)</p> <p data-bbox="528 992 954 1021">ABSTAINED: Councillor Ullah</p>
2015/94008	<p data-bbox="528 1059 1410 1205">S & G Kelly C/O Agent - Reserved matters application for erection of 18 dwellings pursuant to appeal no APP/Z4718/A/12/2180238 - Land to rear of 101 to 111, Banks Road, Linthwaite, Huddersfield</p> <p data-bbox="528 1243 1106 1272">APPROVAL OF RESERVED MATTERS</p> <p data-bbox="528 1310 1449 1496">(1) The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.</p> <p data-bbox="528 1534 1449 1753">(2) A comprehensive schedule of landscape maintenance, pursuant to the details indicated on plan ref 3930-13-06, shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is first commenced. The scheme shall include the method of site improvement,</p> <ul data-bbox="528 1792 1437 1937" style="list-style-type: none"> * Where relevant removal of weed species, * ground preparation and details of new tree and shrub planting, seeding and maintenance, and * timescales and arrangements for its implementation. <p data-bbox="528 1975 1394 2085">The development shall thereafter be carried out in complete accordance with the approved schedule and timescales. The approved landscaping scheme shall, from its completion, be</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/94008 Cont'd	<p data-bbox="528 215 1441 327">maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species.</p> <p data-bbox="528 360 1441 696">(3) A landscape management plan for the accessibility and long term maintenance of the areas of Public Open Space detailed on plan Reference 3930-13-06 shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is commenced. The management plan shall include details of public use in perpetuity, together with any land transfers and management responsibilities. The areas of Public Open Space shall thereafter be maintained in accordance with the approved landscape management plan.</p> <p data-bbox="528 730 1441 954">4. Notwithstanding the provisions of section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Act or Order with or without modification) no doors, windows or other openings shall be created in the elevations or roofs of the approved dwellings.</p> <p data-bbox="528 987 1409 1066">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p data-bbox="528 1099 1441 1178">FOR: Councillors Calvert, Lyons, Pattison, AU Pinnock, Sarwar, Sokhal and Ullah (7 Votes)</p> <p data-bbox="528 1211 1385 1290">AGAINST: Councillors Armer, Bellamy, D Firth, Hemingway, Marchington, J Taylor and Wilkinson (7 Votes)</p> <p data-bbox="528 1323 1377 1402">Councillor Lyons used the Chairs casting vote to accept the officer recommendation.</p>
2015/92227	<p data-bbox="528 1424 1449 1581">Parkview Property (Lancashire) Ltd - Erection of 19 single storey dwellings including development of associated access and hard and soft landscaping - Land to rear of Row Street, Crosland Moor, Huddersfield</p> <p data-bbox="528 1615 1329 1693">CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:</p> <p data-bbox="528 1727 1425 1872">(1) ENTER INTO A SECTION 106 AGREEMENT TO SECURE ON SITE AFFORDABLE HOUSING AND A FINANCIAL CONTRIBUTION TOWARDS THE IMPROVEMENT OF OFF-SITE PUBLIC OPEN SPACE</p> <p data-bbox="528 1872 1313 1984">(2) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE IN THE SUBMITTED REPORT AND THE UPDATE LIST; AND</p> <p data-bbox="528 1984 1425 2096">(3) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION, TO ISSUE THE DECISION NOTICE.</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/92227 Cont'd	<p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p>FOR: Councillors Armer, Bellamy, Calvert, D Firth, Hemingway, Lyons, Marchington, Pattison, AU Pinnock, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (14 Votes)</p> <p>AGAINST: (0 Votes)</p>
2015/92802	<p>Mr L Johal - Modified proposals for erection of extensions and boundary treatment - 9, Prince Wood Lane, Birkby, Huddersfield, HD2 2DG</p> <p>CONDITIONAL FULL PERMISSION</p> <p>(1) The development hereby permitted shall be begun within three years of the date of this permission.</p> <p>(2) The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.</p> <p>(3) The development shall not be brought into use until all areas indicated to be used for hardstanding on the approved plans have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) this shall be so retained.</p> <p>(4) Notwithstanding the submitted plans, the gate piers to all sides shall be externally faced in natural stone to harmonise with the existing boundary wall.</p> <p>(5) The railings and gates shall have a factory applied painted/powder coated black finish and retained as such thereafter.</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p>FOR: Councillors Calvert, Lyons, Marchington, Pattison, AU Pinnock, Sarwar, Ullah and Wilkinson (8 Votes)</p> <p>AGAINST: Councillor Hemingway (1 Vote)</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/92802 Cont'd	ABSTAINED: Councillors Armer, Bellamy, D Firth and J Taylor
2016/90383	<p>S Wilkinson - Outline application for erection of 18 dwellings (amended access) - adj 23, Ashford Park, Golcar, Huddersfield</p> <p>CONDITIONAL OUTLINE PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:</p> <p>(1) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET IN THE SUBMITTED REPORT; AND</p> <p>(2) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p>FOR: Councillors Calvert, Lyons, Pattison, AU Pinnock, Sarwar, Sokhal and Ullah (7 Votes)</p> <p>AGAINST: Councillors Bellamy, D Firth, Marchington and Wilkinson (4 Votes)</p> <p>ABSTAINED: Councillors Armer, Hemingway and J Taylor</p>
2015/93001	<p>Eliston Homes Ltd, c/o agent - Conversion and extensions of offices and coach house to form 2 dwellings and erection of 3 dwellings - Woodville, Calf Hill Road, Thongsbridge, Holmfirth</p> <p>CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:</p> <p>(i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, WHICH MAY INCLUDE THOSE IN THE SUBMITTED REPORT, AND</p> <p>(ii) THERE BEING NO SUBSTANTIAL CHANGE THAT WOULD ALTER THE RECOMMENDATION, ISSUE THE DECISION NOTICE</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p>FOR: Councillors Armer, Bellamy, Calvert, D Firth, Hemingway, Lyons, Marchington, Pattison, AU Pinnock, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (14 Votes)</p> <p>AGAINST: (0 Votes)</p>

APPLICATION NO.**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2015/93534

Dartmouth, Rosscroft Ltd - Install a fixed sill and widen existing over flow channel to statutorily define the reservoir capacity just below 25,000 cubic meters - Cupwith Reservoir, Off New Hey Road, Slaithwaite, Huddersfield

CONDITIONAL FULL PERMISSION

(1) The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.

(2) The development hereby permitted shall be carried out in complete accordance with the with the plans and specifications schedule listed in this decision notice except as may be required by other conditions attached to this permission, which in all cases shall take precedence.

(3) No development shall commence until a joint condition survey involving the applicant and the Council's Public Rights of Way Team has been carried out and agreed in writing by the Local Planning Authority. This survey shall identify the existing condition of Public Right of Way (PROW) Col/187/60 and the extent of the PROW to be used to access the site.

4. Within one month of the completion of the construction works a further joint survey between the parties identified in condition 3 shall be carried out and the results agreed in writing by the Local Planning Authority. This survey shall establish:

- * The resultant condition of the PROW Col/187/60 following construction.

- * Any necessary remedial works required to restore PROW Col/187/60 to its condition prior to construction works

All remedial works identified in the approved survey shall be fully implemented and completed within one month of the date of approval.

5. No development shall take place until a landscape/restoration scheme has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include the following information:

- * Detail, extent and type of new planting (NB planting to be of native species)

- * Details of maintenance regimes

- * Details of any new habitat created on site

- * Details of treatment of site boundaries and/or buffers around water bodies

- * Details of the position of existing grips feeding the reservoir and the proposed method of grip blocking

APPLICATION NO.**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2015/93534 Cont'd

- * Baseline hydrological and botanical data on the area likely to be affected as a result of grip blocking
- * Details of proposals to monitor the impact of grip blocking once this has been completed
- * Details of management responsibilities
- * Remediation measures for any areas of semi-natural habitat damaged during construction works

The approved landscape/restoration scheme shall be implemented within the first available planting season following the commencement of development

(6) No development shall commence until a construction plan has been submitted to and approved in writing by the Local planning Authority. The construction plan shall include the following information:

- * Hours of construction work and delivery of materials
- * Location of any site management facilities
- * Any car parking facilities for construction workers
- * Wheel cleaning facilities
- * Method of preventing spillages from vehicles, plant and equipment
- * Details of any warning or directional signage

The approved construction plan shall be implemented in full before development commences and shall be kept in place, operated and adhered to at all times until the development is completed.

(7) No development shall take place at the site within the bird nesting season (March to August)

A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:

FOR: Councillors Armer, Bellamy, D Firth, Hemingway, Lyons, Marchington, Pattison, AU Pinnock, Sarwar, Sokhal, J Taylor, Ullah and Wilkinson (13 Votes)

AGAINST: Councillor Calvert (1 Vote)

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

LOBBYING

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and

(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.



Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)
Date: 12 MAY 2016

Title of report: LOCAL PLANNING AUTHORITY APPEALS

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	3 May 2016 Jacqui Gedman
Is it signed off by the Director of Resources?	No financial implications
Is it signed off by the Acting Assistant Director - Legal & Governance?	No legal implications
Cabinet member portfolio	Cllr. S. Hall

Electoral [wards](#) affected: Holme Valley North; Greenhead;
Ward councillors consulted: No

Public or private: Public

-
1. **Purpose of report**
For information
 2. **Key points**
 - 2.1 COMP/15/0112 - Alleged unauthorised erection of building at Land between Far Banks and Woodhead Road, Honley, Holmfirth. (Officer) (Appeal dismissed and enforcement notice upheld)
 - 2.2 COMP/15/0009 - Alleged unauthorised change of use to builders merchants at A-Z DIY, 7, Cobcroft Road, Fartown, Huddersfield, HD2 2RU. (Officer) (Appeal dismissed and enforcement notice upheld)
 - 2.3 2015/62/94102/W - Erection of detached garage at 20, Woodroyd Avenue, Honley, Holmfirth, HD9 6LG. (Officer) (Dismissed)
 3. **Implications for the Council**
Not applicable

4. **Consultees and their opinions**
Not applicable
5. **Next steps**
Not applicable
6. **Officer recommendations and reasons**
To note
7. **Cabinet portfolio holder recommendation**
Not applicable
8. **Contact officer and relevant papers**
Simon Taylor – Head of Development Management
9. **Director responsible**
Jacqui Gedman

Appeal Decision

Site visit made on 9 February 2016

by Julia Gregory BSc (Hons) BTP MRTPI MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th March 2016

Appeal Ref: APP/Z4718/C/15/3137022

**Land on the South West side of Woodhead Road, Honley, Huddersfield
HD9 6NW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Richard Schweidler against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The notice was issued on 9 September 2015.
 - The breach of planning control as alleged in the notice is without planning permission: -
The erection of two sheds, one timber framed building and the formation of a new access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone.
 - The requirements of the notice are:
demolish the two sheds and the timber framed building;
remove the hard surface;
remove all resultant debris from the site;
remove the stored building materials and equipment from the site.
remove the gates over the access;
close off the vehicular access to Woodhead Road by re-building the gap to the same height and the same materials as the remaining boundary wall.
 - The period for compliance with the requirements is 12 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (d) of the Town and Country Planning Act 1990 as amended.
-

Preliminary matters

1. There is some reference in representations to the material change of use of the land from a nil use to storage in the form of a builder's yard. There is also reference in Council correspondence dated 3 November 2015 to "associated hard surface to be used for storage". As the enforcement notice relates to operational development I shall not refer to those matters further.
2. The appellant has argued that the boundary line is inaccurate as regards its relationship to the public footpath to the south. Nevertheless, the information provided by the appellant is insufficient to make any alteration to the plan attached to the notice. Furthermore, it is not suggested that the buildings referred to or the access, gates and hard surface are outwith the land identified.
3. I therefore consider that this has caused no injustice and shall make no alterations to the notice in that regard.
4. Since there is no ground (a) appeal, whether all or part of the land is within the green belt does not affect my decision.

Decision

5. The appeal is dismissed.

Reasons

Ground (c) appeal

6. The appeal is made on the ground that those matters, i.e. the matters stated in the notice which give rise to the alleged breach of planning control), if they occurred, did not constitute a breach of planning control. The main issue is whether the development amounts to permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The onus is on the appellant to prove his case.
7. The site comprises land between Woodhead Road and Far Banks. The access is onto Woodhead Road, a classified road, the A6024. The land slopes sharply down from Far Banks towards Woodhead Road.
8. I will deal firstly with the buildings. The buildings comprise what I shall call the upper shed, because it is at a higher level, and the lower shed because it is sited on lower land, and a partially constructed timber building in a state of some collapse to the south.
9. These result from building operations and hence fall within the meaning of development under s55 (1) of the 1990 Act. The Act provides a mechanism whereby the Secretary of State can grant planning permission for classes of development by means of a Development Order (sections 58, 59). The right to carry out development pursuant to planning permission granted by a Development Order is known as a permitted development right (PD).
10. As it is not disputed that the buildings were erected prior to 15 April 2015 the relevant Order is the Town and Country Planning (General Permitted Development) Order 1995.
11. Article 3 of the Order gives effect to the PD rights contained in Schedule 2. Part 1 of Schedule 2 applies to development within the curtilage of a dwellinghouse. Part 1, Class E makes provision for any building required for purposes incidental to the enjoyment of the dwellinghouse as such, subject to conditions and limitations.
12. Whether or not this is within the curtilage of a dwellinghouse is the first matter to consider. The 1995 Order does not define the curtilage of a dwellinghouse for the purposes of Class E. The Oxford English Dictionary defines it as a small court, yard, garth, or piece of ground attached to a dwellinghouse and forming one enclosure with it; or so regarded by the law; the area attached to and containing a dwellinghouse and its outbuildings. Curtilage defines an area of land in relation to a building and not a use of land.
13. This land is physically separated from any dwelling and is not a small area about a dwelling. Hillcrest which lies on the opposite side of Far Banks is a substantial dwellinghouse in extensive grounds which has been re-built in recent years. The plan 01.2116.(0-)02 approved 7 March 2003 does not show the appeal site within its boundary. The red line shown around the application site for a refused application ref 02/62/90916/103 for that dwelling shown on drawing No 01.2016 (0-)07 refused stamped 6 June 2002 did not include the appeal site.
14. The appellant says that the site was purchased from the previous owner in 1991 or 1992, but he does not say who this owner was or which property that owner

occupied. He says that the previous owner was unable to "maintain and garden it" due to the size and it had become overgrown. He says that the original garden included the full site indicated in Kirklees's response and the cold frames and layout demonstrated that this was garden. This he reasons is supported by an earlier planning application of 1993 ref 93/62/02027/W8, but no details of this application have been provided. No evidence has been provided to support the previous presence of cold frames. The appellant says that he has raised beds and a compost area and that the sheds are used to store equipment used for normal works in gardens.

15. There is nothing to corroborate that that this land was used intimately associated with any dwellinghouse. There is a field to the north, a small parcel of land and a public footpath to the south. To the east there is Woodhead Road and to the west lies Far Banks. The land is not attached to any dwelling and so there is a distinction to be drawn between the use of the land, on which I do not need to reach a conclusion, and whether or not it was at the time the buildings were erected, part of any curtilage.
16. At the time the buildings were erected there is nothing to suggest that the land was owned or occupied together with any dwellinghouse nearby attached to it. I conclude therefore that the land cannot be considered to be within the curtilage of a dwellinghouse and that the permitted development rights of GPDO Part 1 Class E do not apply to these buildings.
17. In addition, since I have determined that the land is not within the curtilage of a dwellinghouse it follows that the buildings cannot be incidental to the use of a dwellinghouse.
18. I understand that the appellant believed that the timber framed building could be considered to be a temporary building. He has not however given any details to indicate that any permitted development rights in respect of Schedule 2, Part 4 of the GPDO apply.
19. Turning now to permitted development matters in respect of the access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone. The appellant has not made any argument that there are any permitted development rights that would apply to these operations. There are provisions for minor operations under Schedule 2, Part 2 Class A and B, but the appellant is not arguing that these apply.
20. The appellant makes various representations about the planning merits of his case, in particular in respect of the Green Belt and also about the existence of similar accesses locally. However these matters are appropriately dealt with under a ground (a) appeal which has not been submitted, and since the fee has not been paid, I am unable to consider the planning merits.

Ground (d) appeal

21. Ground (d) is that at the date the notice was issued no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters, i.e. the matters alleged in the enforcement notice. Section 171B(1) of the Act indicates that for operational development such as detailed in the enforcement notice no action may be taken four years after the substantial completion of the development. The burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability. The appellant is only arguing this ground in respect of the lower shed, and the

- access including gates and hard surface. He has stated that he will remove the upper shed and timber framed building.
22. I shall deal firstly with the lower shed. The appellant says that one timber shed, the lower shed, was completed prior to 19 August 2011. He has provided a photograph along with a screenshot showing details of a digital file P190811_13.19 which purports to date it to 19 August 2011. If that date is correct, and the building was complete, that would mean that by 19 August 2015 this building would be immune from enforcement action. The enforcement notice is dated 9 September 2015, after that date.
23. The Council has provided a Google Streetview photograph that is from May 2011 that shows no buildings. They have submitted photographs from the appellant's Design and Access Statement which dates from sometime in 2012 which shows the south elevation of the shed. They have also submitted a photograph from 27 November 2012 that shows one shed in the position of the lower shed viewed from above. This can be dated to sometime in 2012 because the Planning Officer who took it was determining the planning application on the site. The building looks to be the same building as that in the appellants photograph and that continues to be on site. The Council has made no argument that the building was not complete at 27 November 2012.
24. The appellant's photograph shows only one elevation and so it is far from a complete documentation of the state of the building to be able to conclude that it was substantially complete on 19 August 2011. Furthermore, digital information is capable of being manipulated. As there is no other corroborative evidence about the date the building was completed, including no statutory declarations or sworn affidavits to that effect, I consider that the evidence is not robust. I cannot therefore safely conclude that the building is immune from enforcement action by virtue of it having been in existence for more than 4 years before the enforcement notice was issued.
25. I shall turn now to the formation of a new access onto a classified road including the erection of gates and the laying of a hard surface through the deposit of hardcore/crushed stone. The Council argues that the access and gates should be seen as one operation and so the date for immunity should run until that operation was substantially complete. I have no reason to depart from that approach since the hard surface allows vehicles to access the site and the gates, if shut, prevent vehicular access.
26. The appellant says that the access has been there since 2007, but there is nothing to support that statement by way of hard evidence. The Council does concede in correspondence that the works commenced prior to Google Streetview images from 2008, albeit those have not been supplied. A Google Streetview photograph shows that there was a gap in the wall in the position of the access in May 2011.
27. I also note the Council's evidence shows the gap and gates were there at the time the appellant submitted his Design and Access Statement to the Council in 2012 and at 27 November 2012. Nonetheless, I am satisfied that a dropped kerb is integral to the creation of a vehicular access. I am content that the access had not been substantially completed on 6 August 2015 since there was still no dropped kerb and so I consider that the creation of the access including the gates and hard surface was not complete more than 4 years before the enforcement notice was issued.

28. Furthermore, the appellant says that the gates were erected in July 2011 but there is no documentary evidence to support that July date. The photograph submitted by the appellant purporting to be taken on 19 August 2011 along with a screenshot showing details of the digital file P190811_15.10 which purports to date it to 19 August 2011 shows an opening in the wall, double gates and some hard surfacing. The other photograph supplied by the appellant already referred to also shows the gates. For the same reasons to that I have given in my reasoning in respect of the lower shed, I am unable to rely on this photographic evidence supplied by the appellant. The earliest evidence that the Council supplies dates from 27 November 2012, and so this does not establish the date of the erection of the gates more than four years before the notice was served.
29. In addition, in respect of the hard surface, the appellant says that it was all in place before 9 September 2011. The appellant says that it has not been substantially changed or added to since that time. The photograph referred to earlier in respect of the access does show some hard surfacing. However this is not a complete photographic record of the whole of the hard surface and I cannot rely on it for the reasons already given. The Council's photographs dated 27 November 2012 seem to show it was still a work in progress. On that basis I conclude that the hard surfacing had not been substantially completed at a date more than four years before the issue of the enforcement notice.
30. Therefore, even if taken as separate entities each part of the access alleged breach would not be immune from enforcement action.
31. Taking into account all the evidence I conclude on the balance of probability the development was not substantially completed more than four years before the enforcement notice was issued and it is not immune from enforcement action. The appeal on ground (d) therefore fails and the enforcement notice is upheld.

Other matters

32. The appellant has made representations about similar accesses nearby, potential development opposite, the Green Belt review and many other matters including support from neighbours. These all could be termed the planning merits of the case. As there is no ground (a) appeal these matters are not for me to consider.
33. According to the appellant the Council gave little notice of the intention to take enforcement action and has not engaged proactively to seek a resolution of the matters. Nevertheless, these are matters for the appellant and the Council in the context of local government accountability.

Conclusions

34. For the reasons given above I consider that the appeal should not succeed.

Julia Gregory

Inspector

Appeal Decision

Site visit made on 24 February 2016

by Susan Wraith DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 April 2016

Appeal Ref: APP/Z4718/C/15/3131819

A-Z DIY and Plumbing, 7 Cobcroft Road, Fartown, Huddersfield HD2 2RU

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Tariq Ali against an enforcement notice issued by Kirklees Council.
- The notice was issued on 4 June 2015.
- The breach of planning control as alleged in the notice is: Without planning permission: The material change of use from retail to use for the storage of building, plumbing and construction materials and the unauthorised operational development of the erection of a timber framed construction incorporating storage containers.
- The requirements of the notice are: Cease the use of the site for the storage of building, plumbing and construction materials and remove all building, plumbing and construction materials from the external storage and demolish the building hatched black on the plan and remove resulting debris and all storage containers from the site.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the ground set out in s174(2)(a) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

Matters concerning the enforcement notice

1. At paragraph 4 of the notice the ten year period for enforcement is referred to which is the correct period for an alleged change of use. However, operational development (i.e. the timber framed construction) is also being alleged which has a four year period for enforcement¹. The notice should be clear as to the time periods for the respective breaches.
2. In paragraph 5 of the notice there is a drafting error in that the Council had intended (but omitted) to include the word "area" after the words "external storage". The insertion of this word would give greater clarity to the requirement.
3. It is incumbent upon me to ensure the notice is in good order before proceeding with the appeal. These matters have been raised with the parties neither of whom has any objection to me exercising my powers of correction. From the evidence, I have no reason to doubt that the operational development took

¹ S171B(1) of the Act states that, where there has been a breach of planning control consisting in the carrying out without planning permission of (amongst other things) building operations, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

place within the four year period prior to the issuing of the enforcement notice and that the enforcement notice was, thus, issued in time. I am satisfied that no injustice would arise to either party in me correcting the notice. I shall do so under the provisions of s176(1)(a) of the Act.

4. The area hatched black on the enforcement notice plan, which is intended to identify the timber framed construction, covers a larger area than that occupied by the building. However, the plan is sufficiently clear for the recipient of the notice to understand what is required. No correction is necessary in this regard.

Preliminary matter

5. Whilst no appeal has been lodged specifically under grounds (b)² or (c)³ the appellant has argued that there is no breach of planning control so far as the use is concerned because it is a retail use, not a storage use. The previous use of the property was as a supermarket for which planning permission had been granted.
6. I understand that this site is operated in conjunction with a shop premises located elsewhere in the area. Primarily the appeal site operates as a "pick-up" location although the actual sales transactions take place at the shop premises.
7. I saw, at my site visit, that there was no apparent sales point at the appeal site. The front (former shop) entrance to the premises did not appear to be in use or was in only occasional use. There was a sign on the door requesting visitors to use the "back door". The main access into the premises was from the yard to the rear.
8. Inside the main building there was a considerable amount of stock comprising mainly plumbing items and sanitary ware, much of which was stored on shelves or racking. Whilst it was possible to walk around to access the various items the tight aisles, quantity of stock and absence of any pricing information did not give the appearance of a retail display space.
9. Within the yard area, there was other (generally more bulky) stock including various joinery items (boards, timber, doors and doorframes for example) and plaster and plaster boards. Some of this was stored on racking and/or in the containers within the timber framed building whilst other items were stored on pallets within the yard area itself.
10. I am told that customers park within the yard area to load up the items which they have already selected and paid for at the nearby shop premises. I cannot see that the use of the yard is ancillary to a shop. Rather it is an integral part of the storage use taking place across the whole of the appeal site that being the relevant planning unit.
11. In all these circumstances I cannot agree that the use which operates at the appeal site is a retail use. The description as "storage" given in the enforcement notice is a reasonable one. Had any appeal been made under grounds (b) and/or (c) on this basis it would not have been successful.

² An appeal on ground (b) is that the matter alleged has not occurred as a matter of fact.

³ An appeal on ground (c) is that the matters alleged (if they occurred) do not constitute a breach of planning control.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirement

12. The development plan for the purposes of this appeal comprises the saved policies of the Kirklees Unitary Development Plan [hereafter “UDP”]. Policy D2 is a permissive policy in favour of development provided that the proposals do not prejudice (amongst other things) highway safety and visual and residential amenity. Policy EP4 seeks to manage the effects of noise on noise sensitive development. Policies BE1 and BE2 seek design that contributes to the built environment and provides (amongst other things) for satisfactory access and policy T10 seeks to resist development that adds to highway safety or environmental problems. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise⁴.
13. Government’s overarching national policy is set out in the National Planning Policy Framework (hereafter “the Framework”). One of the core planning principles set out in the Framework is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings⁵. It also states that decisions should take account of whether safe and secure access to the site can be achieved for all people⁶. The Framework is a material consideration for this appeal. The development plan policies referred to above are in conformity with it.

Main issues

14. Having regard to the above planning policies, statutory requirement and the evidence brought by the parties, I consider the main issues in the appeal on ground (a) and the deemed application to be:
- i. Effect upon the living conditions of neighbouring residents with particular regard to noise, outlook and visual amenity.
 - ii. Effect upon the safe and efficient operation of the highway network in the vicinity of the appeal site.

Effect upon neighbours’ living conditions - noise

15. The area within which the appeal site is located is primarily residential in character interspersed with some small shops and businesses and community buildings. Surrounding the appeal site there are residential properties to three sides, being the properties to Yew Street, Percy Street and Cobcroft Road.
16. Whilst storage in itself is passive and unlikely to give rise to noise, some noise will arise from loading and unloading activities and from the movement of articles around the site including by use of a fork-lift truck. I expect such activities will be quite frequent because of the need to load into customers’ vehicles and the need to replenish stock.
17. There are photographs (which have not been challenged by the appellant) which show unloading from heavy goods vehicles [hereafter HGVs] by a fork-lift truck taking place on Cobcroft Road which then relocates the articles to the

⁴ S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

⁵ This is set out in paragraph 17 of the Framework.

⁶ This is set out in paragraph 32 of the Framework.

appeal site. Such activities will add to the noise arising from the use. All these activities will result in an unacceptable level of noise and disturbance within a residential area and be harmful to the living conditions of neighbouring residents.

Effect upon neighbours' living conditions – outlook and visual amenity

18. The timber framed building is positioned to the northern boundary of the site. It is overlooked from the rear windows of properties on Yew Street. Its front is viewed, at a greater distance, from the rear windows of the properties on Cobcroft Road and it is viewed at various angles from the Percy Street properties.
19. Given its distance from neighbouring properties and its relatively modest height I do not consider the building, in terms of its scale, to have an unreasonable effect upon outlook. However, I have reservations about its design and the materials for its construction.
20. Its front elevation lacks coherency, being partly boarded with various openings and doorways and container fronts. Whilst I acknowledge that timber is often used in residential locations (for garden fences, garden sheds etc) I am not persuaded that its use is appropriate for a commercial storage building. I am concerned about the durability of this light weight structure, its ongoing need for maintenance and the potential for its deterioration over time. Overall the building is not visually pleasing when viewed from neighbouring properties and does not respect the character of the more substantial buildings in the surroundings.
21. The storage and associated activities which take place within the yard, together with the unloading and storage activities which occur on the highway all appear visually incongruous within this residential area and are harmful to the appearance of the area and the visual amenity enjoyed by residents.

Highway safety and efficiency

22. The appeal site is accessed via a narrow road which runs behind properties at Halifax Old Road and which also services the rear of these properties. For its most part, whilst "two way", it would be difficult for two vehicles to pass, in particular larger commercial vehicles. Its narrow width means it is unsuitable for use by HGVs. Its surfaced space is shared by vehicles and pedestrians.
23. I am told that the access road was used by delivery and service vehicles in association with the former shop. The current use, itself, will give rise to visits by service and delivery vehicles in addition to visits made by customers who travel along the access road to collect purchased items from the yard area.
24. The current use is likely to result in more vehicular movements to and from the yard area, in particular because of the customers who visit. It gives rise to greater potential for conflict between vehicles using the access road, and also between vehicular and pedestrian movement within the access road.
25. I am also concerned by the evidence of unloading from HGVs that takes place on Cobcroft Road and the transference to the site of unloaded articles by fork-lift truck; and also by the evidence of items stored on pallets on the public highway. Such activities are likely to cause obstruction and conflict between highway users.

26. For all these reasons I consider the use to be contrary to the interests of the safe and efficient use of the highway.

Other matters

27. The site is positioned close to, but outside, the Birkby Conservation Area. Whilst there may be some effect upon its quiet residential character by the passage of vehicles along the access road which forms its boundary, there is little inter-visibility between the appeal site and the conservation area there being an intervening site currently being developed as a medical centre. Overall I consider the development to have a neutral effect upon the character and appearance of the conservation area. Effect upon the conservation area is not, therefore, a main issue in this appeal.
28. I acknowledge that the use provides local employment and a service which, no doubt, is valued by its customers. However, these benefits do not outweigh the harm which I have identified in my consideration of the principle issues.

Conclusions on ground (a) and the deemed application

29. On ground (a) I conclude that the development has harmful effects upon the living conditions of neighbours and is detrimental to the interests of highway safety and efficiency. It is, thus, contrary to policies D2, BE1, BE2, EP4 and T10 of the UDP. The appeal on ground (a) fails and the deemed application will be refused.

Conclusion

30. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Formal decision

31. It is directed that the enforcement notice be corrected by:
- i. In paragraph 4, deletion of the first sentence in entirety and substitution of "It appears to the Council that the above material change of use occurred within the last ten years and that the above operational development occurred within the last four years."
 - ii. In paragraph 5, after "from the external storage" add "area".

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld; and planning permission is refused on the application deemed to have been made under s177(5) of the Act.

Susan Wraith

Inspector

Appeal Decision

Site visit made on 11 April 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th April 2016

Appeal Ref: APP/Z4718/D/16/3145552

20 Woodroyd Avenue, Honley, Holmfirth, West Yorkshire, HD9 6LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Makin against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/94102/W, dated 18 December 2015, was refused by notice dated 23 February 2016.
 - The development proposed is a detached garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
 - The effect of the proposal on the character and appearance of the host property and the surrounding area; and
 - The effect of the proposal on the living conditions of the occupiers of 1 Copperas, with particular reference to outlook.

Reasons

Character and appearance

3. The appeal property is semi-detached bungalow in a residential area of similar properties. It is accessed via a private drive from the end of Woodroyd Avenue. The garage would be 5.5 metres deep and 6.5 metres wide with a flat roof a maximum of 3.4 metres high. Although it would be of a simple design and built using materials sympathetic to the existing development nearby, the double garage would be substantial in size and located at the end of the front garden, around 11 metres forward of the host dwelling.
4. As such, it would be in a somewhat isolated position in relation to the appeal property. It would also be prominently located directly in front of neighbouring 1 Copperas to the south and readily visible from the head of the cul-de-sac and nearby properties. The surrounding area is characterised by open front gardens and, although I note the appellant's reference to existing front extensions nearby, I saw no other examples of garages or outbuildings in Woodroyd Avenue in a forward position such as that proposed.

5. In this context, the siting of the proposed garage would be at odds with the layout of the surrounding development. Moreover, given its size and prominent location, it would stand out as a dominant and visually obtrusive feature that would detract from the appearance of both the host property and the surrounding residential area. The appellant advises that solar panels and a green roof could be provided and indicates that the garage would be covered on its side and rear elevations with planting. However, I am not persuaded that these factors would lessen the proposal's unacceptable visual impact to any significant extent.
6. I therefore conclude on this issue that the proposal would be harmful to the character and appearance of the host property and the surrounding area. This would be contrary to Policy D2 of the Kirklees Unitary Development Plan (UDP) which is permissive of development provide that proposals do not prejudice (amongst other things) visual amenity (vi) and the character of the surroundings (vii). It would conflict with UDP Policy BE1 which requires all development to be of good quality design such that it contributes to a built environment which (amongst other things) creates or retains a sense of local identity (i). It would be at odds with UDP Policy BE2 which requires new development to be designed so that (amongst other things) it is in keeping with any surrounding development in respect of design, materials, scale, density, layout, building height or mass (i). Furthermore it would fail to support the core planning principle of the National Planning Policy Framework (the Framework) to seek to secure high quality design.

Living conditions

7. The appeal site is behind a low stone retaining wall and at a higher level than the adjoining driveway to the south which serves 1 Copperas and 21 Woodroyd Avenue. The land slopes downwards to the south and No 1 is at a lower level to the driveway and has a shallow front garden. The front of No 1 directly faces the appeal property's front garden on the other side of the driveway at a distance estimated by the Council to be around 9 metres.
8. Although the appellant considers No 1's ground floor kitchen window to be below the level of the driveway, the proposed garage would nevertheless be visible from here as well as from the other windows on No 1's front elevation. Albeit that some of these are obscured glazed and/or do not serve habitable rooms, it would nevertheless be evident from the front of No 1 as a large structure in an elevated position at relatively close quarters. This being so, to my mind the garage would be appreciated as an unacceptably dominant feature that would have an overbearing and oppressive visual impact. This would result in an unsatisfactory loss of outlook to the occupiers of No 1.
9. I saw at my visit a tall timber fence had been erected along the southern boundary of the appeal property (set in just behind the retaining wall). Although this fence and the intended planting would screen views of the proposed garage to some extent, given its considerable size, along with the sloping nature of the site, it would nevertheless be seen above the fence. I also note the appellant's offer to substitute the garage's timber cladding for an alternative render finish. However, I am not convinced that these measures would sufficiently reduce the prominence of the garage or soften its appearance to any great degree.

10. I therefore conclude on this issue that the proposal would be harmful to the living conditions of the occupiers of 1 Copperas, with particular reference to outlook. This would be contrary to UDP Policy D2 which is permissive of proposals provided they do not prejudice (amongst other things) residential amenity (v). It would conflict with UDP Policy BE2 as set out above, and the core planning principle of the Framework to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

11. The appellant refers to the lack of opportunity afforded to him to reduce the scale of the proposal in response to the objections received from local residents. He is also concerned about the influence of a local Councillor in the Council's consideration of the planning application. These are matters between the appellant and the Council. Any revisions to the scheme should be the subject of a further planning application to the Council and are not before me for consideration. I confirm that I have considered the appeal proposal as submitted, on its individual merits and have made my own assessment as to its impacts.
12. A fall back position whereby a 2 metre high fence or planting could be provided without the need for planning permission is cited by the appellant. As discussed above, a fence has already been erected along the site's southern boundary. I am also aware of the appellant's discussions with the Council in relation to the provision of a hard standing and/or a shed here. Be that as it may, in my view any such development would not be as substantial as the proposal now before me, and so would not justify allowing the appeal scheme.
13. Despite the concerns of local residents, the Council raises no objections to the scheme in relation to drainage or highway safety and I see no reason to come to a different view on these matters. However, the absence of harm in these regards counts neither for, nor against the proposal.
14. The scheme would allow the appellant to convert his existing garage into another bedroom. Although this would be a benefit of the scheme to the appellant, it is insufficient to outweigh the harm that I have identified in relation to the main issues in this case.

Conclusion

15. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

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Name of meeting: HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12th May 2016

Title of report: Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield – Erection of detached dwelling and new entrance gates (listed building) (application reference 2015/93052)

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan?	No
Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name	Paul Kemp (Assistant Director) (Acting) Date: 29/4/16
Is it signed off by the Director of Resources?	No
Is it signed off by the Assistant Director – Legal & Governance?	Julie Muscroft Date: 29/4/16
Cabinet member portfolio	Cllr Steve Hall

Electoral wards affected: Almondbury

Ward councillors consulted: No

Public or private: Public

1. Purpose of report

This application is on the agenda as an item to clarify the Sub-Committee's reasons for refusal following the resolution to refuse the application at the Huddersfield Planning Sub-Committee on 31st March 2016.

2. Background

2.1 At the previous Sub-Committee Members resolved to refuse the application, contrary to the officer recommendation. The reasons for refusal were cited as 'design', 'highways' and the impact on number 21 Dartmouth Avenue. This report considers each of these reasons for refusal.

2.2 For information, the officer recommendation was to approve the application with conditions. A copy of the original committee report is included at appendix 1.

3. Key Points

3.1 Design

3.1.1 The original committee report provides officers' subjective assessment of the impact of the development on the setting of Fenay Lodge as a grade II listed building and the impact on the visual amenity of the area. The assessment takes into account general matters relating to 'design'.

3.1.2 Policies BE1 and BE2 of the Unitary Development Plan (UDP) relate to the design of new development, including matters relating to layout, scale and appearance. Such design considerations therefore strongly influence the impact of the development on the setting of Fenay Lodge.

3.1.3 Chapter 7 of the National Planning Policy Framework (NPPF) emphasises the importance of good design and chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, which include listed buildings.

3.1.4 The degree of harm caused to the setting of the listed building is a matter of planning judgement. Officers concluded that there would not be any substantial harm to the setting of the listed building given the layout, scale and design of the proposal. However, this is a subjective and balanced judgement and it considered that a refusal based upon the 'design' of the development - which encompasses the siting, scale and appearance of the proposed dwelling - within the context of the setting of the listed building constitutes justifiable grounds for refusal. This would also take into account the loss of garden associated with Fenay Lodge.

3.1.5 The degree of harm to the visual amenity of the area was also judged to be acceptable to officers, particularly because views of the proposed dwelling within the locale would be relatively limited. This is a subjective view and more weight may be given to the impact of the development on the character of the wider area, however, for the reasons detailed in the original report, Officers do not consider the harm would be so significant so as to warrant a refusal of permission such that it could be substantiated at a planning appeal.

3.1.6 Officers therefore recommend that the reason for refusal on 'design' grounds is as follows:

The proposed dwelling, by virtue of its siting, scale and design, would harm the setting of the listed building (Fenay Lodge) by substantially reducing the curtilage of the building and introducing a form of development to the site that fails to sustain the significance of the designated heritage asset. The development is therefore contrary to Policy BE1 criteria i of the Unitary Development Plan (UDP) and to chapter 12 of the National Planning Policy Framework.

3.2 Highway matters

3.2.1 The original committee report provides a technical assessment of the highway issues. Highway Officers concluded that the development was acceptable given that the development relates to a long established access onto Thorpe Lane whereby the intensification in its use would be negligible. The accident record within the vicinity of the access also suggests that the existing access is operating effectively. It was noted as well that there are similar types of access onto Thorpe Lane close to the site.

3.2.2 In light of the highways assessment, it is the opinion of Officers that the impact on highway safety would not represent justifiable grounds to refuse the application. It is considered that a refusal on the basis of highway safety could not be reasonably substantiated in the event of a planning appeal. In the absence of evidence to substantiate highway safety harm the Council could be viewed as acting unreasonably in pursuing this matter at an appeal which could result in a potential Cost Award challenge.

3.3 Impact on number 21 Dartmouth Avenue

3.3.1 The original committee reports provides a detailed assessment of the impact on neighbouring residential properties, including 21 Dartmouth Avenue which lies at a lower level immediately to the rear of the proposed dwelling.

3.3.2 Officers consider that on balance the amended scheme has reduced the impact of the scale and massing of the development on number 21 Dartmouth Avenue to an acceptable extent. Furthermore it is considered that issues relating to the impact on the privacy of this neighbour could be adequately controlled by conditions.

3.3.3 Officers made a subjective and balanced judgement on the impact on the amenity of number 21 Dartmouth Avenue. However, more weight could be given to the impact on this neighbour, particularly in respect of the scale and proximity of the upper floor of the dwelling in relation to the neighbour's main private amenity space.

3.3.4 Officers therefore recommend that the reason for refusal on the grounds of the impact on number 21 Dartmouth Avenue is as follows:

The proposed dwelling, by virtue of its proximity and scale, would harm the amenity of 21 Dartmouth Avenue by having an overbearing and dominant impact on the main private garden space belonging to this neighbouring property and by introducing a form of development that would detrimentally affect the outlook at the rear of number 21. The proposal is therefore contrary to Policy D2 criteria v of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.

4. Implications for the Council

4.1 The main implication is the potential for an award of costs against the Council under a subsequent planning appeal following a refusal of planning permission. Costs may be awarded on the grounds of unreasonable behaviour.

4.2 The Council will be expected to produce evidence to show clearly why the development cannot be permitted. The Council will be expected to produce evidence at appeal stage to substantiate each reason for refusal. The key test will be whether evidence is produced on appeal which provides a respectable basis for the Council's stance. What is commonly regarded as unreasonable behaviour is failure to substantiate a reason/all reasons for refusal or refusing an application where a condition would have been appropriate instead. There is ability for Members to express a subjective view on design and residential amenity grounds, but with a refusal on highway grounds officers have not identified any technical data that could be used to support this. Pursuing this reason for refusal may therefore lead to the conclusion that this is unreasonable behaviour and consequently there appears to be a high risk of a costs award.

4.3 Although Members may have anecdotal evidence relating to highway safety concerns, there is no technical reason to support a contention that on this part of the network the additional traffic associated with the development would compromise highway safety. To support this reason may require that anecdotal evidence be presented by the relevant Members as witnesses to support this view, otherwise in the absence of technical evidence from professional officers, pursuing that reason may be considered unreasonable, with the attendant high risk of costs. This is not information that was available to Members when they resolved to refuse the application.

5. Consultees and their opinion

Highways Development Management has provided comment on the proposed development. Their opinion is reflected within section 3 – key points.

6. Officer recommendations and reasons

6.1 Officers consider that Members' reasons for refusal on the grounds of 'design' in the context of the setting of the listed building and the impact on the amenity of 21 Dartmouth Avenue can be substantiated as reasons for refusal. However, Officers do not consider that the impact on highway safety

could be substantiated as grounds for refusal in light of the assessment of the application made by Highways Development Management.

6.2 Officers therefore recommend that the reasons for refusal on the application are as follows:

- 1. The proposed dwelling, by virtue of its siting, scale and design, would harm the setting of the listed building (Fenay Lodge) by substantially reducing the curtilage of the building and introducing a form of development to the site that fails to sustain the significance of the designated heritage asset. The development is therefore contrary to Policy BE1 criteria i of the Unitary Development Plan (UDP) and to chapter 12 of the National Planning Policy Framework.*
- 2. The proposed dwelling, by virtue of its proximity and scale, would harm the amenity of 21 Dartmouth Avenue by having an overbearing and dominant impact on the main private garden space belonging to this neighbouring property and by introducing a form of development that would detrimentally affect the outlook at the rear of number 21. The proposal is therefore contrary to Policy D2 criteria v of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer and relevant papers

a. Adam Walker – Planner – Tel: 01484 221000
adam.walker@kirklees.gov.uk

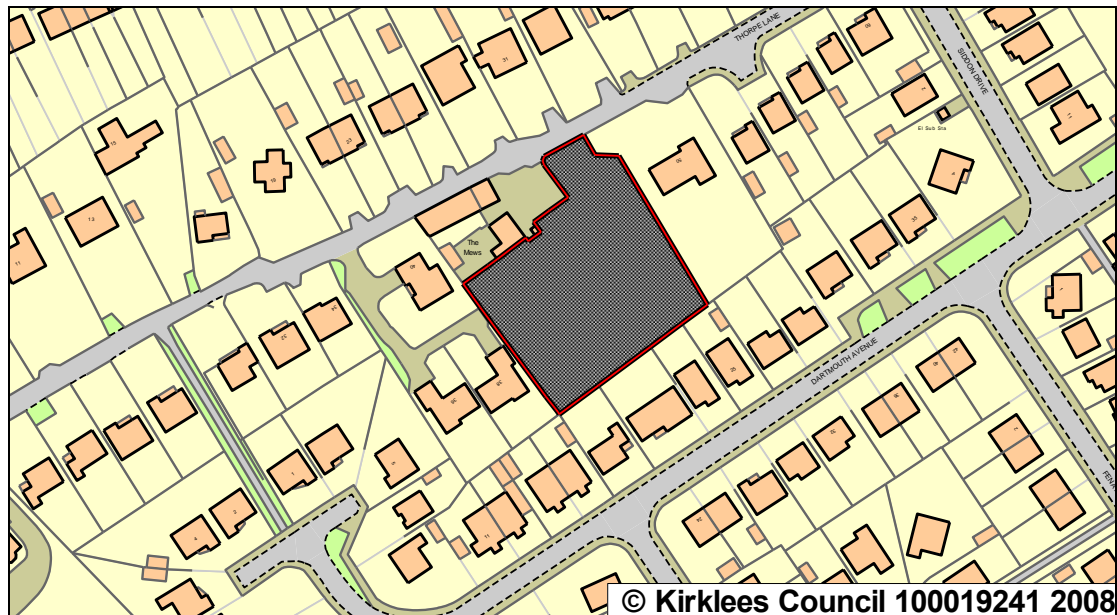
b. Mathias Franklin – Development Management Group Leader – Tel: 01484 221000
mathias.franklin@kirklees.gov.uk

9. Assistant Director responsible

Paul Kemp – Assistant Director, Investment and Regeneration (Acting) –
01484 221000 – paul.kemp@kirklees.gov.uk

APPENDIX 1 – COPY OF ORIGINAL COMMITTEE REPORT

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The scale, siting and design of the proposal are such that the impact on the setting of the listed building is mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application is brought before the Sub-Committee at the request of Councillor Hughes and Councillor Scott.

Councillor Hughes' reason for making the request is:

"I would like to refer this application to planning committee if you are minded to approve. My reasons being:

1) the new property would be overbearing to properties on Dartmouth Avenue, in particular number 21

2) access into Thorpe Lane is sub-standard in terms of width and visibility

3) the erosion of the grounds of Fenay Lodge”

Councillor Scott’s reason for making the request is:

“If you are mindful to agree to this application I would respectfully request that it goes to Huddersfield planning committee on the grounds that it is not in keeping with the local area, it is in the grounds of a grade 2 listed building within the conservation area, it will be too overlooking of neighbouring properties and will detract what local sun light there is down there (ie, one garden will be in permanent shade).”

The Chair of the Sub-Committee has confirmed that Councillor Hughes’ and Councillor Scott’s reasons for making their requests are valid having regard to the Councillors’ Protocol for Planning Sub Committees.

3. PROPOSAL/SITE DESCRIPTION

The application is for the erection of a detached dwelling within the grounds of Fenay Lodge. The site comprises of a Grade II listed Georgian style mansion set within a substantial garden area. The proposal would be located to the rear of the existing dwelling.

The proposed dwelling would have a contemporary design consisting of two distinct blocks; a roughly rectangular shaped element at ground floor with a slightly smaller rectangular ‘pod’ above it situated at a right angle and overhanging the ground floor. The roof of the lower floor element would form a small terrace area to the front of the ‘pod’ and a sedum roof to the back. The lower floor of the dwelling would be faced in rough dressed sand stone cladding and the upper floor would be faced in dark grey zinc cladding with large glazed sections.

The dwelling would be set down within the site and would have an enclosed garden to one side and a gravel parking area to the other. Access to the property would be via the existing driveway off Thorpe Lane and the creation of a new gravelled access route within the site. New landscaping is proposed in the form a hedge to the rear site boundary and a new laurel hedge and planting to the front of the dwelling to create an informal residential boundary with Fenay Lodge.

The site lies within a residential area with numbers 19-25 Dartmouth Avenue lying at lower level to the rear, numbers 38 and 40 Thorpe Lane towards the western site boundary and number 50 Thorpe Lane to the east.

4. BACKGROUND AND HISTORY

2015/93053 Listed Building Consent for erection of new entrance gates –
Undetermined

2005/90042 Erection of detached dwelling and associated landscaping –
Withdrawn

The above application was for a dwelling within the grounds of Fenay Lodge. The proposal had a modern design and was located to the rear of the listed building. Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice.

5. PLANNING POLICY

Development Plan:

The site is unallocated on the UDP Proposals Map.

BE1 – Design principles
BE2 – Quality of design
BE11 – Materials
BE12 – Space about buildings
H1- Housing needs of the district
T10 – Highway safety
T19 – Parking standards
NE9 – Retention of mature trees

National Policies and Guidance:

Paragraph 14 – Presumption in favour of sustainable development
Paragraph 17 – Core planning principles
Chapter 4 -Promoting sustainable transport.
Chapter 6 - Delivering a wide choice of high quality homes
Chapter 7 - Requiring good design
Chapter 8 - Promoting healthy communities
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11- Conserving and enhancing the natural environment
Chapter 12 - Conserving and enhancing the historic environment

6. CONSULTATIONS

The following is a brief summary of consultee advice. Further information is contained within the assessment, where necessary.

KC Highways Development Management – No objections

KC Conservation & Design – No objections

KC Arboricultural Officer – No objections

KC Environment Unit – No objections

7. REPRESENTATIONS

The application was originally advertised by site notice, neighbour notification letters and press advert.

Representations:

- 27 letters of objection received, including an objection from the Huddersfield Civic Society.
- 5 letters of support received - most of these were submitted under the associated listed building consent application for the proposed replacement entrance gates however they make reference to the erection of the new dwelling and general planning considerations.

Objections summarised as follows:

Heritage:

- Harmful impact on the setting of Fenay Lodge
- Loss of garden to Fenay Lodge detrimental to its setting
- Design and materials inappropriate in the grounds of a listed building
- Incongruous appearance

Visual amenity:

- Detrimental impact on the visual amenity of the surrounding area
- Design and materials not in keeping with surrounding properties
- Additional development will affect the character of the area
- Overdevelopment
- Upper floor visible from Dartmouth Avenue affecting the visual amenity of the street scene

Residential amenity:

- Overlooking/loss of privacy
- Overbearing
- Visually intrusive
- Harmful to the outlook of adjacent properties
- Overshadowing
- Increased noise as a result of new parking area close to boundary and concern with headlight glare
- Concern with height of proposed hedge along boundary

Highway safety:

- Access unsuitable/substandard
- Additional traffic on Thorpe Lane
- No footpaths in vicinity of site
- Poor sightlines from access

Trees/ecology:

- Loss of trees
- Detrimental impact on biodiversity

Other matters:

- Impacts associated with the carrying out of building operations, including impact on structural integrity of boundary walls and noise
- Impact on drainage infrastructure
- Possible subsidence and impact on stability of adjacent land
- Previous application refused

Letters of support summarised as follows:

- Discreet siting of dwelling to limit impact and design is sensitive to the site
- High quality architecture
- Very limited impact on surrounding properties
- Efficient use of site
- Additional housing for Kirklees

Following the submission of amended plans the application was advertised by letters sent to all of the original objectors. This publicity expires on 23rd March 2016.

Representations: 8 objections received

- Development does not address original concerns raised in relation to the impact on the amenity of the neighbouring properties to the rear
- Loss of privacy
- Oppressive outlook/visual intrusion when viewed from neighbouring properties on Dartmouth Avenue, particularly no.21
- Detrimental impact on the setting of Fenay Lodge, including from loss of curtilage and inappropriate design and materials of proposal
- Development would block and reduce key views of the listed building
- Harm to the listed building is not outweighed by the public benefits of the development
- Huddersfield Civic Society maintain their objection
- Overdevelopment
- 'Garden grabbing'
- Increased traffic on Thorpe Lane
- Impact on highway safety
- Absence of information on finished levels
- Query new hedge planting

8. ASSESSMENT

General principle:

The site is on land without notation on the Unitary Development Plan (UDP) proposals map and therefore Policy D2 is applicable. Policy D2 of the UDP states "planning permission for the development ... 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]". All these considerations are addressed later in this assessment. Subject to these not being prejudiced, the

development of the site would be acceptable in principle in relation to policy D2 of the UDP.

Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. Paragraph 14 states that where relevant policies are out-of-date, planning permission should be granted “unless any adverse impacts of granting permission 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”.

The Council is currently unable to demonstrate a five year housing land supply and the lack of a five-year supply, on its own, weighs in favour of the development proposed. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date.

The NPPF sets out at paragraph 49, “housing applications should be considered in the context of the presumption in favour of sustainable development.” This increases the weight in favour of the development.

The site forms residential garden and is therefore classed as ‘greenfield’. Whilst national planning policy encourages the use of brownfield land for development, it also makes it clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.

An application for a dwelling to the rear of Fenay Lodge was submitted under application reference 2005/90042. At that time Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice. Matters relating to highway safety, heritage assets and residential amenity are addressed separately within this assessment.

Visual amenity and heritage issues:

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.

The proposal would be located within the grounds of a grade II listed building. When making decisions on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities to have special regard to the desirability of preserving this setting. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in

determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

The location and design of the proposed dwelling has been subject to pre-application discussion with Conservation and Design officers. It is considered that the location of the proposal, which is immediately to the rear of Fenay Lodge and physically separated from it by an existing area of lawn garden, limits the impact on the setting of the heritage asset. The impact on the listed building's setting is further mitigated by the scale and design of the proposal which is set down in relation to Fenay Lodge with the ground floor of the proposed dwelling being almost below the ground floor level of Fenay Lodge. This means that it is principally the upper floor 'pod' which would affect views of the listed building. The overall size of the proposed dwelling also gives it a subservient appearance to Fenay Lodge.

The proposed dwelling and its curtilage would be clearly distinct from Fenay Lodge as a result of its siting, the difference in levels and the proposed boundary treatment between the properties (new laurel hedge and planting). This therefore enables much of the original character of Fenay Lodge to be retained. Whilst the proposal would reduce the overall amount of curtilage associated with the listed building, it is considered that the impact of this on the significance of the heritage asset is relatively limited because a proportionate level of curtilage around the building would be maintained.

The unique design of the proposed dwelling is considered to be a suitable approach for this development. The design, which comprises of two distinct 'blocks' on top of and at right angles to each other, combined with the palette of materials would sit comfortably alongside the historic building and allows the proposal to be 'read' as a modern addition to the site, thus avoiding an unsympathetic pastiche of the heritage asset.

In more general terms, there are two detached properties to the west of the site which are located behind 40 Thorpe Lane; the proposed dwelling broadly replicates this pattern of development and as such it is considered that the proposal would not be out of keeping with the overall character of the area. Surrounding development encompasses a mixture of designs and whilst the proposal would be distinct from any of these it is not considered that this would result in any significant harm to the visual amenity of the area, particularly because views of the dwelling within the locale would be relatively limited.

In conclusion, for the reasons outlined above it is considered that the significance of the designated heritage asset would be preserved and the proposal would not result in any significant harm to the character of the surrounding area. The application therefore accords with Policies BE1, BE2 and D2 of the UDP and chapters 7 and 12 of the NPPF.

Residential amenity:

Policy BE12 of the UDP sets out the Council's policy in relation to space about buildings. New dwellings should be designed to provide privacy and

open space for their occupants and physical separation from adjacent property and land. Distances less than those specified in the policy will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises or potential development land.

The main impact of the development would be on 21 Dartmouth Avenue which lies at a lower level immediately to the rear of the proposed dwelling. The rear wall of no.21 is 11.8m from the mutual boundary with its main private garden space lying in between and sloping up gently towards the application site. There were previously a number of mature trees adjacent to the boundary but these were cut down relatively recently. The existing boundary treatment mainly comprises of timber fencing.

The lower floor of the proposal would be 2m from the boundary with no.21 however this element of the proposal would be entirely screened from the neighbours view as a result of the dwelling being dug into the ground and the proposed boundary treatment which consists of a new hedge planted adjacent to the existing fence.

Much of the upper floor of the dwelling would be visible from no.21 and Officers initially had concerns that the proximity of this element of the building would have a harmful effect on the amenities of 21 Dartmouth Avenue, particularly the rear garden. In response to these concerns, the design has been amended to increase the separation distance between the upper floor of the dwelling and the boundary with no.21; the distance has increased from 3m to 6.3m. As a result, Officers now consider that on balance the upper floor of the dwelling would not have any significant overbearing effect on the neighbour's property.

There are two windows in the rear wall of the dwelling – an en-suite window and a secondary bedroom window. These windows are 18.5m from the rear wall of no.21 and comfortably exceed the minimum recommended separation distance between habitable and non-habitable windows (12m). The secondary bedroom window would, to some extent, directly overlook the neighbour's garden where there is currently very little direct overlooking from this direction; in the circumstances a condition is recommended requiring that this window be fitted with obscure-glazing, along with the en-suite window. A restriction on the formation of the new openings in the rear elevation is recommended to preserve the neighbour's privacy in the future.

The main outlook for the proposed dwelling would be towards the south west and north east.

South west facing windows would be approximately 16m from the boundary with 38 Thorpe Lane and would be towards the rear garden of this neighbouring property and not onto any of its main windows. Some screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

North east facing windows would be approximately 20m from the boundary with 50 Thorpe Lane and would be towards the lower part of the large rear garden of this neighbouring property. Significant screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

The north east and south west facing windows would be at an oblique angle to the properties that are to the rear of the site on Dartmouth Avenue. The ground floor windows would be screened along the boundary and so it would only be the upper floor bedroom windows that would potentially affect privacy. Given the oblique relationship and the separation distances involved Officers do not consider that there would be any significant overlooking of the properties to the rear.

In terms of the impact on the amenity of Fenay Lodge, windows in the north west elevation would not give rise to any undue overlooking. A terrace area is proposed to the north west elevation of the dwelling but this would be screened off by a new laurel hedge.

The design incorporates a sedum (green) roof to the rear of the ground floor block; this would have the potential to prejudice the amenities of properties on Dartmouth Avenue if it were to be used as a raised terrace/balcony area in the future. A condition is recommended to prevent the sedum roof being used as such.

The main private garden for the property is set down within the site and well screened to its boundaries. The garden area would not result in any undue harm to residential amenity.

In conclusion, it is considered the development would not result in any significant detriment to the amenities of surrounding occupiers. The application is considered to comply with Policies BE12 and D2 of the UDP.

Highway issues:

Access to the site is via the existing point of access for Fenay Lodge off Thorpe Lane. A new gravel access route is to be formed off the existing driveway which would lead to a parking and turning area. The site plan also shows parking and turning space being retained for Fenay Lodge.

The scheme provides adequate parking space and turning facilities for both the existing and proposed dwellings.

Visibility onto Thorpe Lane is constrained by the height of boundary walls to each side of the access and there is very limited scope for the boundary walling to be lowered because of the listed status of the property and some of the walling being in separate ownership. Whilst sightlines are substandard, the development relates to a long established access where the intensification in its use would be modest. Furthermore, there have not been any recorded accidents within the vicinity of the access within the last 5 years which

suggests that it is operating effectively. It is also to be noted that there are similar types of access onto Thorpe Lane close to the site.

Taking the above into account, on balance it is considered that the development would not result in any material harm to highway safety and the application accords with Policies T10 and D2 of the UDP.

Trees and ecology:

The only protected tree within the site is to the front of Fenay Lodge and is unaffected by the development. There were previously a number of mature (unprotected) trees to the rear site boundary which have been removed. A number of existing trees are to be retained towards the south west and north east boundaries of the proposed dwelling as well as a large mature tree which would be adjacent to the new gravel access. The council's arboricultural officer has been consulted on the application and no objections have been raised. Officers are satisfied that the application accords with Policy NE9 of the UDP.

The proposal does not involve the removal of any existing trees that would have bat roost potential and the Environment Unit considers that the overall site has limited biodiversity interest. The biodiversity of the development can be enhanced through the inclusion of bat and bird boxes, native species of planting being used for the landscaping and measures to protect the free movement of hedgehogs. It is recommended that these matters are conditioned.

Air quality:

NPPF Paragraph 109 states that "the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

Objections:

27 objections and 1 letter of support were received in response to the plans as originally submitted. Following an amendment to the scheme which resulted in the upper floor of the dwelling being repositioned to address Officers' concerns with the impact on residential amenity, 8 objections have been received; these include objections from 17, 21, 23 and 25 Dartmouth Avenue (to the rear of the site) which state that the amendment to the scheme has not addressed their concerns in terms of the impact on their amenity. This second round of publicity expires on 23rd March 2016 and any additional representations received will be reported to Members in the committee update.

The main thrust of the objections relates to the impact on the setting of Fenay Lodge, visual amenity concerns, the impact on residential amenity and highway safety. Specific concerns have also been raised regarding the loss of trees and the impact on biodiversity. All of these matters are addressed within this report. Of the other matters raised an Officer response is provided as follows:

Noise

Officer response: Concerns have been raised about increased noise as a result of the proposed parking area which is close to the rear site boundary. The amount of vehicular activity associated with the dwelling is likely to be very modest and as such Officers do not consider that the use of the parking area would result in any material harm to the amenity of adjacent properties. The parking spaces would be screened along the rear boundary by a new hedge which would help to mitigate the limited amount of noise generated and also block glare from headlights.

Some concern has also been raised about noise associated with construction; nuisance caused by construction noise would be dealt with under separate environmental health legislation.

Height of proposed hedge on rear boundary

Officer response: Full details of the proposed hedge have not been supplied although the elevation drawings indicate that the hedge would be approximately 3m in height. There is a gradual change in ground levels along the length of the rear boundary but the plans suggest that the hedge would generally be around 1.3m above the height of the existing boundary fence; this would screen the ground floor of the proposal as well as the garden and parking areas. It is noted that there have previously been numerous mature trees along this boundary and the hedge would be significantly lower in height than these. A condition is recommended requiring full details of the hedge in the interests of residential amenity.

Impact on drainage infrastructure

Officer response: It is proposed to connect foul and surface water drainage to a main sewer. There is a right of connection for foul drainage to main sewer and given the scale of development there are no objections to a surface water connection. The plans show a connection to the sewer in Thorpe Lane.

Lack of footway provision on Thorpe Lane

Officer response: The lack of footway provision is not considered to significantly prejudice highway safety in the context of this application. The amount of vehicular traffic likely to be generated by the development would be very low and there have been no recorded accidents within the vicinity of the site within the past 5 years. Pedestrian access for the proposed development along Thorpe Lane is affected by the lack of footway provision but this is an established situation and is not considered to be sufficient reason to justify a refusal.

Possible subsidence and impact on stability of adjacent land

Officer response: The NPPF indicates that planning decisions should take into account ground conditions and land instability. Given the scale of the proposed development and the nature of the site it is considered that adequate control over such matters would be provided through the Building Regulations regime.

Impact on structural integrity of boundary walls

Officer response: The dwelling and its garden area are reasonably well separated from the nearest stone boundary walls and it is considered that any potential impact on the structural integrity of existing boundary walls would be sufficiently controlled through the Building Regulations regime.

Absence of information on finished levels

Officer response: A condition regarding finished levels is recommended.

Conclusion:

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.

The scale, siting and design of the proposal are such that the impact on the setting of the listed building can be mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

In such circumstances it is considered that there are no adverse impacts of granting permission which 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. In such circumstances the application is recommended for approval.

9. RECOMMENDATION

Approve subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

3. Samples of the facing materials for the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure the dwelling commence. The dwelling shall be constructed of the approved materials and thereafter retained as such.
4. Details of proposed and existing ground and floor levels from an identified datum point shall be submitted to and approved in writing by the Local Planning Authority before development commences and the development shall be implemented in full accordance with the approved details.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)), the area identified as 'sedum roof' on the approved plans shall not be used as a raised patio, terrace, balcony, roof garden or similar such amenity area at any time.
6. The bedroom and en-suite windows in the south east elevation of the dwelling (identified as 'elevation 2' on the approved plans) shall be first installed with obscure-glazing that achieves a minimum privacy level of 5. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) the glazing shall be so retained thereafter.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)) no doors, windows or any other openings (apart from those expressly allowed by this permission) shall be created in the south east elevation (identified as 'elevation 2 on the approved plans) of the dwelling at any time.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no buildings or structures included within Classes A, B, C, D and E of Schedule 2 to that Order shall be carried out within the curtilage of the dwellinghouse hereby approved without the prior written consent of the Local Planning Authority.
9. Notwithstanding the submitted plans, details of the new hedge to the south eastern site boundary as identified on the approved site plan shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. The hedge shall be planted in the first available planting season following the completion of the superstructure of the dwelling. Should any part of the hedge die or become seriously damaged within five years of the first occupation of the development, the affected hedge shall be replaced in the next planting season with hedge plants of similar size and the same species. The hedge shall thereafter be retained as such.

10. Details for the provision of one bat box (in the form of a Schwegler type 1FR bat box or similar) and one sparrow terrace nest box to be installed on the exterior of the dwellinghouse shall be submitted to and approved in writing by the Local Planning Authority before the practical completion of the superstructure of the dwellinghouse. The bat and bird boxes so approved shall be provided before the dwelling is first occupied and thereafter retained.

11. All new tree, shrub and hedge planting within the site shall comprise native species of plants and retained as such.

12. Boundary walls and fences shall be designed so as not to impede the free movement of hedgehogs. The boundary treatment shall thereafter be retained as such.

13. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved dwelling before the dwelling is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

14. The access, parking and turning facilities as indicated on the approved site plan shall be provided before the dwelling hereby approved is first occupied. The access, parking and turning facilities shall thereafter be retained as such.

15. Details of the proposed entrance gates shall be submitted to and approved in writing by the Local Planning Authority before works to install the entrance gates commence. The gates shall be installed in accordance with the approved details and thereafter retained.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Design & Access Statement	Original	-	5/10/15
Location Plan / Existing Site Plan	EX01	-	5/10/15
Site Plan as Existing	EX02	-	5/10/15
Site Elevations/Sections as Existing	EX20	-	5/10/15
Proposed Site Plan	AL0002	Rev B	25/2/16
Proposed Lower Ground Floor Plan	AL0011	Rev A	25/2/16
Proposed Upper Ground Floor Plan	AL0012	Rev A	25/2/16
Site Elevations as Proposed	AL0020	Rev B	25/2/16
North East Elevation as Proposed	AL0025	Rev A	25/2/16

South East Elevation as Proposed	AL0026	Rev A	25/2/16
South West Elevation as Proposed	AL0027	Rev A	25/2/16
North West Elevation as Proposed	AL0028	Rev A	25/2/16
3D Visuals	3D Visuals	Rev A	25/2/16
Heritage Assessment	Original	-	5/10/15



Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)

Date: 12/05/2016

Title of report: Discharge of Condition 24 (Construction Management Plan) – Planning application 2012/90738, Prickledon Mills, Woodhead Road, Holmfirth, HD9 2JU.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by Director & name	Paul Kemp Assistant Director of Place 29 th April 2016
Is it signed off by the Director of Resources?	No
Is it signed off by the Assistant Director - Legal & Governance?	Yes Julie Muscroft 29 th April 2016
Cabinet member portfolio	Cllr Steve Hall

Electoral [wards](#) affected: HOLME VALLEY SOUTH

Ward councillors consulted: Cllr N Patrick, Cllr D Firth, Cllr K Sims

Public or private: PUBLIC

1. Purpose of report

- 1.1 The report seeks a resolution from Huddersfield sub-committee over the discharge of condition 24 attached to planning application reference 2012/90738 at Prickledon Mills, Woodhead Road, Holmfirth, HD9 2JU. Members are asked to approve the Construction Management Plan (set out in Paragraph 3.0 of this report) and discharge condition 24.

2. Key points

Background

- 2.1 Prickledon Mills is a former industrial mill with associated mill pond south of Woodhead Road approximately 0.5 km west of Holmfirth centre. The site is accessed from Woodhead Road and Lower Mill Lane and is 1.27 hectares in size. The site has been cleared of the former mill buildings.
- 2.2 A planning application was submitted in March 2012 for the demolition of former industrial mill and erection of 46 age restricted apartments, 2 guest rooms, external residents lounge, managers office, residents and visitor car parking, new bridge access, related engineering and landscape works with retention of former mill dam and formation of riverside walk.
- 2.3 Huddersfield planning sub-committee heard the application on the 28 August 2012 and resolved to delegate powers to officers for approval subject to conditions. The permission was granted on the 19 December 2014 subject to 24 conditions.
- 2.4 During the application period a number of concerns were raised over the use of Lower Mill Lane by construction traffic. Representations were heard by Huddersfield sub-committee claiming Lower Mill Lane was a quiet residential cul-de-sac. The officers report stated: *“Local residents have raised concerns regarding the use of Lower Mill Lane by construction traffic. This is acknowledged and a construction plan is proposed, details to be agreed, stipulating that construction traffic shall access the site via the existing access off Woodhead Road.”* As a result of these concerns condition 24 imposed a requirement to agree details before development begins: -Condition 24 states:-

“The development authorised by this permission shall not begin until a construction plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Plan shall include:

- (i) A schedule for the means of access to the site for demolition/construction traffic*
- (ii) temporary warning and direction signing on the approaches to the site*
- (iii) the routing of demolition/construction traffic to and from the site,*
- (iv) the point of access for demolition/construction traffic, including the loading and unloading of any plant and/or materials*
- (v) details of the times of use of the access*
- (vi) storage of plant and materials used in constructing the development,*

(vii) work programme and/or timescale for the demolition/construction works

(viii) car parking areas for construction workers

(ix) wheel cleaning facility or other comparable measures to prevent site vehicles bringing mud, debris or dirt on to the highway

Thereafter the construction arrangements shall be carried out in accordance with the approved method statement throughout the period of construction."

- 2.5 In April 2014 works commenced to demolish the former mill buildings. Prior to these works being carried out, the Local Planning Authority agreed demolition traffic should only use the access from Woodhead Road and the above condition was discharged in part for the demolition phase only.
- 2.6 The site was acquired from the previous applicant by McCarthy and Stone who now wish to proceed with the development of the site. Further submissions have been made to discharge all "pre-development" conditions including a further construction management plan for the construction phase of the development.
- 2.7 In light of the previous concerns raised by local residents on Lower Mill Lane and comments made at the previous sub-committee in 2012 regarding construction access on Lower Mill Lane it is appropriate for sub-committee members to consider the proposed construction management plan.

3.0 The Construction Management Plan

- 3.1 The proposed construction management plan consists of:-
- Revised Plan from PAH Highway Consultants dated 11 Aug 2015
 - Draft Terms of Reference for Local Liaison Group 01 Mar 2016
 - Construction Management Plan Drawing 14036D-06-P02 dated 31 Oct 2014
 - Construction Management Plan supporting information dated 01 Mar 2016
 - Pre-development condition Survey
 - Construction Traffic Routing Plan Drawing 28 Apr 2016
- 3.2 The revised plan notes the access of Woodhead Road is considered unable to take vehicles in excess of 25 tonnes by reason of the stability of the retaining wall and drivers of such vehicles have no option but to utilise the only other access off Lower Mill Lane. They anticipate such vehicle movements will be restricted to a maximum of 61 trips (122 movements to and from the site) throughout a construction phase of 19 months. The vehicle routing is predominately along Huddersfield Road, Woodhead Road although Hollowgate and Lower Mill Lane is also proposed for a limited number of vehicles. The Construction

Management Plan shows on site areas for contractor parking, routing and wheel washing facilities.

- 3.3 The developers propose to mitigate any harm to residents by ensuring deliveries are made by prior appointment (at least 3 days prior to delivery), between the hours of 10am – 3pm, no deliveries on Thursday due to local market. Deliveries will be taken with the aid of a Banksman and a convex mirror provided along Local Mill Lane at the point of narrowing by the apartment block. The remaining construction traffic will use Woodhead Road.
- 3.4 The developers proposed to manage the traffic plan on site and propose a monthly voluntary local resident liaison group to allow communication between the developers, local residents, Kirklees, local ward members and other interested parties. The purpose of the group is to deal with any issues during the construction phase. In addition to the liaison group meeting an email user group will be established for those residents on Lower Mill Lane wishing to participate to alert them of forthcoming planned deliveries.
- 3.5 The construction management plan indicates the location of wheel washing facilities and construction staff welfare facilities on site.

3.6 Consultees

KMC Highways – Acceptable scheme subject to further clarification for on-site contractor parking and details of post development survey of Lower Mill Lane.

KMC Highway Structures – Agree that submitted structural calculations cannot demonstrate access from Woodhead Road is suitable for vehicles over 25 tonnes in weight.

3.7 Representations

Ward Members – consulted via email.

Cllr Patrick comments –

“I received 22 responses to my letter, only one in support of the developers. Some of the residents who responded had attended the meeting with the developer on the 24th February and some felt they had not been given enough information. As you know the developer has gained access to the site via Lower Mill Lane in recent weeks with what residents describe as a rig and that caused problems for some residents. As I write this I do not know if the developer had gained permission from you/ your colleagues or the highways authority to do this. Residents had received a letter from the developer prior to this which suggested the developer was going to gain access but gave no detail. If this is an example of what is planned as part of their mitigation measures then it is my view that there will be little or no controls in place to

protect the residents. I do not see how a residents liaison group will work. The developer will have little control of access once the development has started as contractors, sub contractors and delivery vehicles will gain access via Lower Mill Lane at a pace set by progress of the development not at a pace set by the convenience to residents and businesses. I think your phone will be busy and I will expect enforcement action to be taken. As we have not seen enforcement action in the past I conclude that residents will be put at risk. If you cannot control what happens and you cannot guarantee the safety of the public then your recommendation should be refusal to change the condition..... You suggest the developer has no alternative access, but there is alternative access. The developer can gain access to site via the Younger Homes building site with the aid of a river crossing. Recent contact with the developer would suggest to me that this option has not been considered. So there is another option open to the developers. In any event the developer did not take on this site blind. They have history at this site. They submitted a planning application before Conroy. As I recall they withdrew their planning application. If there were problems gaining access to develop the site then this is something that they should have considered at the outset. It is not the job of the planning authority to assist developers and put residents at risk. Refusal is an option."

Any further comments received from Ward Members after this report is published will be brought to Committee as an update.

Local Residents – Concerns raised during the demolition of existing buildings and the use of Lower Mill Lane for contractors removing Japanese Knotweed from land adjacent to the south bank of the river within the site.

2014/90183 discharge of condition publicity period – 14 objectors raise the following concerns:-

- Children and residents safety on Lower Mill Lane
- Obstructions to residents by HGV's
- Potential damage to river side wall
- Noise
- Subsidence
- Loss of parking at the end of Lower Mill Lane
- Conflict with traffic in "rush hours"
- Mud brought onto Lower Mill Lane

3.8 Assessment

3.8.1 By imposing condition 24 and by virtue of comments made during previous sub-meeting meetings it is clear that officers favoured the access from Woodhead Road as the preferred means of access onto the construction site. This is principally because of Lower Mill Lane consists predominately of residential properties that are accessed from

Hollowgate via Holmfirth Centre. The unrestricted use of Hollowgate and Lower Mill Lane for construction traffic accessing the site is clearly not ideal and an excessive use by large construction vehicles is likely to conflict with local traffic parking and travelling along Lower Mill Lane and Holmfirth Centre.

- 3.8.2 However, the developers raise concern that the Woodhead Road access is retained by a large wall above the adjacent river. The developer's structural engineers have surveyed the retaining wall and the resulting structural assessment indicates that the maximum vehicle weight the Woodhead Road access can accommodate is currently 20 tonnes. Notwithstanding this it is considered the maximum safe operating weight could be increased to 25 tonnes through a continual assessment throughout the construction phase. Under these circumstances and by nature of the large deliveries and plant (e.g. cranes) required for the development, it is evident the use of Woodhead Road access would potentially be unsafe and significantly dangerous should the high retaining wall fail at any point. Consequently, according to the advice of the applicant's structural engineers, to avoid the potential of failure of the retaining wall an alternative means to access the site for large deliveries and plant over 25 tonnes would need to be established.
- 3.8.3 The council's own engineers do not disagree with the findings of the applicants engineers. Council engineers are of the opinion that it is not possible for structural calculations to confirm the access from Woodhead Road would be suitable for vehicles over 25 tonnes. Furthermore they agree that it would be impracticable to strengthen the access by reason of proximity to the existing retaining wall and dwellinghouses.
- 3.8.4 Realistically Lower Mill Lane is the only other means for the developers to access the site directly from a public highway. Without an alternative means of access the developers claim the development of the apartments would be severely hampered to a degree that the deliverability of the project is threatened. The delivery of housing on previously developed land is a key objective of the Council.
- 3.8.5 As no suitable alternative safe access is available the only realistic alternative is to access the site for a limited number of deliveries from Lower Mill Lane which would need to be used if the development is to proceed. It is accepted, however, that the use of Lower Mill Lane for construction traffic will also inevitably cause a degree of disruption and disturbance to the residents of Lower Mill Lane and users of the highway throughout the construction period. Notwithstanding this, however, it is noted that the whole length of Lower Mill Lane carries a traffic regulation order (TRO) restricting vehicle lengths to 33' 0" (approximately 10 metres). It is anticipated a number of the construction vehicles intending to use Lower Mill Lane will exceed this length. Consequently it would be necessary to lift the restriction before

construction vehicles can use the access. The developer is aware of this requirement for a temporary alternation to the TRO.

- 3.8.6 The developers propose to mitigate the harm by reducing the number of movements of large vehicles along Lower Mill Lane to a minimum. As described above “The Plan” proposes a number of additional measures to ensure construction vehicles are properly managed onto and away from the site at appropriate times. This mitigation includes the formation of a resident liaison group meeting to highlight any ongoing concerns or problems with deliveries to the site.
- 3.8.7 The developers have also carried out a pre-development survey of Lower Mill Lane to assess the current condition. It is considered that a post-development survey is also necessary in order to assess any deterioration of Lower Mill Lane that may be attributed to the movement of large construction vehicles. A commitment to carry out a post development survey and any necessary repairs to the highway can be dealt with by way of a section 106.
- 3.8.8 Highway officers have considered the mitigation measures proposed and subject to clarification on where contractors will unload and park when on site the measures are acceptable in terms of minimising disruption to highway users. Highway officers would also require the submission of a post development survey in order to assess any damage caused by construction vehicles.
- 3.8.9 In the opinion of officers, without any appropriate mitigation to manage disruption to local residents, officers would not be able to support any scheme whereby Lower Mill Lane is used. Even with mitigation measures there is potential for large vehicles using Lower Mill Lane to cause a degree of disruption to highway users and residents on Lower Mill Lane. It is acknowledged, however, that such disruption will only be caused throughout the construction phase and mitigation measures to manage the vehicles help minimise harm.
- 3.8.9 It is also of note that the site has planning permission to be developed with a developer keen to implement the works. The wider benefits of a fully developed site including housing delivery and environmental improvements to provide a riverside walk weigh in favour of allowing the scheme to come forward providing it is with minimal disruption throughout the construction phase.
- 3.8.10 Under these circumstances it is key that the proposed mitigation measures provide optimum protection to the local residents and highway users in order to keep any disruption down to a minimum. In the opinion of officers the proposed measures keep vehicle movements down to those that are absolutely necessary and inevitable. The additional offer from the developers to proactively engage with residents and review the plan, if necessary, further provides a means to tackle ongoing issues throughout the construction phase.

- 3.8.11 On balance and notwithstanding any application to lift TRO restrictions, it is considered that the long term planning benefits of a completed housing scheme when implemented together with the suite of measures proposed to minimise the impact of construction works is sufficient to outweigh the short term disruption to local residents living on Lower Mill Lane and others visiting Holmfirth town centre.

4. Implications for the Council

Enforceability

- 4.1 Local residents have previously raised concern over the use of Lower Mill Lane during the demolition phase contrary to previous agreements/assurances made. It was revealed that contractors removing Japanese Knotweed were using Lower Mill Lane to access the land south of the river bank. Whilst this was not in breach of condition since removal of knotweed does not constitute commencement of demolition, local residents legitimately raise the concern that contractors will use the route in any event.
- 4.2 With regard to any scheme to discharge the condition, the developers will be bound to the terms and conditions of the planning permission and any scheme to manage construction traffic. It is envisaged that the formation of the local residents' liaison group will provide a means of communication to manage any concerns raised. A mechanism to ensure the developers are committed to continuing with the resident's liaison group and in order to ensure any necessary repairs are carried out to Lower Mill Lane is likely to be enforced through a section 106 agreement. However should the developers choose to repeatedly deviate from an agreed scheme the local planning authority may consider taking enforcement action requiring the developers to operate within the terms of any agreed scheme of operation.
- 4.3 Before vehicles longer than 33'0" are able to access Lower Mill Lane, a temporary TRO would need to be granted. The administration of the TRO would result in an expense to the Council. It is considered reasonable to require the costs of administering the TRO to be paid by the developer. In the event the TRO is not granted the developers would be required to ensure further construction management details are agreed or amended should there be any other means of access other than from the existing off Woodhead Road.

4. Officer recommendations and reasons

- 4.1 Officers recommend discharging condition 24 (Construction Management Plan) with regard to details in paragraph 3.1 subject to a commitment to carry out a post development survey of Lower Mill Lane; make arrangements to create and engage with a residents' liaison group; and provide a means to cover the costs of a TRO.

5. Next steps

- 5.1 Delegate officers to discharge condition 24 (Construction Management Plan) subject to a commitment, by way of Section 106 agreement, to: carry out a post development survey of Lower Mill Lane; create and engage with a residents liaison group and cover the costs of any TRO.

6. Contact officer and relevant papers

Kevin Walton –Senior Planner –Investment and Regeneration Service
01484 221000– kevin.walton@kirklees.gov.uk

7. Assistant director responsible

Paul Kemp – Place - Investment and Regeneration Service
01484 221000 – paul.kemp@kirklees.gov.uk

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KIRKLEES COUNCIL

PLANNING SERVICE

**LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**

12-May-2016

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS**

**There is a file for each planning application containing
application forms, plans and background papers.**

Simon Taylor - 01484 221000

**NOTE: For clarification the page numbering referred to
shall be those set out in the contents page**

In respect of the consideration of all the planning applications on this Agenda the following information applies;

PLANNING POLICY

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those policies of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will assess whether sites should be allocated for development or protected from development including whether there are exceptional circumstances to return POL sites back to Green Belt. The Local Plan process is underway and the public consultation on the draft local plan took place between 9th November 2015 and 1st February 2016.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. At this point in time, the draft local plan policies and proposals are not considered to be at a sufficiently advanced stage to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.

National Policy/Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

REPRESENTATIONS

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

EQUALITY ISSUES

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

HUMAN RIGHTS

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations,

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests.

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The National Planning Policy Framework and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.

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Ward: Crosland Moor and Netherton Ward	
Applicant: Kirklees Council, PRP	
Agent: Dean Masters, Kirklees Council, PRP	
Target Date: 13-Apr-2016	
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Ward: Holme Valley South Ward	
Applicant: Lidl UK GmbH - C/O Agent	
Agent: Rebecca White, Nathaniel Lichfield & Partners	
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Location: Pink Fusion Lounge, Sheffield Road, New Mill, Holmfirth, HD9 7JT	
Ward: Holme Valley South Ward	
Applicant: Mr Mohammed Abaidullah	
Agent: P F Holleworth	
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Location: Land Off, Lumb Lane, Almondbury, Huddersfield, HD4 6SZ	
Ward: Almondbury Ward	
Applicant: R Airey - C/O Agent	
Agent: Michael Townsend, Townsend Planning Consultants	
Target Date: 08-Jan-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2016/9057663
Type of application: 62HH - FULL APPLICATION
Proposal: Formation of a porch to front
Location: 3, Digley Cottages, Bank Top Lane, Holmbridge, Holmfirth, HD9
2QD
Ward: Holme Valley South Ward
Applicant: P Brown
Agent: John Barnes - Architect
Target Date: 20-Apr-2016
Recommendation: FC - CONDITIONAL FULL PERMISSION

Application No: 2016/90499

Type of application: 49 - GENERAL REGULATIONS REG.4

Proposal: Erection (750 square metres) of portable modular buildings

Location: Moor End Academy, Dryclough Road, Crosland Moor, Huddersfield, HD4 5JA

Grid Ref: 412570.0 414948.0

Ward: Crosland Moor and Netherton Ward

Applicant: Kirklees Council, PRP

Agent: Dean Masters, Kirklees Council, PRP

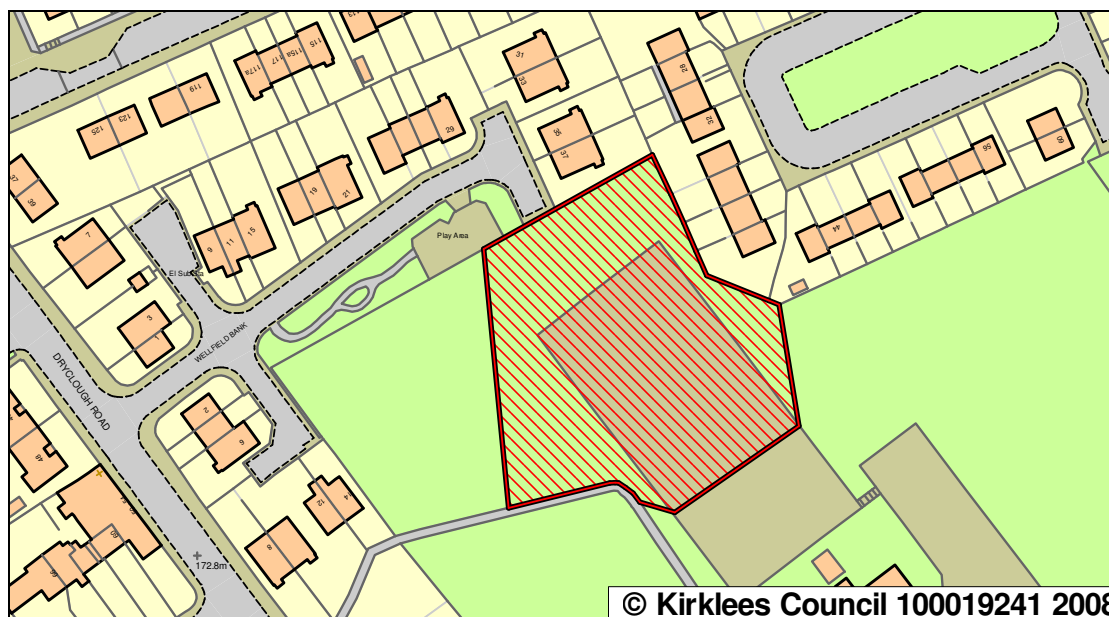
Target Date: 13-Apr-2016

Recommendation: GR2 - GRANT UNDER REG.4 GENERAL REGULATIONS

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

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LOCATION PLAN



Map not to scale - for identification purposes only

1. SUMMARY OF APPLICATION

Kirklees Council Capital Development has identified a requirement for Basic Needs Pupil Place Provision in the Crosland Moor Area of Huddersfield in the form of a new 3 Form Entry (630 Pupil Place) Primary School. The new school will come into formal existence in spring 2016, however the purpose built permanent school will not be formally ready to accept pupils until Autumn 2017. In order to accommodate new pupils in the interim there is a requirement for temporary modular accommodation for up to 18 months, with up to 90 pupils in September 2016 and up to another 90 pupils in September 2017.

The proposals relates to the erection of 750 sqm of portable modular buildings required for a community use. This would meet the identified need for a primary school facility in the Crosland Moor area of Huddersfield for 180 pupils. The buildings in the siting and scale shown would preserve the amenities of nearby residents without adverse impact on visual amenity in the context of the surrounding development. The traffic generated by the proposals could be accommodated on the surrounding highway network, without materially adding to highway safety or environmental issues.

There will be additional comings and goings associated with the temporary primary school and local residents may experience some impacts on their amenity, particularly around the drop off and pick up parts of the school day. However, the scale of the impact on residential amenity is limited by the temporary nature of the school and the planning conditions attached to the recommended decision notice.

Overall the proposals accord with the relevant government guidance in the NPPF and policies within the UDP

In addition, at the end of the required temporary period, all buildings, access road and services would be removed and the site/land re-instated to its original levels and condition which would outweigh any harm caused by the temporary use of this area of urban greenspace.

RECOMMENDATION: GRANT TEMPORARY PERMISSION UNDER REGULATION 4

2. INFORMATION

The application is brought to Committee at the request of Cllr Molly Walton who states:

“Where they propose a gate to the estate there is a child's play area adjacent and kids being kids they get excited when playing and will run in and out without even looking. As yet there has not been an accident but the kids have grown up with the local residents' cars as they are now and certainly not regular large vehicles visiting.

The proposals to have school meals delivered suggests at least two wagons a day plus other deliveries and I think this is an imposition on to land the school do not own. The school grounds are quite large and I would expect a good construction company and designer to manage an entrance which would not intrude into a local small residential area.

I have had a long association with the school having been a governor and Chair for many years since it opened but I cannot let that impede on the safety and comfort of residents living environment and would value the views of other committee members”

The Chair of the Sub Committee has confirmed that Councillor Molly Walton’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Committees.

3. PROPOSAL/SITE DESCRIPTION

Site description:

The application red line relates to part of Moor End Academy’s grounds north west of the main building. This area mainly comprises of a hard surface accommodating playing courts with soft embankments to the north, east and west perimeters of the playing courts which separate the school grounds from residential properties on Dryclough Road, Wellfield Bank and Gilbert Grove, beyond. Adjacent to the application’s northern boundary, is a small equipped children’s play area within the cul-de-sac Wellfield Bank.

Existing access points onto the school grounds are the main entrance from Dryclough Road and Waterwheel Rise. There is also a gated access adjacent to no. 69 Dryclough Road, which does not appear to be in use. Apart from these access points the school grounds are bounded by a palisade fence.

Proposal:

The application seeks temporary permission for the erection of modular school buildings and associated works. This is required to accommodate the demand and need for primary school facilities for a period of 18 months to accommodate up to 90 pupils, in September 2016 (this will include 30 children to be transferred from Dryclough Infant School) and up to a further 90 pupils in September 2017, of reception age, from 4 years old.

The submitted drawings give two options which Members are asked to jointly consider and approve both options to allow the applicant flexibility when it comes to the final decision on which form of temporary buildings to erect:

Option 1 - three single storey modular buildings as shown on drawing no. A06
Option 2 - two modular buildings with the larger unit comprising of an additional 95sqm at first floor level on the south west corner, as shown on drawing no. A07 with an overall height of 7m from ground floor level.

The proposed buildings are intended to be externally faced in plasticol coated finish with flat roofs and of standard modular design.

The associated works would consist of providing an access road for construction/refuse and delivery vehicles, linking it to the hammer head of Wellfield Bank cul-de-sac. The proposals would also provide a refuse storage and collection and delivery point adjacent to this access road to be served by the proposed gated access from Wellfield Bank. It is proposed to open the existing gated access adjacent to no.69 Dryclough Road and a new pedestrian gate point to be created from Gilbert Grove for parents to accompany the children to the modular buildings which may also allow access to the existing Moor End Academy School.

Staff parking is proposed to be accommodated within Moor End Academy's existing car park. No formal drop off/pick point is proposed.

The submitted information states that at the end of the required temporary period, all buildings access road and services will be removed and the site/land will be re-instated to its original levels and condition.

4. BACKGROUND AND HISTORY

2016/91168 – erection of single storey Portakabin building to be used as a temporary science classroom at Moor End Academy – PENDING

5. PLANNING POLICY

Development Plan:

D3 – Urban Greenspace
BE1 – General Design Principles
BE2 – Quality of Design
EP4 – Noise Sensitive Developments
T10 - Highway Safety
G6 - contamination

National Policies and Guidance:

Core Planning Principles
Chapter 7 – Requiring Good Design
Chapter 8 – Promoting healthy communities
Chapter 11 – Conserving and enhancing the natural environment

6. CONSULTATIONS

K.C Highways DM - No objections subject to the imposition of conditions (see assessment below)

K.C Environmental Services - no objections subject to conditions

K.C Flood Management and Drainage - No objections

Sport England - does not wish to raise an objection

7. REPRESENTATIONS

The application has been advertised by site notice and neighbour notification letter. As a result 14 objections have been received. Below is a summary of objections raised:

- Highway safety concerns/ issues speeding on surrounding highway network
- Access and gated access from Wellfield Bank
- Lack of drop off and pick up facilities for parents
- Blocking up of drives on Dryclough Rd/ Wellfield Bank
- Increase in traffic at school pick up and drop off times which already suffers from high congestion on Dryclough Road and surrounding highway network
- Delivery vehicles will be unable to pass due to parked vehicles on both sides of road on Wellfield Bank
- Minimal staff parking proposed
- Need speed cameras/traffic control and to promote sustainable modes of transport

Response: the above issues have been considered in the highway section of the assessment below

- No evidence of traffic management plan

Response: to be conditioned as suggested by Highway Officers

- Cllr's should visit site at either pick up or drop off times to appreciate the current highway issues

Response: a site visit will be made by Members of the Committee in the morning on 12th May, the day of Huddersfield Committee

- Alternative site for school should be considered

Response: The applicants state, having gone through this process, this site was considered to be the most appropriate site for the temporary school modular buildings. Furthermore, on assessment of the proposals Officers are of the opinion the site can accommodate the proposals without causing detrimental impact on the surrounding development and the amenities of nearby residents.

- Will affect children's play area on Wellfield Bank

Response: The play area is enclosed by a small wall and rail fence. The traffic associated by the proposals during construction phase and servicing would need to be in accordance with the construction method statement and servicing conditions (nos. 6 & 9). This would further ensure the safety of anyone on the surrounding highway network and in close vicinity of the site is not significantly compromised.

8. ASSESSMENT

General Principle/Policy:

The existing school site is allocated as Urban Green Space (UGS) on the Unitary Development Plan (UDP) Proposals Map. On areas designated as UGS, policy D3 of the UDP applies. The community benefit element of the policy is not consistent with considerations of the National Planning Policy Framework (NPPF) particularly paragraph 74. However, the majority of the policy is in accordance with the NPPF. As such, policy D3 of the UDP should be afforded significant weight.

Policy D3 of the UDP stipulates that permission will not be granted unless the development proposed is necessary for the continuation or enhancement of established uses, or involves change of use to alternative open land uses, or would result in a specific community benefit, and in all case will protect visual amenity, wildlife value and opportunities for sport and recreation, or that it includes alternative provision of urban greenspace equivalent in both quantitative and qualitative terms to that which would be developed and reasonably accessible to existing users.

The proposed modular buildings within the school grounds are considered to be necessary for the continuation and enhancement of the established educational use, for it to continue to serve the needs of Kirklees residents. Therefore the principle of erecting the proposed temporary modular school buildings is considered to be acceptable and in accordance with policy D3 of the UDP.

Furthermore, whilst it is acknowledged the proposals are not consistent with paragraph 74 of the NPPF, given the proposals are for a temporary period where the site would be subsequently re-instated and more importantly the factors set below in terms of paragraph 72 of the NPPF, the principle of the proposed development is considered acceptable.

Members may recall the principle of development for a permanent school building on UGS, was also recently accepted by Strategic Committee Members under application no. 2015/90564 within the grounds of Royds Hall Community School.

Turning to para.72 of the NPPF, this states that:

“...the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- *Give great weight to the need to create, expand and alter schools; and*
- *Work with schools promoters to identify and resolve key planning issues before applications are submitted”.*

As can be seen from the wording of paragraph 72, the NPPF gives great weight and importance to school based proposals. From a decision making perspective this should weigh considerably in favour of this proposal.

To summarise, as stated above a clear demand and need has been identified for a new school provision in the Crosland Moor Area. The proposals are for temporary modular buildings to accommodate this need for the interim period until proposals come forward for a permanent school building to meet the identified need and demand. In light of this, the proposals are given considerable weight and acceptable in principle given that it would provide a sufficient choice of school places to meet the needs of existing and new communities thus according with the 12th core planning principle of the NPPF and paragraph 72 and provision of Policy D3 of the UDP.

Sport England comments on principle of development:

Turing to the comments from Sport England it is understood that the site forms part of, or constitutes a playing field, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015. The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England'

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

Sport England is of the opinion

"the proposed development results in a minor encroachment onto the playing field. However, having considered the nature of the playing field and its ability to accommodate a range of pitches, it is not considered that the development would reduce the sporting capability of the site. As such, Sport England is satisfied that the proposed development broadly meets the intention of the following Sport England Policy exception:

E3 - The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site."

Based on the above Sport England does not wish to raise an objection.

Impact on visual amenity:

The application site is predominantly surrounded by embankments and open land with residential properties beyond on three sides. Moor End Academy school buildings are to the south. In the siting shown, the proposed modular buildings, taking into account the proposed scale together with the land levels of the surrounding land, would appear of appropriate scale and not detract from the visual amenity of the area or main school building.

The proposed building would be of a modular construction and, with Option B, in part of two-storey in scale. Due to the topography of the site in relation to surrounding development, the overall height of the tallest building at 7.0m would be comparable to or slightly lower than the ground level of the adjacent residential properties on Dryclough Road. Due to the distance to be retained between the adjacent dwellings, this relationship, as demonstrated on the submitted drawing ref: A07 (Site Section Elevations), is considered appropriate within the context of the school grounds and immediately surrounded development.

The appearance of the development is commensurate with the temporary nature of the proposal, and whilst such a design would not normally be acceptable for buildings of a permanent nature, in this instance, given its requirement for a temporary period only, the proposal is not considered to result in a significant long term detrimental impact on visual amenity. There are no objections to the design or appearance of either option proposed.

The proposals are considered to accord with the guidance set out within Policies D3, BE1 and BE2 of the Unitary Development Plan and government guidance contained within Part 7 of the NPPF.

Impact on residential amenity:

In the siting shown, the proposed modular buildings would be in excess of 52m between properties to the west, on Dryclough Road, 24m at the nearest point to the properties on Gilbert Grove and approximately 30m to the nearest property on Wellfield Bank. As a result of this separation distance, it is considered that the siting of the modular buildings and proposed scale of the development in relation to existing nearby residential development would not have a significant detrimental impact on the amenities of these residential properties.

Turning to noise considerations, the proposals to provide modular buildings would in part replace the existing outdoor playing courts. There would be no material increase in noise levels from the proposed modular buildings which would provide internal teaching/activities in comparison to the external use of the existing playing courts. It is recognised that there would be a greater concentration of children using the external play areas associated with the primary school but given the established nature of this hard surfaced play area it is considered that this use would not cause undue harm during normal

school hours. The proposals would therefore not conflict with Policy EP4 of the UDP.

Highway issues are addressed in more detail below. However, taking into account the impact on amenities of the nearby residential properties from

- a) construction traffic,
- b) deliveries/ refuse collection/emergencies, and
- c) trips by parents/visitors (drop off and pick up)

it is considered the proposals would not cause a significant adverse impact on the amenities of nearby residents. This is because the applicant has advised the construction programme is likely to last approximately 5 weeks. Within these 5 weeks works will commence initially to complete the access road into the site from Wellfield Bank, prior to the works commencing on the foundations for the proposed modular buildings and associated turnaround area. This will provide a suitable functional access into the site and enable the delivery of ready assembled modular buildings with heavy traffic coming over a period of approximately 5 days. On delivery of the modular buildings, it is accepted further construction vehicles will visit the site to complete the installation to allow the modular buildings to be connected to utilities and for these buildings to be kitted out ready for its intended use.

With regards to deliveries, these will include school meals to be delivered on a daily basis in school terms times. Furthermore it is advised the school meals will be prepared locally and be delivered by the same contractor on a daily basis just before lunch times through the proposed gated access from Wellfield Bank, outside the pick-up and drop off times. Any other deliveries and servicing will also be made through the gated access. With regards to refuse collection, this would not be significantly different to the current servicing of Wellfield Bank. Furthermore, the site would accommodate a turn around area for service vehicles to enter the site and leave in forward gear, therefore not resulting on vehicles being parked on Wellfield Bank. Other than when in use for servicing and in emergencies the gated access will remain closed/locked at all times which can be controlled by condition. This is discussed in more detail below.

To summarise, it is acknowledged the proposals would generate an increased level of traffic movement on the surrounding highway network, creating some level of noise and potential disruption to nearby residents. However, this would be primarily over a short period of time. In addition the proposed school start and finish times to be staggered from the start and finish times of the existing Moor End Academy, would potentially reduce the level of disruption caused to the nearby residents, which is generally the norm on surrounding streets in close vicinity of schools. Thereby reducing the times of disruption and not giving rise to significant levels of disruption to the amenities of nearby residents for a temporary period till December 2017.

Highway issues assessment by Highway Officers:

This is an application for the erection of portable modular buildings at Moor End Academy Dryclough Road Crosland Moor. The site is within school grounds which currently accommodate an existing academy for students aged between 11 to 16 years of age and provides extensive sports facilities including playing fields and hard surfaced play area. Its primary vehicular access is via Dryclough Road which is an unclassified adopted highway. The road can be described as a collector route which provides a link between Blackmoorfoot Road to the north and Beaumont Park Road to the south. There are currently two pedestrian access points into the site, from Dryclough Road and Waterwheel Rise. The site is approximately one mile from Huddersfield Town Centre.

Dryclough Road has standard zig-zag waiting restrictions outside the school entrance supported by a Traffic Regulation Order (TRO) and there are advisory no waiting driveway protection markings in place on some of the driveways close to the school. There are no waiting restrictions in place on Wellfield Bank.

The application is supported by a Transport Statement (TS) prepared by Sanderson Associates and a Design and Access Statement. These documents have formed the basis of the highways comments on this application.

The application is for the siting of pre-fabricated buildings to be used on a temporary basis for classrooms with a floor area of 750 m². The buildings have the capacity to accommodate 180 pupils which will be introduced 90 in the first year and 90 in the second year. The buildings will be sited on a hard standing area to the north of the site towards Wellfield Bank.

When considering such applications from a highways perspective the main consideration would be traffic generation and any impact on road safety and existing residents. The intention is to use the classrooms for children of primary school age which are more likely to travel to school by car. There is a proposal for 30 children to be transferred from nearby Dryclough Infants School which is 500 metres to the north of the application site. The applicant has confirmed this would form part of the initial 90 pupils thereby reducing the admission number of pupils to Dryclough Infants School.

In terms of general traffic impact, schools normally generate high traffic generation periods between 08:25 and 8:55 also 15:00 and 15:30 (depending on opening times) with only the morning drop off period having any impact on the highway network peak hours. The TS has assessed traffic impact in the morning peak hours only and from a general traffic impact Highways find that this is acceptable. The assessment of traffic generated is based on the TRICs database which is a nationally acceptable data source which forecasts 31 additional vehicle movements in the morning peak. This traffic generation figure does not include the fact that 20% of children attending will come from the nearby Dryclough Infants School. Highways concerns in terms of traffic

impact relates to the drop off space currently available on the highway network in the area around the school which would be occupied by children being dropped at the existing school.

The TS promotes staggered school opening times. This could decrease drop off/pick up space demand on the highway network. The applicant has advised that the

- primary school classes would start from 9am and finish at 3:30pm.
- classes at the existing Moor End Academy currently start at 8.50 with a view to start classes at 8:45am and finish at 3:15pm,

However, it is also acknowledged both schools opening times would be from 8am for breakfast clubs. Obviously this will potentially add parking the surrounding highway network, however the staggered opening times will help alleviate some of the traffic parking issues at peak times, these being approximately between 8.25 to 8.50am and 3 to 3.15pm, the periods during which the heaviest level of on-street parking occurs.

The introduction of Traffic Regulation Orders (TRO's) have also been considered but they are likely to transfer parking to other more unsuitable residential areas creating additional road safety issues. A parking survey in this area has been included in the TS and using the traffic generation figure it estimates that there will be a need to accommodate an addition 26 on street parking spaces. The TS indicates that with the introduction of staggered opening times, additional parking demand can be accommodated on the surrounding highways. Therefore, in general traffic terms Officers do not envisage any highway capacity issues arising as a result of the proposed development. On balance Highway Officers support the proposals subject to the opening times of the proposed school being staggered by 15 minutes from the opening times of the existing school on this site.

In terms of traffic impact at a local level Highway Officers do have concerns about access to the school at points where children could be dropped off or picked up which are likely to impact on road safety and residential amenity (addressed above).

Officers would not support a permanent increase in traffic on Wellfield Bank which has a residential highway layout and serves as access to a children's play area. However, it is considered that limited access during the construction period and some limited servicing access in the long term can be safely accommodated along Wellfield Bank. This should not include pedestrian access into the school or staff parking access from Wellfield Bank, both of which would attract additional traffic and on street parking detrimental to road safety and residential amenity.

The submitted plans have been amended to reflect concerns raised regarding pedestrian access/staff parking from Wellfield Bank and the gated access from here would now only provide a servicing access. Gates would be manually locked and would not admit pedestrians or staff parking, which would significantly reduce vehicle movements and parking in this area. The

majority of service vehicles would be associated with school dinners/meals and Highway Officers therefore estimate a maximum of 8 additional vehicle movements along Wellfield Bank, which would be acceptable. However to ensure this is controlled, a specific condition is recommended to cover this servicing access via a servicing method statement. In addition, the submitted plans indicate adequate turning facilities within the application site which again would be conditioned to be retained for this purpose, to reduce any reversing movements in the carriageway of Wellfield Bank.

It is proposed to utilise Wellfield Bank for construction access which raises similar concerns regarding parking, road safety from the local residents of Wellfield Bank. The siting of modular buildings does not require substantial vehicle movements as most of the “construction” of the building takes place off site.

The TS indicates a construction phase lasting around 5 weeks, during that period it forecasts 3 – 5 days when heavy vehicles will deliver the buildings and component parts to the site. It is anticipated, outside those days deliveries to site will be limited to light service traffic by construction workers associated with fitting the units out. Therefore, in this instance Officers are satisfied with the use of Wellfield Bank for construction traffic and subject to a construction method statement first being approved. This can be conditioned which shall include details of deliveries and parking areas for construction workers to be clearly shown within the site. An approved construction method statement would also reduce accident potential on a construction site where children will be in close proximity.

In addition, the implementation of additional TRO's in some of the connecting streets around the development, where pedestrian/cycling access exists or where it is proposed, has been considered by the Highways Development Management Team. However, in this instance given the application is for temporary buildings to be provided for a temporary period, it was not considered appropriate. Highway Officers, do however state TRO's could be considered if plans to create permanent facilities on the site come forward for consideration.

Conclusion of highway issues:

Educational establishments will always attract large number of car borne trips, which in this instance has been identified in the TS, and current Council policy is to promote more sustainable forms of transport. Whilst the application seeks permission for modular school buildings for a temporary period, the proposals are to ensure the demand is met in the interim period to allow a scheme to come forward for a permanent larger primary school in the school grounds. Although this is an application for the siting of temporary buildings in order to promote sustainable access for this and future applications for this site Officers consider it reasonable to request a Travel Plan, to include details for:

- the provision of 'live' and other bus/train information;
- provision of METRO passes;
- car sharing facilities
- the upgrade of bus stops and shelters where necessary;
- the introduction of working practices to reduce travel demand and
- the provision of on-site cycle facilities and information

and when these measures will be introduced. This will be included as a condition to which the applicant is agreeable to.

In addition, if this document is in place and operational it would assist any future planning application for a larger development on this site as it would have existing travel data and be able to forecast future travel patterns.

With regards to potential impact on road safety the TS provides accident data for the connecting highway network around the school. From the submitted information there have been 2 reported slight injury accidents on Dryclough Road in close proximity to the school in the last 5 years none of which involved pedestrians. Further along Dryclough Road towards its junction with Blackmoorfoot Road there have been a further 5 reported injury accidents. Of which 3 were slight on 2 serious injury accidents. Further examination shows that of these accidents 2 involved pedestrians of which 1 was a child and 1 was an adult.

From this information it would appear that there are no underlying road safety issues in this area that can be associated with the dropping off and picking up of children as Highway Officers consider:

- the local highway network has the capacity to accommodate the additional traffic generated by the development.
- access into the application site from Wellfield Bank can be controlled by condition and would only be used for construction traffic, deliveries/servicing and in emergencies.
- a construction method statement for works during the construction period and a servicing method statement once the development is brought into use is to be conditioned
- traffic and parking impact can be accommodated by the introduction of staggered class start and finish times for the existing and proposed schools
- on review of the submitted accident data there are no underlying road safety issues around the school and of the reported accidents over the last 5 years. Only one involves a child pedestrian.
- Condition a Travel Plan
- The access to the site is permeable with several pedestrian cycle access points around its boundary.

On this basis the Highways Development Management Team can see no sustainable highways reason to object to this application subject to the above suggested conditions, should Members be minded to approve the application.

Objections:

Addressed above

Other issues:

Environmental Health Officers, on assessment of the submitted contaminated land report by RGS, agree with its findings/recommendations which identifies measures to protect the new building. Therefore, a full remediation strategy will be required before development commences. This can be conditioned. This would be in accordance with Policy G6 of the UDP and Chapter 11 of the NPPF which seek to prevent new and existing development being adversely affected by unacceptable levels of pollution.

Conclusion:

The proposals are for temporary buildings required to accommodate the demand and need for a community use, in particular a school facility. Given the minimal impact on visual amenity and surrounding highway network has the capacity to sufficiently accommodate the traffic likely to be generated by the proposals.

In addition the site would be re-instated following removal of the building, in accordance with a scheme of replanting, the purpose of the development would outweigh any harm caused by the temporary loss of this area of urban greenspace.

9. RECOMMENDATION**GRANT TEMPORARY PERMISSION UNDER REGULATION 4**

1. The modular buildings shall cease use on 31st December 2017. Before May 2018 the modular buildings shall be wholly demolished and the land shall be restored to its condition prior to the implementation of the development.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence
3. Prior to the modular buildings being brought into use, the pedestrian access points as shown on drawing no. A01 rev A, namely from Dryclough Road and Gilbert Grove shall be provided and made operational and retained thereafter whilst ever the modular buildings are in use.

4. Prior to the modular buildings being brought into use, details of the start and finish times for the use of the modular buildings as classrooms, which shall be staggered from the school hours of the main building constituting Moor End Academy, shall be submitted to and approved in writing by the Local Planning Authority. The temporary school shall operate within the times specified thereafter. The times of operation of the breakfast and after school clubs at Moor End Academy are unaffected.

5. The gated vehicular access proposed from Wellfield Bank as shown on drawing no. A04 Rev A, shall remain locked at all times other than when used in association with servicing of the site, including construction traffic, deliveries and in emergencies only.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) there shall be no staff or pedestrian access to the development from Wellfield Bank

7. Prior to first use of the temporary school a method statement setting out how the hereby approved development will be serviced including details of:

- times of servicing,
- the size and type of vehicle that will service the site,
- loading and unloading of vehicles, and
- how servicing will be managed including the control of the access gate onto Wellfield Bank

shall be submitted to and approved in writing by the Local Planning Authority. The temporary school shall be serviced in accordance with the approved details for the lifetime of the development.

8. The modular buildings shall not be brought to site until the access road from Wellbank and the turning area as shown on approved drawing no. A04 Rev A has been made operational.

9. The modular buildings shall not be brought into use until all areas indicated to be used access and servicing on the submitted plans have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the uses specified on the submitted/ plans

10. Prior to the commencement of development, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

- point of access for construction traffic,
- construction workers parking facilities
- times of use of the access,
- turning/manoeuvring facilities,
- vehicle routing of construction traffic to and from the site
- traffic management,
- signage,
- where vehicles will be loaded unloaded, and
- mud prevention measures
- Hours of construction and construction deliveries

The hereby approved development shall thereafter be carried out in complete accordance with the approved details

11. Within the first 3 months of any part of the development being brought into use, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include measures to improve and encourage the use of sustainable transport. The measures will include as a minimum:

- the provision of 'live' and other bus/train information;
- provision of METRO passes;
- car sharing facilities
- the upgrade of bus stops and shelters where necessary;
- the introduction of working practices to reduce travel demand and
- the provision of on-site cycle facilities and information.

The Travel Plan will include details of when these measures will be introduced. To support the promotion of the use of sustainable modes the travel plan will also include: how the travel plan will be managed; targets aimed at lowering car use, particularly single occupancy trips, from/to the site; a programme for monitoring the travel plan and its progress and how the travel plan and its objective of more sustainable travel will be promoted. The approved travel plan shall thereafter be adhered to at all times

12. Development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition no. 12. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

14. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Footnote to be applied to all applications

All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those documents.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan showing proposed and existing pedestrian access points into site	A01	A	21 st Mar 2016
Topography and Services plan	A02		17 th Feb 2016
Contractors access & Compound	A03		17 th Feb 2016
Site Layout/block plan	A04	A	21 st Mar 2016
Site sections elevations extents	A05		17 th Feb 2016
Option A	A06		17 th Feb 2016
Option B	A07		17 th Feb 2016

Application No: 2015/91832

Type of application: 70m - REMOVAL/VARIATION OF CONDITION

Proposal: Variation of conditions 27 (hours of opening) and 39 (floodlights) on previous permission 2011/92600 for demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocate existing sub station

Location: Lidl UK GmbH, Huddersfield Road, Holmfirth, HD9 7AG

Grid Ref: 414370.0 408795.0

Ward: Holme Valley South Ward

Applicant: Lidl UK GmbH - C/O Agent

Agent: Rebecca White, Nathaniel Lichfield & Partners

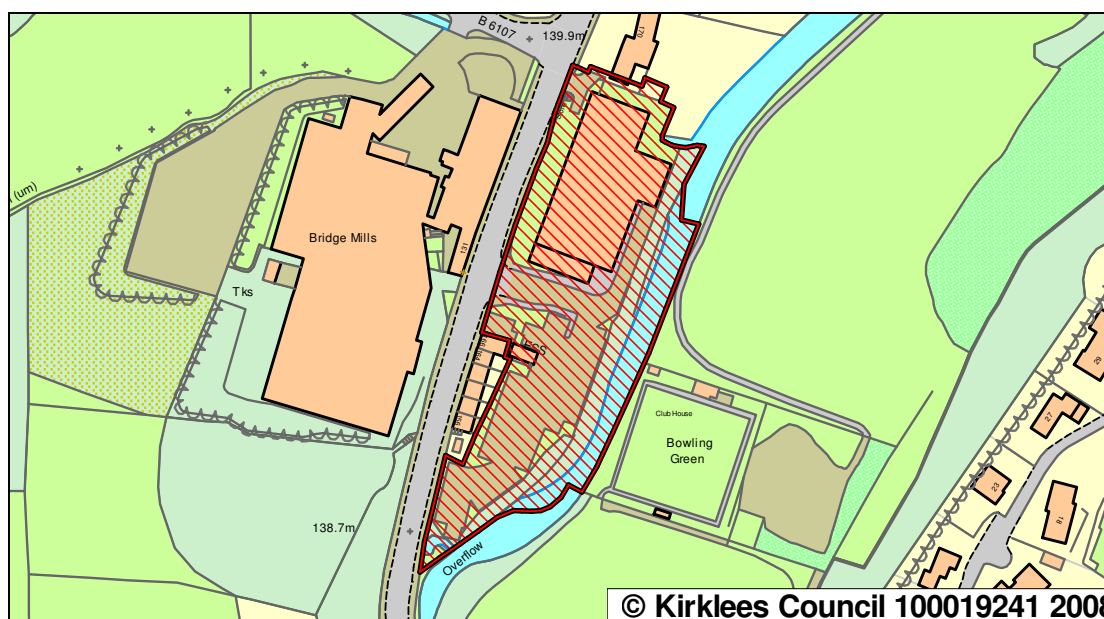
Target Date: 13-Oct-2015

Recommendation: RMC - REMOVAL OR MODIFICATION OF CONDITION(S)

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

Application Details		
Type of Development	Application for variation of conditions relating to hours of opening from and hours of use of floodlights. Proposed to change hours of opening from 7am to 8pm Monday to Sunday to 7am to 10pm Monday to Sunday. Proposed to allow floodlights to be used up to 11pm instead of 9pm.	
Scale of Development	Site area: 0.75 hectares	N/A
No. Jobs Created or Retained	Unknown	
Policy		
UDP allocation	Unallocated	
Independent Viability Required	N/A	
Consultation/Representation		
Individual Support (No.)	N/A	
Individual Objection (No.)	2	
Petition	N/A	N/A
Ward Member Interest	Yes	Ward Cllr Nigel Patrick
Statutory Consultee Objections	No	
Contributions		
• Affordable Housing	N/A	
• Education	N/A	
• Public Open Space	N/A	
• Other	N/A	
Other Issues		
Any Council Interest?	No	
Pre-application planning advice?	No	
Pre-App Consultation Undertaken?	No	
Comment on Application	A temporary (12 month) permission is considered acceptable to allow a ‘trial run’ in which to assess the impact of the proposed change to the hours on the amenity of adjacent residential properties.	

RECOMMENDATION: APPROVE TEMPORARY 12 MONTH PERMISSION

2. INFORMATION

The proposals are brought forward to the Huddersfield Planning Sub-Committee for determination in accordance with the Council's Scheme of Delegation at the request of Ward Councillor Nigel Patrick

"Given that you have received objections from 2 of the residents and given that we had an agreement with the store on opening hours for the benefit of the amenity of the residents as a condition of the store being allowed to be built, I would not agree to a 12 month trial, and as such if that is the officer recommendation then can I ask that it goes to committee with a site visit. It is possible that some of the residents do not know about the application to extend the opening hours and keep the lights on longer. These residents live right next to the store, overlooking the car park which is lit when the store is open. The extension of hours will affect them all year with light pollution and noise. The light pollution through rear windows will be worse during the winter months. I remain disappointed that Lidl have done this.

When the initial planning application was made by Lidl for the store public meetings were held and I can remember residents attending those meetings express concerns about the opening hours. Conditions were placed on Lidl which Lidl agreed to. To attempt to extend the opening hours now puts profits before the amenity of those residents. That's why we need planning conditions to be kept in place."

The Chair of Sub Committee has confirmed that Cllr Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

Site Description

The application relates to a 0.75 hectare site which is accessed from Huddersfield Road. This is now occupied by Lidl supermarket, along with associated parking areas. It was formerly occupied by a traditional mill complex.

The site is located approximately 400m north of Holmfirth town centre on Huddersfield Road, which abuts the western boundary of the site along with a row of six stone-built terraced properties. The River Holme forms the eastern boundary of the site (with recreation grounds beyond), at a lower level below a retaining wall (the site slopes from west to east), while residential properties lie adjacent to the northern boundary. The southern boundary tapers off where the River Holme abuts Huddersfield Road.

Proposal

The application is for variation of condition 27 (hours of opening) and condition 39 (floodlights) on previous permission 2011/92600 for demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocation of existing sub-station.

Condition 27 states:

“The store hereby permitted shall not be open to customers outside the hours of 0700 to 2000 Monday to Sunday inclusive, other than on up to ten occasions per annum when the store is permitted to open until 2200 hrs.

Reason: *In the interests of safeguarding the amenities of residents arising from noise; and to accord with Policies D2 and EP4 of the Unitary Development Plan, and national planning policy guidance in PPG 24.”*

Condition 39 states:

“The floodlights hereby approved shall not be operated between the hours of 2100 to 0730 on any day of the week.

Reason: *In the interests of safeguarding the amenities of residents arising from stray light during unsociable hours / night-time; and to accord with Policies D2 and EP4 of the Unitary Development Plan, and national planning policy guidance in PPS 23.”*

The applicant wishes to vary condition 27 to read:

“The store hereby permitted shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive.”

Linked to this, the applicant also wishes to vary the hours of operation of the floodlights set out by condition 39 as follows:

“The floodlights hereby approved shall not be operated between the hours of 2300 to 0730 on any day of the week.”

4. BACKGROUND AND HISTORY

2011/92600 – Demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocate existing sub-station. – Approved

2012/92642 - Installation of illuminated signs. – Granted at appeal.

2012/91305 – Discharge of conditions 11 & 14 on previous permission

2011/92600 - Approved

2014/93963 - Advertisement consent for erection of 1 illuminated fascia sign - Granted.

5. PLANNING POLICY

The site is unallocated in the UDP.

Kirklees Unitary Development Plan:

- **D2** – land without notation on the proposals map
- **BE1** – Design Principles
- **EP6** - Development and Noise

National Planning Policy Framework:

- Core Planning Principles
- Chapter 8 – Promoting Healthy Communities
- Chapter 11 – Conserving and Enhancing the Natural Environment

Other considerations:

Planning Practice Guidance

6. CONSULTATIONS

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

K.C. Environmental Services – Agree with the conclusions of the noise report regarding the minimum impact on ambient noise levels at the rear of existing residential properties that would result from the change to the store opening hours. However, it is recommended that a 12 month temporary consent is granted to assess the impact on noise when operational. A 12 month temporary consent will also allow the impact of the floodlighting on adjacent residential properties to be assessed.

West Yorkshire Police Architectural Liaison Officer – Following consultation with the Neighbourhood Policing Team no objections.

7. REPRESENTATIONS

The application has been advertised by neighbour letter, newspaper advertisement and site notice. This publicity period expired on 31st July 2015.

Two representations have been received which are in objection to the application. The objectors' properties lie to the west of the site and back onto the Lidl car park. The points raised are summarised as follows:

- Extended opening times will mean more traffic, noise and pollution
- Floodlights will result in light pollution and impinge on privacy

- The removal of trees within the site has meant that floodlights belonging to the adjacent bowling club are affecting residential properties
- Promises have been made with respect to car park security (eg gates/bollard system), but no such measures are in place
- Car park is being used as an extension of Sands recreation ground
- Existing problems of anti-social behaviour would worsen if the hours are extended
- Supermarket appears to be little used by 8pm already – see no reason why they need to extend the hours
- Profits of Lidl should not be put before resident's quality of life

Ward Councillor Nigel Patrick has emailed about the application and stated on the 10th July 2015,

"I object most strongly to this application. The reason the condition was put on in the first place was to protect the amenity of the neighbouring residential properties and that has not changed. Frankly I am very disappointed with Lidl, having agreed to a number of conditions to enable planning permission for the store it would appear that one by one they are applying to vary those conditions. One example was the number of signs on the store. That was to be minimal, but they have applied for more signage since the store was opened. Conditions are there for a reason, in this case with the residents in mind and the original conditions for opening hours and flood lights should remain in place."

Cllr Patrick also emailed on the 29th September 2015. The detail of this email is set out in the 'Information' section above.

Holme Valley Parish Council – *"Object to the application - Condition 27 should stand (as noise potential still exists). Condition 39 should stand as well, due to floodlights having a detrimental impact on neighbouring properties."*

8. ASSESSMENT

The applicant wishes to vary condition 27 (of permission 2011/92600) to allow the following opening hours:

"The store hereby permitted shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive."

Linked to this, the applicant also wishes to vary the hours of operation of the floodlights as follows:

"The floodlights hereby approved shall not be operated between the hours of 2300 to 0730 on any day of the week."

The applicant's supporting statement contends that *"the restrictions placed upon the opening hours are having a harmful effect on (Lidl's) ability to successfully operate the store."*

The applicant has expanded on the above statement with the following:

"The NPPF states that, in pursuit of sustainable development, the planning system should support existing business, and take into account their plans to expand. Paragraph 26 also places emphasis upon the need to enhance local consumer choice. Indeed, shopping habits generally have changed markedly over recent years and flexibility is now fundamental to the success of many retail operators' business models. The extension to Lidl's opening hours would ensure the long-term successful operation of the store, and better meet the needs of the local community of Holmfirth by offering increased flexibility and choice for customers. In addition, the application site is located just 450m walking distance from Holmfirth Town Centre, and would be likely to result in additional linked trips to other in-centre facilities".

With regard to the proposed extension of hours for the floodlights, the applicant's supporting statement states, *"This is in order to facilitate the safe operation of the store, reducing the opportunity for crime and improving safety around the store."*

The applicant has expanded on the above statement with the following:

"The NPPF also makes clear that planning decisions should create safe and accessible environments in terms of crime and disorder. It is widely accepted that passive surveillance is one of the key tools in reducing crime. Through the provision of extended opening hours and floodlighting, and the associated activities of staff at the store, passive surveillance during these times would be significantly improved; thereby enhancing the overall amenity of the local area".

For information, condition 28 of consent 2011/92600 remains in place (with no variation proposed) and states:

"Unless otherwise agreed in writing by the Local Planning Authority, there shall be no deliveries to or dispatches from the store outside the hours of 0730 to 20.00 Monday to Saturday, and 1000 to 1600 Sundays and Bank Holidays inclusive."

In terms of Policy context, paragraph 18 of the NPPF states that, *"The Government is committed to securing economic growth in order to create jobs and prosperity."*

The applicant has stated that *"The new opening hours will result in additional contractual hours becoming available for existing Lidl staff, many of whom live locally and in turn spend their own money in other local shops and services in Holmfirth Town Centre. This increase in pay would therefore have a knock-on*

positive impact upon the health of the local economy and other Town Centre services”.

Officers consider that the extension of the supermarket's opening hours would help to support the overarching principle of economic growth. This is subject to balancing this benefit against the impact of such changes on the amenities of nearby residents.

Impact on amenity:

The impact of the proposed alterations to hours (of the store & floodlights) has been considered in conjunction with colleagues from Environmental Services and in relation to Policies BE1, D2 and EP6 of the UDP and Chapter 11 of the NPPF.

The closest residential properties to the site are number 170 Huddersfield Road (to the north) and numbers 156, 158, 160, 162, 164 & 166 Huddersfield Road which border part of the western boundary of the site.

Noise:

Environmental Services initially raised concerns with the variation to the store opening times. This was on the basis that the residential properties that lie to the west of the site have their only external amenity space to the rear which borders the supermarket car park. Therefore the extension of the store opening times could increase the potential for noise disturbance to these neighbouring residents.

In response to these concerns a noise report has been submitted by the applicant. The report concludes that the later opening hours would have the minimum effect on ambient noise levels at the rear of the properties to the west of the site. The level and nature of noise that is likely to be associated with the two hour extension to the store opening time would not significantly affect the acoustic character of the area, and not to an extent that it would have any significant impact on the living conditions of neighbouring residents.

Environmental Services concur with the conclusions of the noise report. The measured noise levels are typical for an urban environment such as this and the report demonstrates that the use of the car park by Lidl customers during the additional opening hours would have negligible effect on the ambient measured noise at the rear of the nearest residential properties (156-166 Huddersfield Road). Nevertheless, it is considered that the proposed opening hours are restricted to a 12 month temporary permission to enable the noise impacts to be assessed during this period.

Environmental Services have not received any complaints in respect of the use of the car park since the store opened although a representation from one of the adjacent residential properties to the west of the site states that the extended opening hours will result in more noise, for example from the slamming of car doors and engines running. Officers recognise that in certain

circumstances loud intermittent noise can be problematic however it is considered that intermittent noise associated with the car park use would not generally be of a nature that would cause serious annoyance. The noise report comments that:

“Subjective aural observations during the noise survey were that noise associated with cars entering the store car park/parking-up/leaving the store car park was audible but did not alter the acoustic character of the area and would not have given rise to any change in behaviour. Noise associated with the A6024 Huddersfield Road remained dominant.”

Given the conclusions of the noise report and the absence of any formal noise complaints relating to the use of the car park since the supermarket opened, Officers are of the opinion that a 12 month temporary consent to enable a ‘trial run’ in which the noise impacts of the extended opening time can be assessed is acceptable.

Light spill:

The extension to the operation of the floodlighting is necessary to facilitate the extended store opening times.

The proposed change to the floodlighting would mean that any light spill or glare that currently affects the adjacent residential properties would be extended later into the evening where it could potentially have more of a perceived effect on living conditions. Having said that, the external lighting for the site has been designed to minimise light spill, with siting, design and specification details approved under the original application.

The approved lighting scheme for the car park has a maintained average illuminance level across this car park of 10 lux, with a uniformity of 0.25. To put these figures into context, The Chartered Institute of Building Services Engineers (CIBSE), in their Lighting Guide 6 (LG6 The Outdoor Environment 1992) recommend a level for external car parks of between 10 and 20 lux, with a uniformity level of 0.25 to enable a safe/secure environment for pedestrians/vehicles. The proposed lux level at the Lidl car park is therefore at the lower end of the recommended range with the uniformity figure correct for this type of car park.

The approved lux level (10) within the car park is also at the lowest end of the range in relation to published guidance from the Institute of Lighting Engineers regarding the reduction of light pollution. The site is within an urban area with a mixture of uses including residential and in such locations the average lux level is recommended to be an average of 30 lux with a minimum of 10 lux.

The approved lighting scheme for the car park does not exceed industry standards and there have not been any complaints to Environmental Services relating to the operation of the floodlighting since the store opened. Both objectors have raised concerns with the potential impact of the extended use of the floodlights although the representations do not suggest that the lighting

to the car park is currently causing any particular problems. A specific issue with floodlighting at the nearby bowling club has been raised but this is a separate matter and would appear to have been resolved.

Whilst the lighting would be extended later into the evening period, it is worth commenting that the floodlights would not be in use during the 'night-time' period of 11pm to 7am when it is generally accepted that the average person should expect to be able to sleep without light/noise issues affecting them. This 11pm to 7am night-time period is established by numerous industry standards.

As no physical changes to the floodlighting are being proposed and in the absence of any formal complaints relating to the existing use of the floodlights it is considered that a temporary permission allowing a 12 month 'trial run' would be appropriate in order to assess the impact of the later operation of the floodlighting on adjacent residential properties.

Conclusion:

In conclusion, whilst this is a finely-balanced case, it is considered that a temporary permission can be justified in planning terms and when balanced against the benefit of supporting economic growth.

If complaints about noise or nuisance associated with the supermarket are received during the trial period and these complaints are substantiated then it is unlikely that the extension to hours of either the store or floodlighting would be supported by Officers on a permanent basis.

It should be noted that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. Also, there is no presumption that a temporary grant of planning permission should be granted permanently.

The proposed variation to conditions 27 & 39 is considered acceptable subject to a temporary consent. The application satisfies Policies BE1, D2 and EP6 of the UDP and chapter 11 of the NPPF.

Highway safety:

It is considered that the proposed extension of hours would not have any material impact on highway safety and thus the application accords with policy T10 of the Kirklees Unitary Development Plan.

Other matters:

The NPPF states at paragraph 58 that planning decisions should aim to achieve places which promote 'safe and accessible environments' where crime and disorder, and the fear of crime, do not undermine quality of life."

West Yorkshire's Police Architectural Liaison Officer has been consulted on the application and has commented as follows:

"I have no comments adverse to the approval of this planning application.

I have consulted with the local area's Neighbourhood Policing Team, and am informed that they are not aware of any significant problems that would necessitate an objection to the application.

With regard to the possibility of youths congregating in the vicinity of the store and car park, it is likely that the store closing at the later time of 10pm would increase routine surveillance there later into the evening, and help to deter incidents of nuisance."

The Police Architectural Liaison Officer has confirmed that there have been no reported instances of anti-social or criminal behaviour associated with the use of the car park since the above comments were made (as of end of April 2016).

Representations:

Insofar as representations received that have not been addressed in the above assessment these are answered as follows:

- Extended opening times will mean more traffic, noise and pollution
- Floodlights will result in light pollution and impinge on privacy

Response: The impact on noise and light pollution has been addressed above. With regard to any other forms of pollution, such as air pollution associated with vehicles, it is considered that the increased activity resulting from the later opening hours is likely to be relatively limited and would not significantly alter the existing situation. In terms of the impact on privacy, it is considered that the later opening times would not materially affect the privacy of neighbouring residents given the established opening hours of the store.

- Car park is being used as an extension of Sands recreation ground

Response: The use of the car park by non-Lidl customers is a matter for the applicant to control.

- Existing problems of anti-social behaviour, which would worsen if the hours are extended

Response: The local Neighbourhood Policing Team has been consulted and raised no objections as noted above.

- Promises have been made with respect to car park security (eg gates/bollard system), but no such measures are in place

Response: The application has been assessed on its planning merits based upon the information submitted. Specific security measures are a matter for the applicant.

- The removal of trees within the site has meant that floodlights belonging to the adjacent bowling club are affecting residential properties

Response: Both of the objectors have cited an issue with the floodlighting at the nearby bowling club which arose when some trees were removed within the application site. This problem would appear to have now been resolved. This is a separate issue and is not material to the assessment of this application. It is nevertheless worth noting that the specification of the Lidl car park flood lighting is likely to be different to that of the bowling club.

- Supermarket appears to be little used by 8pm already - see no reason why they need to extend the hours

Response: Noted but this statement does not materially affect the assessment of the application.

- Profits of Lidl should not be put before resident's quality of life

Response: Noted. Weight has been apportioned in the consideration of residential amenity and supporting economic growth.

10. RECOMMENDATION

APPROVE TEMPORARY 12 MONTH PERMISSION

New/varied conditions:

1a. Except for the circumstances referred to in condition 1b, the store shall not be open to customers outside the hours of 0700 to 2000 Monday to Sunday inclusive, other than on up to ten occasions per annum when the store is permitted to open until 2200 hrs.

1b. Notwithstanding the requirements of condition 1a, for a 12 month trial period commencing from (date of approval of the application) the store shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive. At the end of the 12 month trial period condition 1b shall expire and condition 1a shall thereafter apply in its entirety.

2a. Except for the circumstances referred to in condition 2b, the floodlights within the site shall not be operated between the hours of 2100 to 0730 on any day of the week.

2b. Notwithstanding the requirements of condition 2a, for a 12 month trial period commencing from (date of approval of the application) the floodlights within the site shall not be operated between the hours of 2300 to 0730 on any day of the week.

Existing conditions to be re-imposed:

3. There shall be no deliveries to or dispatches from the store outside the hours of 0730 to 20.00 Monday to Saturday, and 1000 to 1600 Sundays and Bank Holidays inclusive.

4. The net sales area of the store hereby permitted shall not exceed 1,063m² and the floorspace devoted to the sale of comparison goods within this net sales area shall not exceed 213 m².

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 as amended (or any Order revoking or re-enacting that Order) no extensions to the store either on or projecting beyond the northern elevation included within Class A of Part 7 of the Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Supporting letter	Prepared by NLP & dated 4/6/15	-	17/6/15
Noise Report	Prepared by ENS Ltd & dated 15/3/16 (NIA/6522/16/6445/v2)	-	15/3/16

Application No: 2016/90373

Type of application: 62 - FULL APPLICATION

Proposal: Change of use of 1st floor room to taxi office

Location: Pink Fusion Lounge, Sheffield Road, New Mill, Holmfirth, HD9 7JT

Grid Ref: 416276.0 408823.0

Ward: Holme Valley South Ward

Applicant: Mr Mohammed Abaidullah

Agent: P F Holleworth

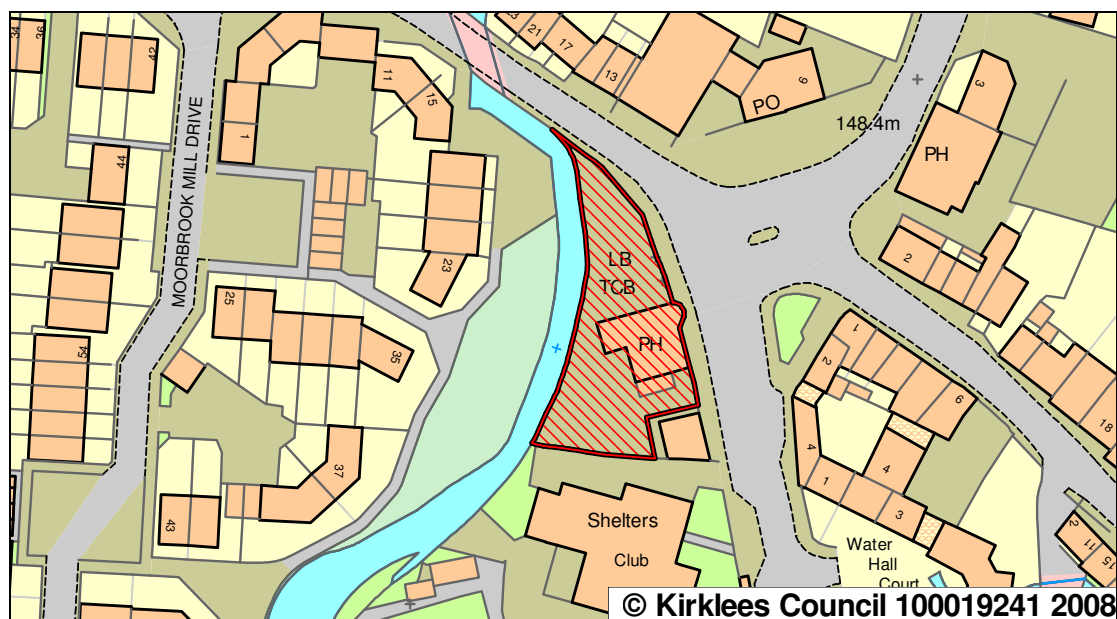
Target Date: 13-May-2016

Recommendation: FC - CONDITIONAL FULL PERMISSION

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The application seeks full permission to operate a taxi office following a temporary 12 month trial run to assess the impacts of the development on highway safety and residential amenity. There is no demonstrable evidence to suggest that the development has given rise to any significant or undue harm during the trial period and in such circumstances the application is considered to be acceptable.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application is brought forward to the Huddersfield Planning Sub-Committee for determination at the request of Ward Councillor Nigel Patrick. Councillor Patrick's reason for making the request is:

"My concerns are with taxis parking at the site and at other sites where they have no planning permission to park and where they have no license to park. That creates noise nuisance and highways safety issues. Once the Midlothian site is developed the taxis will have to find another site. It is unacceptable to me that planning permission can be permitted without controlling where the taxis park".

The Chair of Sub Committee has confirmed that Cllr Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

3. SITE DESCRIPTION/PROPOSAL

The application site is the former Duke of Leeds public house which is now used as a restaurant (Pink Fusion Lounge). The building is two storeys in height and constructed of brick with a tiled roof. There is designated parking to the north and south of the building. The application relates to a first floor room at the rear of the property; an external staircase (fire escape) at the rear of the building provides access to the first floor level.

The application seeks permission to operate a first floor room within the building as a taxi office. The taxi office has already been operating under a temporary one year permission that was allowed on appeal under application reference 2014/91811. The applicant is now seeking a permanent permission.

The application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/comfort breaks.

4. BACKGROUND AND HISTORY

2014/91811 Change of use of 1st floor room to taxi office – Refused on highway safety grounds and appeal upheld (temporary permission granted)

5. PLANNING POLICY

Development Plan:

The site is unallocated on the UDP Proposals Map

- **D2** – land without notation on the proposals map
- **S15** – Control and administration of private hire vehicles
- **EP4** – Noise-sensitive and noise-generating development
- **T10** – Highway safety

National Policies and Guidance:

- NPPF - Core planning principles
- NPPF chapter 3 – Building a strong competitive economy
- NPPF chapter 8 – Promoting healthy communities
- NPPF chapter 11 – Conserving and enhancing the natural environment.

Other considerations:

Planning Practice Guidance

6. CONSULTATIONS

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highways Development Management – No objections

KC Environmental Services – No objections subject to conditions on the previous permission being repeated

KC Licensing – Confirm that there has been a private hire operating licence in place at the premises since the planning was granted under the name of New Mill Cars. No complaints have been received in relation to this business since planning permission was approved. No specific objections raised to the application.

7. REPRESENTATIONS

Application advertised by site notice and neighbour letters

Representations: 2 received

Representations summarised as follows:

- Application site includes land not within the applicant's ownership (Land Registry documentation has been provided to support this assertion)
- Unclear how many drivers will be operating from the site
- Increased traffic accessing the site (across a pavement) poses a danger to public safety, particularly the elderly living in nearby sheltered housing
- Increased traffic and congestion in New Mill
- Surrounding area will be 'clogged up' with taxis waiting for fares; this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road
- Pink Fusion car park is small and fills up quickly with customers
- Taxi office unsuited to this location

Holme Valley Parish Council – "Support the application"

Councillor Nigel Patrick – Councillor Patrick has raised noise and highway safety concerns in relation to taxis parking at the application site and at other sites where they do not have permission/licence to park.

Councillor Patrick has made the following comment on the application (16/3/16):

"You may have no objections (from Highways or Environmental Services) because the taxis are parking on private land at the Midlothian site and not in New Mill. The Midlothian site was approved for housing last Thursday and I expect the owners to fence off the site. So where are the taxis going to park? As far as I know they do not have a license or planning permission or consent from the owner to park at the Midlothian site. I've had complaints from residents about taxis using that site. So where will they be parking or are you not concerned about that? If you approve the application I'd like to see a condition put on it about taxi parking. There is insufficient information in the application to tell us where they intend to park. I don't want to see them parking in the middle of New Mill. I don't want to see them parking in New Mill Car Park. I want to see the parking controlled in the interests of road safety and the amenity of local residents. That's where the noise, the disturbance and the road safety issues originate.

In addition I understand that there is a possibility that some of the land shown in the application belongs to a neighbouring property. Has that been addressed?"

8. ASSESSMENT

Background:

Application 2014/91811 for change of use of 1st floor room to taxi office was refused in August 2014 on the following grounds:

“The application site provides insufficient parking space for the number of private hire vehicles operating from the proposed taxi office without significantly reducing the level of parking provision for the existing restaurant; this would displace vehicles associated with the restaurant to other locations and encourage indiscriminate parking on the surrounding highway network which would not be in the interests of highway safety. Further, the parking space within the application site is not guaranteed to be available at all times for the use of the private hire vehicles and consequently this is likely to lead to taxis parking on the public highway or displacing vehicles from public parking areas. The application is therefore considered to be contrary to Policies T10, S15 and D2 of the Unitary Development Plan.”

An appeal against the refusal was allowed in February 2015. This allowed a temporary 12 month permission to assess the effect of the development upon both parking/highway safety and the amenity of local residents. The permission limited the number of licensed hire vehicles parking or waiting in the car park to 2 vehicles and prevented the picking up or depositing of passengers and no waiting by passengers at the taxi office; this was in the interests of highway safety and the living conditions of local residents.

General principle:

Application 2014/91811 has established the principle of development and it is considered that the principle of development remains acceptable subject to highway safety and amenity considerations in the context of Policies D2 and S15 of the UDP.

The 12 month permission was intended as a ‘trial run’ to assess the effect of the development upon both parking/highway safety and the amenity of local residents; these are the two main issues for consideration.

It should be noted that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. Also, there is no presumption that a temporary grant of planning permission should be granted permanently.

Highway safety:

Highways Development Management has not raised any objections to the application. Consultation has been carried out with the Council’s Highway Safety Team who monitor issues in the New Mill area. The only issues arising in the area are associated with itinerant parking associated with a nearby

takeaway which is not associated with the taxi office. Kirklees Licensing have also confirmed that no complaints have been received since the temporary permission was granted on appeal.

Two objections have nevertheless been received in response to the publicity of the application. One of the objections raises general highway safety concerns relating to an increase in the number of vehicles accessing the site. The other objection raises more specific concerns about the surrounding area becoming 'clogged up' with taxis waiting for fares if the application is approved; the objector states that this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road – both of these locations are within the immediate vicinity of the application site. There is however nothing to suggest that the taxis referred to are associated with the applicant.

In the absence of any recorded highway problems that are directly associated with the taxi business operating from the site there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on parking/highway safety. This is subject to the same limitations being imposed on the number of taxis operating from the site at any one time when the restaurant is open to the public (maximum of 2) and in relation to the picking up, depositing and waiting by passengers at the taxi office. Such restrictions would ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on highway safety, particularly with regard to customer vehicles from the restaurant being displaced onto the surrounding highway network. In the circumstances the application is considered to comply with Policies T10, D2 and S15 of the UDP.

Amenity:

Environmental Services have been consulted and have commented that to date there have been no complaints received about the taxi business operating from this site. The Planning Service and Kirklees Licensing have also not received any complaints about the business operating from this site.

In the absence of any complaints having been received it is assumed that the taxi office is operating without causing any significant harm to the living conditions of local residents. As such there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on local amenity.

Environmental Services have recommended that the conditions on the previous permission are repeated in terms of limiting the number of taxis operating from the site and preventing the picking up or depositing of passengers and no waiting by passengers at the taxi office. This would ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on the living conditions of nearby residents.

Condition 3 on the temporary permission restricted the number of taxis waiting at the premises to 2 no. at any one time when the restaurant is open to the public; this was to ensure that significant numbers of taxis did not regularly wait in the car park and displace customers of the restaurant onto the surrounding sections of highway. However, the appeal Inspector also commented that the risk of noise disturbance to nearby residential properties could be alleviated by limiting the number of taxis that could park in the restaurant car park at any one time, and not just when the restaurant is open to the public. Notwithstanding, the wording of the condition is such that it does not restrict the number of taxis waiting at the site when the restaurant is not open to the public, including during the night after the restaurant has closed.

Condition 3 does not therefore significantly alleviate the risk of noise disturbance late at night and early in the morning as the number of vehicles that could park is unrestricted (in planning terms) once the restaurant closes to the public.

Information submitted with the application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/toilet breaks.

Taking into account the appeal Inspector's commentary on residential amenity issues and the proposed use of the site by the taxi business (as described above) Officers consider that it is reasonable to re-word condition 3 so that it restricts the number of vehicles parked/waiting at the site to 2 no. when the restaurant is open to the public (on highway safety grounds) and throughout the night once the restaurant is closed (on residential amenity grounds). It is considered that a restriction up to 08:00 would be reasonable to reduce the risk of disturbance to nearby residential properties during unsociable hours once the restaurant closes. Online information indicates that the restaurant is open 17:00 to 22:30 with slightly later opening on Fridays and Saturdays (23:00).

Subject to the aforementioned conditions, the application complies with Policies D2 (v) and S15 (ii) of the UDP.

Representations:

Councillor Nigel Patrick has raised concerns around where taxis are parking. It has been suggested that there may not have been complaints about taxis associated with this business parking at the application site because they park on private land away from New Mill at the former Midlothian garage site (and are causing problems in that particular area). Councillor Patrick considers that a condition is necessary to control where taxis park because it is when taxis park in the centre of New Mill and New Mill car park when noise, disturbance and highway safety issues arise.

Kirklees Licensing have commented that New Mill Cars are linked to Honley & Holmfirth Cars based at Queens Business Park, Huddersfield Road, Honley. Licensing Officers are of the understanding that this is where most of the applicant's vehicles wait between jobs because they have rest facilities there.

With regard to the separate site referred to by Councillor Patrick (former Midlothian garage), Licensing have confirmed that a licence is not required to park here. The licensing requirements are for the booking office, vehicle and driver. Licensing has no control over parking away from booking offices other than if it is believed a driver is "plying".

Whilst New Mill Cars, which are the taxi firm registered at the application site, operate more than two vehicles there is nothing to suggest that any more than two taxis have been using the Pink Fusion Lounge car park at any one time when the restaurant is open to the public, in accordance with the temporary permission. The application indicates that the business has two drivers based in the New Mill area which use the Pink Fusion Lounge and information from Licensing suggests that other vehicles associated with New Mill Cars park at a separate registered site in Honley.

Cars parking at other locations, such as the former Midlothian garage site, public car parks or the public highway, cannot be controlled through the planning or licensing regimes. In terms of this application it is only possible to control how the private hire business operates from the site. A planning condition which sought to control where taxis park away from the site would not meet the relevant tests for planning conditions and would not be enforceable.

The concerns raised by the two objectors have been addressed through the above assessment. It is however worth commenting that the intensification in the use of the access beyond that which takes place with the existing restaurant at the site as a result of the development is considered to be modest and not significantly detrimental to highway safety.

One of the representations queried land ownership issues. In summary it was alleged that the application site included a small area of land adjacent to a neighbouring property that was not within the ownership of the applicant or the Pink Fusion Lounge. Land Registry documentation was provided to substantiate the allegation.

This issue has been resolved through the submission of a revised location plan with an amended red line. The change to the red line is very small and involves the removal of a narrow strip of land to the side and rear of the adjacent butcher's shop. The land to the side of the butcher's shop is immediately adjacent to one of the two points of access to the site but Officers are satisfied that the exclusion of this particular strip of land does not affect access into/out of the site because access can be achieved without having to encroach onto this area of hard surfacing. The strip of land to the rear of the butchers does not affect parking for the restaurant/taxi office.

Other matters:

Flood risk information has been submitted but as the proposal is for change of use of a first floor room and includes established car park it is not considered that there are any significant flood risk issues.

There are not considered to be any other matters that would materially affect the assessment of the application.

Conclusion:

There is no substantive evidence to suggest that the development has given rise to any significant detrimental impacts on highway safety and residential amenity during the 12 month trial period. As such, there are not considered to be any justifiable grounds to approve a further temporary permission and in the absence of any demonstrable harm having been caused Officers are of the opinion that a full permission is acceptable subject to the conditions referred to in the assessment.

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.

9. RECOMMENDATION**CONDITIONAL FULL PERMISSION**

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. No more than two licensed private hire vehicles or taxis in addition to a maximum of two vehicles for office based staff connected with the booking office shall park or wait in the car park at any one time during those hours when the restaurant is open to the public or between the hours of 22:30 to 08:00.
4. There shall be no picking up or depositing of passengers and no waiting by passengers at the taxi office.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	Drawing no. 1437.1A	-	18/3/16
Site Plan	Drawing no. 1437.2	-	10/2/16
Planning Statement	-	-	10/2/16

Application No: 2015/91857

Type of application: 62 - FULL APPLICATION

Proposal: Erection of agricultural building

Location: Land Off, Lumb Lane, Almondbury, Huddersfield, HD4 6SZ

Grid Ref: 415590.0 413797.0

Ward: Almondbury Ward

Applicant: R Airey - C/O Agent

Agent: Michael Townsend, Townsend Planning Consultants

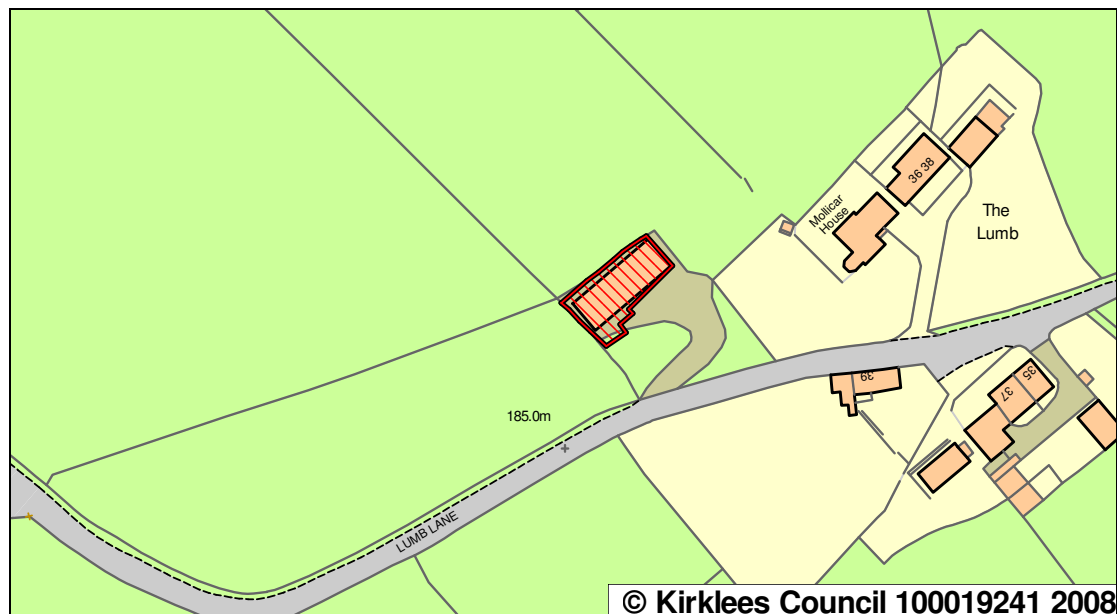
Target Date: 08-Jan-2016

Recommendation: FC - CONDITIONAL FULL PERMISSION

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

1. SUMMARY OF APPLICATION

It is considered that subject to conditions, the development would comply with the aims of Green Belt policy and would not have an adverse impact on visual or residential amenity, on highway safety, the setting of listed buildings or on any environmental or ecological issues. It would support the aims of sustainable development. It is therefore recommended that conditional permission is granted.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application is brought to the sub-committee for determination following a request from Councillor Phil Scott which states:

Please submit this application for the Planning Committee for Huddersfield on the below reasons:

- Environmental (Road chippings that have been used to level the site release hydrocarbons into the ground, this causes the local vegetation to die).
- The fact that several permissions have been refused in the past.

The Chair of the Sub Committee has confirmed that Councillor Scott's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

3. PROPOSAL/SITE DESCRIPTION

Site

The land within the control of the applicant, including the application site, consists of a narrow rectangular block of land in a rural setting measuring approximately 130m by 50m extending in a southeast to northwest orientation. Access to the highway is taken at the south-east (bottom) end by means of a steep concrete driveway. The site has a steep upward gradient from the highway towards the northwest but an area near the lower end has been levelled and some ground excavated. A building has been erected on this area which is the subject of the current application, with the remainder of the levelled ground used for vehicular parking and turning.

The surroundings of the site are rural and undeveloped, with a small hamlet known as The Lumb situated a very short distance to the east. Two properties at The Lumb are Grade II listed. The site is around 0.4km to the south east of Castle Hill.

Proposal

The proposal is a retrospective application for the erection of an agricultural building. It is roughly L-shaped and measures 23 by 13.5m, with a gentle monopitch roof with a maximum height of 4.2m. It is built of corrugated iron panels supported by a timber frame but it is proposed that it should be externally clad with timber. The land has been excavated substantially (by approximately 3m depth) to accommodate the building.

The application form states that the building works were completed on 11th January 2013.

A planning statement sets out the justification for the application. It states that the land holding amounts to approximately 16.89 hectares and this is used for mixed agricultural purposes including arable and sheep farming, also for the grazing of horses. It also claims that there are no other buildings on the holdings and that the building is required for the storage of agricultural machinery and equipment.

Additional information supplied gives further details about storage requirements – a tractor, hay feeder, hay rake, seed drill, grass cutter and bales of hay, and also confirms that all hay is produced on site, not imported. Furthermore it is stated that there are 20 ewes and 2 rams. Any land not used for sheep is grazing land or to produce haylage.

The land farmed by the applicant principally occupies land on the north side of Kaye Lane and west of Benomley Beck, which is just over 1.1km from the application site measured in a straight line or 2.1km by road. An additional statement says that there is a livestock field shelter on the rented land but this is not suitable for the purposes intended.

A Highways Statement and Heritage Statement have also been supplied.

4. BACKGROUND AND HISTORY

2006/90022 – Agricultural notification for prior approval of detail for erection of detail for the erection of buildings for the storage of agricultural machinery and bales of straw and hay. Invalid.

2007/92699 – Agricultural notification – not granted. Reason: by reason of its size, siting, design and materials, the proposed building would have an adverse impact on the character and appearance of the landscape in this green belt location and also upon the setting of nearby listed buildings. The proposals are considered to be contrary to Unitary Development Plan Policy D8 and the advice in PPG15 (Planning and the Historic Environment), PPG2 (Green Belts) and PPS7 (Rural Areas).

2010/92962 – Agricultural notification – not granted. Reason: the proposal fails to satisfy the requirements of Class A of Part 6 of The Town and Country Planning (General Permitted Development) Order 1995 as the proposed

erection of the building would be carried out on a separate parcel of land to the main agricultural holding of less than 1 hectare in area.

COMP/09/0242 – Importation of waste materials to form hardsurfaced area. Closed – permitted development (agricultural permitted development rights)

COMP/14/0063 – Erection of unauthorised building. Retrospective planning application made.

5. PLANNING POLICY

Kirklees Unitary Development Plan (UDP)

The site is allocated for housing on the UDP Proposals Map.

- BE1 – Design principles
- BE2 – Quality of design
- T10 – Highway safety

National Planning Policy Framework (NPPF)

- Section 3 Supporting a prosperous rural economy
- Section 7 Requiring good design
- Section 9 Protecting Green Belt land
- Section 11 Conserving and enhancing the natural environment.
- Section 12 Conserving and enhancing the historic environment.

6. CONSULTATION RESPONSES

KC Highways Development Management - No objection.

KC Environmental Services – No objection provided it is not used for livestock.

KC Planning Conservation & Design – No objection

7. REPRESENTATIONS

The application has been advertised by site notice, press advertisement and neighbour notification. The publicity period ended 06-Aug-2015.

8 representations received from local residents, all objecting. The planning related comments are as follows.

1. The application is retrospective and there have been unauthorised earth-moving operations (including land raising near boundary) with road planings brought on to the site;

2. The application is remote from other land within the holding and there is insufficient evidence of need;
3. The applicant is in fact a dealer and repairer of farm machinery, not a farmer. The land farmed is subject to a short tenancy.
4. Visual impact owing to inappropriate materials and elevated position, impact on Listed Buildings;
5. Access and highway network is unsafe and unsuitable for large vehicles;
6. Earth moving operations have harmed or killed trees and hedgerows
7. To further add to our concerns about the use of the building, neighbours have experienced noise nuisance from activities on the site where the building has appeared to be used as a workshop for working on vehicles. Given the raised ground levels and the close proximity to Mollicar House we are concerned about the impact of noisy activities carried out on the site. Without prejudice to our objection to the principle of a building in this location we consider that noise attenuation should be provided within the building and, if approved, a condition restricting working on vehicles or machinery outside the building.
8. The development has resulted in drainage problems to Lumb Lane especially so when water freezes in the winter;
9. A forklift bed attachment for a tractor is often left in the road unattended;
10. Light pollution;
11. Application has not been advertised;
12. Recent explosion and fire at the premises (cause unknown) raises safety concerns;
13. The site is too steep to be suitable for agriculture.
14. The statement refers to “agricultural activities on this site” when there are none or only very minimal.
15. Further safety issues caused by storage of hay on a site with steep gradients.

One representation from Ward Councillor Phil Scott – see “Information”

8. ASSESSMENT

General Principle:

The site is within the Green Belt on the UDP Proposals Map. As well as policies related directly to development in the Green Belt within the NPPF, the most relevant policies are:

Core planning principles:

Councils should proactively drive and support sustainable development, taking account of the different roles and characters of different areas, recognising the character and beauty of the countryside, reuse land that has been previously developed.

Support a prosperous rural economy

Support the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings, and promote the development and diversification of agricultural and other land-based rural businesses.

Conserving and enhancing the natural environment

Prevent development from contributing to unacceptable levels of soil, air, water or noise pollution or land instability.

Conserving and enhancing the historic environment

Harm to heritage assets should not be allowed without a proportionate justification

Within the UDP it will be assessed against Policies BE1, BE2 (development should respect visual and residential amenity, contribute to a sense of local identity, take into account the topography of the site, and incorporate existing or proposed landscaping features as part of the development) and T10 (development should not create or materially add to highway safety problems)

Green Belt:

Under NPPF policy on Green Belts, agricultural buildings are appropriate development in principle. However under paragraph 88 of the NPPF it clarifies that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, not just that caused by reason of inappropriateness. Where there is harm, then 'very special circumstances' to approve such development would not exist unless the harm was clearly outweighed by other considerations.

Evidence on file indicates that the site has been used as a base for agricultural activities for some years. The previous enforcement complaint 09/0242 was closed because planning officers accepted that Mr Airey (the present applicant) was a farmer for the purposes of the Town and Country Planning Act 1990 and that, at the time, the site benefited from agricultural permitted development rights. At present the site cannot benefit from

agricultural permitted development rights as it forms a separate parcel of land of less than 1 hectare; it is possible that this was not the case back in 2009 because the Mr Airey rented more land adjacent to the site.

The applicant farms nearly 17ha, according to the information supplied. Additional information supplied gives further details about storage requirements as set out in the “Proposal” section of the report above.

It is obviously good practice, from the point of view of efficiency and sustainability, for a farm storage building to be located on, or very close to, the land it would serve. This is usually the case for traditional farms. However, there is no basis in planning policy for refusing an application for a farm building just because the holdings are fragmented or that the building is remote from the main holdings. Indeed, there are other examples in Kirklees of farm enterprises being operated in this manner. Presumably, the reason that the applicant has not chosen to erect a building on the 13 hectares north of Kaye Lane is because this is the only land he owns.

It is understood that the applicant is, at present, a part-time farmer. This is corroborated by the information on the 2009 enforcement file in which a letter from the developer’s agent states that he farms rented land and also works for another farmer in addition to doing agricultural contracting work. This again does not mean that the agricultural need is invalid.

At the time of the case officer’s first site visit the building was used chiefly for the storage of agricultural machinery and hay. On a subsequent site visit, most of the building was used for machinery and plant storage, with the left-hand part currently unoccupied.

The left-hand part of the building is divided into compartments which look like stables but horses are not being kept there at the present time – the intention is to use the space, subject to planning permission being obtained, for hay storage or lambing.

It is considered on the basis of the information supplied, and on the planning history of the site, that the building is proportionate to the agricultural needs of the land farmed by the applicant.

It is considered that the building does not have a very significant impact on the Green Belt as, due to the regrading works, it is set into the natural topography of the land and has an almost flat roof. The unattractive materials at present have some negative impact on the character of the Green Belt but the replacement of the metal with timber boarding, which can be conditioned, means that any long-term negative impact can be avoided.

In summary it is considered that the development subject to appropriate conditions would comply with the aims of Green Belt policy.

Impact on amenity:

Visual amenity:

The building in its present form is somewhat unsightly because of the steel sheeting used for the walls, but the applicant has proposed to re-clad the walls in timber. The applicant has also agreed that the roof can be replaced with alternative materials. At present it uses a mix of plain and coloured metal cladding. It has furthermore been substantially set into the natural slope of the land by regrading works, which reduces its visual impact and prominence.

It is considered that the scale, design and appearance of the building as proposed, with re-cladding, would not be untypical of agricultural buildings in the Huddersfield area and would harmonise with its surroundings, and the fact that it is substantially set into the natural slope of the land would make it less visually prominent.

When making decisions on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities to have special regard to the desirability of preserving this setting. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Following consultation with the Conservation and Design Team, it is considered that it would not adversely affect the setting of any of the Listed Buildings at the Lumb, or that of Castle Hill. This is because of the separation between this site and these heritage assets and the topography and the scale of the development. Therefore this application is considered to be compliant with the objectives of paragraphs 131 & 132 of the NPPF.

In summary it is considered that the development would not be detrimental to visual amenity or the significance of heritage assets and would accord with the aims of BE1-2 and the National Planning Policy Framework – Conserving and enhancing the historic environment.

Residential amenity:

The site is located 30m from the nearest point within the curtilage of the nearest inhabited dwelling (Mollicar House). Environmental Services do not oppose the application provided that it is not used for livestock. It is considered that the agricultural use of the building would not give rise to significant adverse amenity impacts arising from noise, odours or other factors. Occasional noisy activities may occur, such as the repair of agricultural machinery, but it would appear, based on the recent history of the site, that there has been storage of agricultural machinery on this site at least since 2009, and no noise complaints have been made to Environmental Services. It is considered that it would be difficult to substantiate a refusal on this factor alone, and if such activities give rise to any significant noise nuisance, this can be dealt with under other legislation.

It is noted that the applicant does not intend to use the building principally for livestock, but would like to be able to use the left-hand part for lambing if possible. It should be conditioned that the building is not used for livestock, as based on Environmental Health comments this could give rise to noise and odours which would be detrimental to amenity. The applicant has agreed to accept a condition to this effect.

Subject to this condition it is considered that the use of the building would not give rise to loss of amenity and it would comply with the aims of EP4 and National Planning Policy Framework – Conserving and enhancing the natural environment.

Impact on ecology:

The site is not within the bat alert layer and the field is considered to have low ecological value. It is considered that the development has no implications for biodiversity and that no conditions relating to biodiversity or ecology are required.

Highway safety:

The existing access on to Lumb Lane is sub-standard in width and the steepness of its gradient. Sight lines onto Lumb Lane are poor in both directions.

According to one of the objectors' letters, the existing access was created in 2006. Kirklees aerial photographs lend some weight to this – the 2006 view shows an access track, which by 2009 seems to have been given some more permanent surfacing. However, the 2002 aerial photograph appears to show a means of access to the site (but not an access track) indicated by a break in the hedgerow and boundary wall. The formation and subsequent improvement of the access track would have required planning permission, which was not sought or obtained, but as this has been completed for more than 4 years it is now immune from enforcement action.

According to the Highways Statement, most vehicles using the site are either 4-by-4's or light vans and there are typically 3 or 4 trips per day. There is sufficient parking and manoeuvring space within the site (which is within the applicant's ownership) to allow all vehicles associated with the proposed use to enter the site and leave in forward gear. The wider highway network is acknowledged to be substandard. According to the Highways Report, there has however been only one reported injury accident on the stretch of Lumb Lane which incorporates the site access; this was in 2007, which was classed as slight. The report concludes that the local roads serving the site have an "excellent" safety record and that with the current use there is very little impact on the highway network.

The conclusions of the Highways Statement have not been disputed by Highways Development Management, who confirm that the Council acting as Highway Authority has not received any complaints relating to the highway impacts of the existing development.

Taking all the above factors into account it is considered that it would be difficult to justify a refusal on highway safety grounds as it would not be possible to demonstrate that the development has created or materially added to highway safety problems or will do so in the future.

Other issues:

Drainage:

Drainage is proposed to be by soakaway, which is standard for agricultural buildings. It has been claimed in a number of objectors' letters that there has been an increase in water run-off to the highway, although there is no objective evidence for this and it is not clear whether this was caused by the building, or by the other works on the site such as the laying of hardstanding. Highways Development Management were notified of this concern during the course of the application but had no adverse comments to make as a result, and advised the case officer that water run-off on to the highway, if it causes problems, can be addressed under other legislation.

The proposal is not considered to raise further issues of planning significance.

Representations:

Objections based on concerns about agricultural need, visual and residential amenity, and highway safety, have been addressed in the main part of the assessment but are highlighted below together with responses to other issues raised.

1. The application is retrospective and there have been unauthorised earth-moving operations (including land raising near boundary) with road planings brought on to the site;

Response: The retrospective nature of the application is not a material consideration. National planning policy has recently been changed to make intentional unauthorised development a material consideration, but this only applies to applications made 2nd September 2015 or later. This application was made in June 2015. Alleged unauthorised land-raising near the north-eastern boundary was the subject of an Enforcement case but the file was closed as it was deemed to be permitted development. This in any case does not form part of the current application – indeed, the building that is the subject of the current application would have involved excavation not land-raising.

2. The application is remote from other land within the holding and there is insufficient evidence of need;

Response: This issue has been addressed in the Assessment within 'Green Belt'. An agricultural building is typically located on or adjacent to the land that it serves, but an agricultural building being separate from the land farmed does not provide a basis for refusal

3. The applicant is in fact a dealer and repairer of farm machinery, not a farmer. The land farmed is subject to a short tenancy.

Response: The applicant is at present a part-time farmer. The land being subject to a shorthold tenancy does not invalidate the agricultural need, and in fact it may go some way towards explaining why the applicant has chosen to site the building here rather than on the lands north of Kaye Lane.

4. Visual impact owing to inappropriate materials and elevated position, impact on Listed Buildings;

Response: These issues have been addressed in the main part of the Assessment above.

5. Access and highway network is unsafe and unsuitable for large vehicles;

Response: This issue has been addressed in the main part of the Assessment above.

6. Earth moving operations have harmed or killed trees and hedgerows

Response: None of the trees on or adjacent to the site are currently the subject of a Tree Preservation Order. Most countryside hedgerows are protected from being uprooted or destroyed by the Hedgerows Regulations 1997 and a written notice from the Local Planning Authority is required in order to remove, but again this is not considered to be material to the development now under consideration.

7. To further add to our concerns about the use of the building, neighbours have experienced noise nuisance from activities on the site where the building has appeared to be used as a workshop for working on vehicles. Given the raised ground levels and the close proximity to Mollicar House we are concerned about the impact of noisy activities carried out on the site. Without prejudice to our objection to the principle of a building in this location we consider that noise attenuation should be provided within the building and, if approved, a condition restricting working on vehicles or machinery outside the building.

Response: Repair and servicing of vehicles and machinery is inevitably required from time to time as part of a farming enterprise. Given the lack of adverse comments from Environmental Services it is considered it would be impossible to substantiate a reason for refusal, or require noise attenuation works, based on this alone.

8. The development has resulted in drainage problems to Lumb Lane especially so when water freezes in the winter;

Response: This may pose a risk to highway safety but it would be an issue that would have to be dealt with by enforcement under the Highways Act, not within the remit of the planning system.

9. A forklift bed attachment for a tractor is often left in the road unattended;

Response: This is an understandable concern but it is considered to be outside the remit of the planning system. It is possible that it could be dealt with under highway legislation if it recurs.

10. Light pollution;

Response: At the time of the case officer's site visit there was no external lighting on the building or visible within the site, nor is any shown on the drawings. It can be conditioned as a precaution that no artificial lighting is added.

11. Application has not been advertised.

Response: A site notice was posted in the vicinity of the site and neighbour notification letters sent to a number of nearby dwellings. Furthermore a press notice was placed in the Huddersfield Examiner on July 10th 2015 thereby fulfilling national and local publicity requirements.

12. Recent explosion and fire at the premises (cause unknown) raises safety concerns.

Response: It is considered that this is not a material planning issue. Any safety issues concerning storage of materials would be covered by other legislation.

13. There are only very minimal agricultural activities (at most) on the site which is too steep to be suitable for agriculture.

Response: It is noted that the site is very steep but as most of the land farmed by the applicant is some distance away from the application site this is considered to be of little relevance.

14. Further safety issues caused by storage of hay on a site with steep gradients.

Response: The applicant or any future occupant has a duty of care to ensure that hay or other materials are stored and moved around the site safely. The steep gradient of the site makes this an understandable concern but it is considered that this in itself would not amount to a defensible reason for refusal.

15. Road chippings that have been used to level the site release hydrocarbons into the ground, this causes the local vegetation to die.

Response: Planning permission would not have been required for the importation of road planings to level or raise the site (see officer's response to point 1), but it would have probably have required either a permit or an exemption. The Environment Agency have been notified of this recently during the course of this application and are looking into the question of whether these were obtained. It is considered however that this is not material to the current application.

16. The fact that several permissions have been refused in the past.

Response: All three of the applications referred to here are for agricultural notification under Class A of Part 6 of The Town and Country Planning (General Permitted Development) Order 1995, not applications for planning permission.

The first, 2006/90022, was declared invalid because of insufficient evidence of agricultural operations being undertaken.

For the second application, 2007/92699, evidence of agricultural need was submitted and accepted by officers, but officers considered that by reason of its size, siting, design and materials, the proposed building would have had an adverse impact on the character and appearance of the landscape in this green belt location and also upon the setting of nearby listed buildings. The building was to have been built mainly in timber and with an open frontage, but would have been sited near to the south-western boundary of the field with a north-west to south-east orientation, at 90 degrees to the current building.

The most recent one, 2010/92962, was accompanied by a landscape character assessment and it would have had a similar scale, siting and orientation to the present building, but with a double pitched roof. However, approval was not granted as the proposed erection of the building would be carried out on a separate parcel of land to the main agricultural holding of less than 1 hectare in area meaning it would not benefit from permitted development rights.

Returning to the current proposal, it should be noted that this is a full application for planning permission and that it must be assessed on its planning merits alone.

Conclusion:

It is considered that subject to conditions on the replacement of materials and on the future use of the building, it would comply with the aims of Green Belt policy and would not have an adverse impact on visual or residential amenity, heritage assets or on any environmental or ecological issues. It would support the aims of sustainable development. It is therefore recommended that conditional permission is granted.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

Conditions

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
2. The profiled metal cladding to the exterior walls of the building shall be replaced with timber in accordance with the details shown on the approved plan 1488/001 within six months of the date of this permission and thereafter retained as such.
3. The existing metal sheeting to the roof shall be replaced by metal sheeting with a factory-applied colour finish in Juniper Green (RAL 160 20 10/ [BS: 12B29](#)) within six months of the date of this permission and shall be thereafter retained as such.
4. The building that is the subject of this permission is approved for agricultural purposes only and at no time shall be used for purposes that do not fall within the definition of agriculture set out in Section 336 of the Town and Country Planning Act 1990 (or any definition which may supersede this in any subsequent Act or Order).
5. No part of the building shall be used for accommodating or sheltering livestock.

This recommendation is based on the following plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan			23-June-2015
Block plan	1488-005		23-June-2015
Plan showing land holdings			20-Aug-2015
Plans and elevations	1488/001		23-June-2015
Planning statement			23-June-2015
Highways statement			23-June-2015
Heritage statement			23-June-2015
Supporting information: land			11-Nov-2015
Supporting information: agricultural activities			10-Dec-2015

Application No: 2016/90576

Type of application: 62HH - FULL APPLICATION

Proposal: Formation of a porch to front

Location: 3, Digley Cottages, Bank Top Lane, Holmbridge, Holmfirth, HD9 2QD

Grid Ref: 411150.0 407059.0

Ward: Holme Valley South Ward

Applicant: P Brown

Agent: John Barnes - Architect

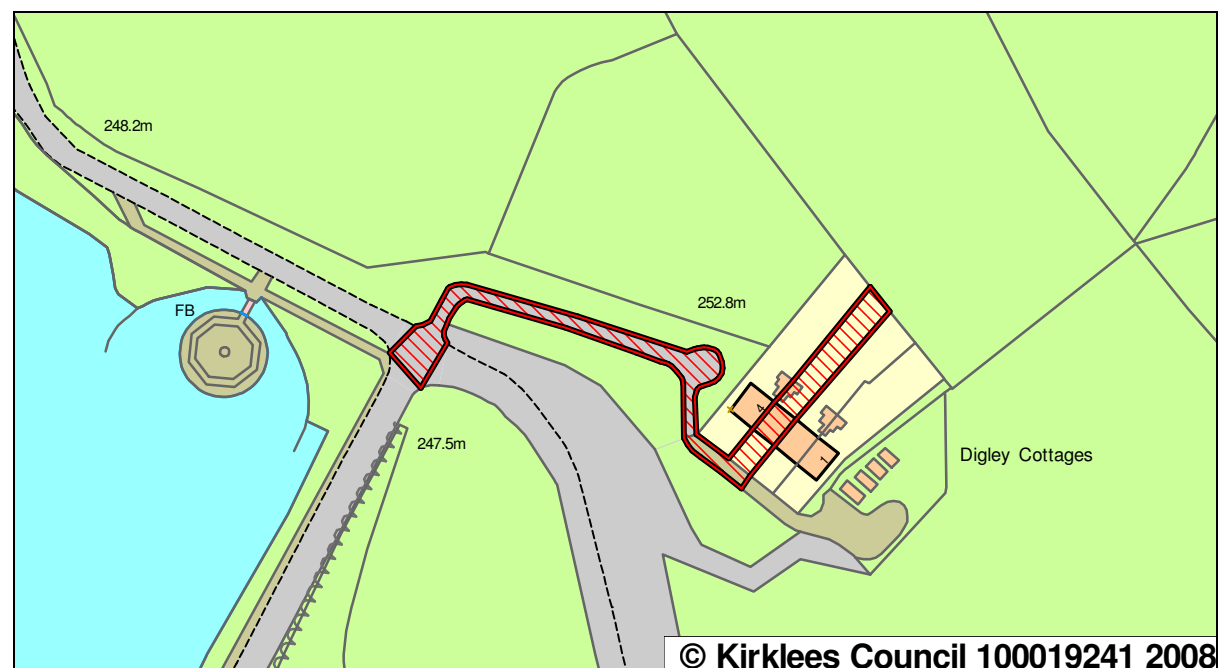
Target Date: 20-Apr-2016

Recommendation: FC - CONDITIONAL FULL PERMISSION

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

1. SUMMARY OF APPLICATION

The proposal is for the erection of a porch forming a front extension to the existing dwelling. The property is located within the allocated Green Belt on the Kirklees Unitary Development Plan proposals map.

Whilst in the Green Belt the proposed development is considered not harm the openness of the Green Belt or form a disproportionate extension to the original dwelling. The principle of development is therefore considered to be acceptable.

The porch extension is considered not to adversely affect the visual amenity of the host property, wider terrace of properties or be intrusive from the Peak District National Park or towards the National Park. Furthermore, the proposal is considered not to have a materially harmful impact upon the residential amenity of adjoining properties.

Recommendation: Conditional Full Permission

2. INFORMATION

The application is brought to Sub-Committee at the request of Councillor Donald Firth for the following reason:

“Visual impact on the green belt, overlooking Digley Reservoir, and it is also on the northern boundary of the Peak District National Park”

The Chair of Sub-Committee has confirmed that Cllr Firth’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Committees.

3. PROPOSAL/ SITE DESCRIPTION

Site Description

No 3 Digley Cottage is two storey mid-terraced property built in the 1950s. The dwelling is part of a terrace of four stone cottages, in an isolated Green Belt location elevated above Bank Top Lane to the north east of Digley reservoir. The Peak District National Park lies to the south west of the site following the boundary of Fieldhead Lane and Digley Royd Lane.

Each property in the terrace has a front porch arranged in two adjoining pairs along the southwestern elevation. There are no other extensions to the front of the properties. These porches project 1.2 metres from the front elevation and have a width of 4.4 metres. They have lean-to roofs at a maximum height of 3.3 metres and eaves of 2.1 metres. They are each designed with a door and window opening on the front elevation and a small side window arrangement.

The application property is set within a gently sloping site and hosts gardens to the front and rear.

The dwelling is accessed via a private drive serving the terrace off Bank Top Lane to the front of the property.

Proposal

The application seeks permission for the erection of a porch forming an extension to the front elevation of the dwelling.

The extension would project approximately 1.2 metres from the front elevation with an external width of approximately 3 metres. It would have a lean to roof with a maximum height of approximately 3.4 metres and eaves of 2.4 metres. The roof would incorporate two rooflights and there would be a French door with side lights within the front elevation. This extension would be detached from the existing porch structure.

The materials are proposed to be new coursed stone and slate tiles with grey UPVC door and window openings to match the existing dwelling.

4. BACKGROUND AND HISTORY

There is no previous planning history for this site.

5. PLANNING POLICY

Kirklees Unitary Development Plan

D11 – Extensions to buildings in the Green Belt

BE1 – Design principles

BE2 – Quality of design

BE13 – Extensions to dwellings (design principles)

BE14 – Extensions to dwellings (scale)

NE8A – Development within the Peak District National Park

National Planning Policy Framework

Chapter 7 – Requiring good design

Chapter 9 – Green Belt

6. CONSULTATIONS

None Required

7. REPRESENTATIONS

The application was initially publicised by site notice and neighbour notification letter, which ended 29th March. As a result of site publicity, four letters of objection were received from three objectors. The planning concerns raised can be summarised as follows:

- The property and will destroy the pleasant line of the four properties that constitute Digley Cottages.
- An alteration to the front of the cottages would be intrusive, inappropriate and unsympathetic to the appearance and character of the cottages and local surroundings.
- The construction of the proposed bay window would destroy the building line of these 60+ year old cottages and the roof line of such an extension would not be in line with the roof line of the existing porches.
- The symmetry of the terrace has always been one of its attractions and, whilst the recently fitted French windows in the property in question have had some effect on that symmetry, the proposed extension would destroy the symmetry completely.
- Inaccurate description of development- A bay window has windows to the front and both ends. This proposed bay window is to be built in solid walls and has roof lights. This implies it is an extension.
- The proposed extension will impact the existing drainage infrastructure.
- Until January of this year No 3 matched all the other houses in the row of four cottages. The timing of the start of the works begun before planning permission was applied for. The timing of the application could have been in order to lessen the impact of the application.

Non- material objections raised are as followed below:

- The deeds state that nothing should be permitted or done to the property that will grow to be an annoyance to the authority or its successors in title or the owners or occupiers of the adjoining land/ premises. The proposed development will certainly cause annoyance, due to some loss of our precious view and would lead to lessening and depreciation of the value of all the other cottages.
- People building on land surrounding reservoirs must gain permission from Yorkshire Water. The rows of cottages are completely surrounded by Yorkshire Water land and they also own the driveway up to and in front of the properties.

For Members information the original description was changed from 'Formation of a bay window to front' to 'Formation of porch to front' during the course of the application. Neighbours were notified for a further 20 days. The final publicity date was the 13th April.

Holme Valley Parish Council - Object to the application on the grounds that this is much more than a 'bay window'. Not of a small nature and more of an extension. Not in keeping. Potential loss of light to adjacent properties and very visible building. Reservoir adjacent is Listed so proposed bay window is within setting and due consideration must be given to that.

8. ASSESSMENT

General Principle:

The site is allocated Green Belt on the Unitary Development Plan. The NPPF sets out that new buildings in the green belt are inappropriate unless, amongst other things, they relate to the extension of an existing building and that this does not result in a disproportionate addition to the original building. Policy D11 of the UDP also seeks to ensure that in cases of extensions in the green belt, the original building should remain the dominant element.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved unless very special circumstances are demonstrated which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. (NPPF Chapter 9 paragraphs 87 and 88).

Other Unitary Development Plan Policies of relevance include BE1 and BE2 relating to general design principles and Policies BE13 and BE14 of the UDP which relate specifically to householder extensions. As the site is proximate to the Peak District National Park Policy NE8A is also to be considered in the assessment of the application.

Impact on the Green Belt:

The proposed development would increase building's footprint by approximately 3.7 square metres. This is a small extension to the building which would not be disproportionate to its original size. The extension does not project further forward than the existing porch and, in general, follows the design of this structure. Whilst the application would have a slight impact on the openness of the Green Belt it is considered this would be modest and would not outweigh the fact that the development is 'appropriate' in the Green Belt.

The proposed development is not considered, by officers, to materially harm the openness or character of the Green Belt. The development in these circumstances would accord with Policy D11 of the UDP and Chapter 9 of the NPPF.

Impact on Visual Amenity:

Policy BE14 of the UDP states that front extensions should be 'relatively small in scale'. Policy BE13 states that extensions should respect the design features of the existing house and adjacent building. More general design Policies BE1 and BE2 state that development should be of good quality design which is, amongst other things, visually attractive and in keeping with surrounding development. Advice in the NPPF states that a core planning principle is to always seek to secure high quality design.

The cottages are in a prominent position, elevated above Digley Reservoir and particularly noticeable from Digley Royd Lane and Fieldhead Lane. The existing cottages were built as a terrace of four and display a strong symmetry through their original design and through the placement of porches on the front elevations. The proposed extension, on the front elevation, would have some effect on this symmetry and would alter the outlook of the cottages. However it would be small in scale and has been designed as a structure detached from existing porches but following their design. Although it is around 150mm higher than these porches this would be imperceptible from a distance and the use of matching materials, stone and slate, would help to harmonise with the row. It is considered that the overall symmetry of the terrace would not be damaged by the development.

The windows and door openings to Nos 4 and 3 Dingley Cottage have previously been altered under permitted development. No. 4 has rosewood windows and doors and no. 3 grey. The remaining properties have white framed windows and doors. Therefore visually the frontage has already been altered from its original form. Taking this into account, and the permitted development rights the properties enjoy, the proposed grey UPVC windows and doors are considered acceptable. Indeed the use of a grey frame to the large French doors on the front elevation would help to minimise the impact of the structure. Overall in terms of design and materials, the proposal is considered sympathetic to the host building and surrounding properties.

Taking into consideration the application dwelling is in close proximity to the boundary of the nearby Peak District National Park Policy NE8A states that development which would be intrusive in views within the Park or have a harmful impact on views into the Park will not be permitted. Although the cottages are visible from the National Park it is considered that, given the existing built form and the scale and design of the development proposed, it would not be intrusive or have a detrimental impact on the character or views of the National Park. This also takes into account with Digley Reservoir itself. The reservoir is not listed but is an attractive structure within the Peak Park.

In conclusion it is considered the proposal is acceptable and compliant with the requirements of policies BE1, BE2, BE13, BE14 and NE8A of the Unitary Development Plan and the core planning principles of the NPPF.

Impact on Residential Amenity:

The adjoining property No 2 Digley Cottage would be affected by this proposal. The proposal would result in the occupiers of this property having an extension on either side of a lounge window; the proposed porch and the existing adjoining porch to their own property. These both project 1.2m. The proposed extension would be set in approximately 0.3 metre away from the party boundary rather than flush. This, taken together with the limited projection and scale of the development, is considered to mitigate any overbearing impact the proposal would have on the amenity of occupiers of no. 3. The porch may result in some loss of light and outlook, however once again considering the scale of the development and the separation distance

between the proposal and the neighbouring property, the impact is considered not to be undue. The affected window would still enjoy an open aspect to the south west.

In assessing the application it has been acknowledged that most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate balancing the rights of the developer to develop and the rights of those affected by the development. In this instance it is considered that undertaking this balancing exercise the impact of the development would be acceptable.

No other properties would be materially affected by the development.

The proposal is deemed to comply with Policies BE14 and D2 in regards to residential amenity.

Other matters:

Representations

4 letters of representations were received and the matters contained within the representations have not been addressed in the report, they are responded to below:

- The property and will destroy the pleasant line of the four properties that constitute Digley Cottages.
Response: The impact of visual amenity has been addressed in the report.
- An alteration to the front of the cottages would be intrusive, inappropriate and unsympathetic to the appearance and character of the cottages and local surroundings.
Response: The impact of visual amenity has been addressed in the report.
- The construction of the proposed bay window would destroy the building line of these 60+ year old cottages and the roof line of such an extension would not be in line with the roof line of the existing porches.
Response: The proposed porch is to be 0.1 metres higher than the existing porches. This is still considered to be small in scale and the host property would remain the dominant element.
- The symmetry of the terrace has always been one of its attractions and, whilst the recently fitted French windows in the property in question have had some effect on that symmetry, the proposed extension would destroy the symmetry completely.
Response: The impact of visual amenity has been addressed in the report.
- Inaccurate description of development- A bay window has windows to the front and both ends. This proposed bay window is to be built in solid walls and has roof lights. This implies it is an extension.
Response: The description has been changed from 'Formation of a bay window' to Formation of a porch'.

- The proposed extension will impact the existing drainage system.
Response: The impact on existing drainage infrastructure would be considered under any allied application for Building Regulations approval.
- Until January of this year No 3 matched all the other houses in the row of four cottages. The timing of the start of the works begun before planning permission was applied for. The timing of the application could have been in order to lessen the impact of the application.
Response: Any changes/ alterations to the windows that have taken place can be undertaken using 'permitted development rights'.
- The deeds state that nothing should be permitted or done to the property that will grow to be an annoyance to the authority or its successors in title or the owners or occupiers of the adjoining land/ premises. The proposed development will certainly cause annoyance, due to some loss of our precious view and would lead to lessening and depreciation of the value of all the other cottages.
Response: Any restrictions set out in deeds are not a matter the Local Planning Authority can be involved in.
- People building on land surrounding reservoirs must gain permission from Yorkshire Water. The rows of cottages are completely surrounded by Yorkshire Water land and they also own the driveway up to and in front of the properties.
Response: Not a material planning consideration. If the owner/developer requires further consent from Yorkshire Water this would need to be obtained in addition to planning permission.

Conclusion:

The National Planning Policy Framework introduced a presumption in favour of sustainable development. The policies set out in the framework taken as a whole constitute the Government's view of what sustainable development means in practice.

Having regard to the pattern of existing development in the area and the relevant provisions of the development plan and the National Planning Policy Framework, subject to the conditions, the proposed scheme would be in accordance with the development plan as it is a sustainable development; the proposal is therefore recommended for approval.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Plans- Location Plan	-	-	24/02/2016
Plans- Proposed Site/ Block Plan	SP01	-	18/02/2016
Plans- Grouped Plans and Elevations	04	-	18/02/2016

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KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

12 MAY 2016

ITEM 13 – APPLICATION NO 2015/93052, FENAY LODGE, THORPE LANE, ALMONDBURY, HUDDERSFIELD

The Council has recently received notification that an appeal against the non-determination of the planning application has been lodged with the Planning Inspectorate.

Subject to the appeal being accepted, the Planning Inspectorate will now determine the application.

The Sub-Committee's resolution to refuse the application will form the basis of the Local Planning Authority's Statement to the Planning Inspectorate.

It remains the case that Officers require clarification from the Sub-Committee on the reasons for refusal based on those issues cited at the previous meeting - namely matters of design, highway safety and the impact on no.21 Dartmouth Avenue.

As part of the appeal process this Authority will inform the Planning Inspectorate as to what decision would have made if the determination of the application had remained within its remit.

The Officer recommendation to Members is therefore amended as follows:

That the Secretary of State be informed that this Authority would have been minded to refuse planning permission on the grounds that:

1. The proposed dwelling, by virtue of its siting, scale and design, would harm the setting of the listed building (Fenay Lodge) by substantially reducing the curtilage of the building and introducing a form of development to the site that fails to sustain the significance of the designated heritage asset. The development is therefore contrary to Policy BE1 criteria i of the Unitary Development Plan (UDP) and to chapter 12 of the National Planning Policy Framework.

2. The proposed dwelling, by virtue of its proximity and scale, would harm the amenity of 21 Dartmouth Avenue by having an overbearing and dominant impact on the main private garden space belonging to this neighbouring property and by introducing a form of development that would detrimentally affect the outlook at the rear of number 21. The proposal is therefore contrary to Policy D2 criteria v of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.

ERECTION (750 SQUARE METRES) OF PORTABLE MODULAR BUILDINGS**MOOR END ACADEMY, DRYCLOUGH ROAD, CROSLAND MOOR, HUDDERSFIELD, HD4 5JA****Corrections:**

In the interest of accuracy, on page 13 reference should be made to conditions nos. 7 and 10 in the response to concerns raised in relation to the impact on the children's play area not nos. 6 and 9

Condition no. 8 should read:

8. The modular buildings shall not be brought to site until the access road from Wellfield Bank and the turning area as shown on approved drawing no. A04 Rev A has been made operational.

ERECTION OF AGRICULTURAL BUILDING**LAND OFF, LUMB LANE, ALMONDBURY, HUDDERSFIELD, HD4 6SZ****Representations:**

1. Road chippings that have been used to level the site release hydrocarbons into the ground, this causes the local vegetation to die.

Response: Planning permission would not have been required for the importation of road planings to level or raise the site (see officer's response to point 1), but it would have probably have required either a permit or an exemption. The Environment Agency have been notified of this during the course of this application, and have not been able to find any record of either being obtained. It is considered however that this is not material to the current application.
