

# Public Document Pack



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Wednesday 15 February 2017

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Heavy Woollen Area)**

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 23 February 2017**.

(A coach will depart the Town Hall at 10.50am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Reception Room).

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 (Heavy Woollen Area) members are:-**

### **Member**

Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor Donna Bellamy  
Councillor Nosheen Dad  
Councillor Michelle Grainger-Mead  
Councillor John Lawson  
Councillor Marielle O'Neill  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Richard Smith  
Councillor Cathy Scott  
Councillor Kath Taylor  
Councillor Graham Turner

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

### **Substitutes Panel**

#### **Conservative**

B Armer  
L Holmes  
B McGuin  
N Patrick  
K Sims

#### **Green**

K Allison  
A Cooper

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

E Firth  
S Hall  
M Sokhal  
S Ullah  
F Fadia

#### **Liberal Democrat**

R Eastwood  
A Marchington  
L Wilkinson

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# Agenda

## Reports or Explanatory Notes Attached

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### Pages

#### **1: Membership of the Committee**

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

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#### **2: Minutes of Previous Meeting**

1 - 10

To approve the Minutes of the meeting of the Committee held on 15 December 2016.

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#### **3: Interests and Lobbying**

11 - 12

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 also 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.

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#### **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.

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## **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.

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## **6: Site Visit - Application 2016/92041**

Demolition of existing buildings and erection of 3 no. dwellings at Poplar Farm, Briestfield, Dewsbury

Estimated time of arrival at site: 11.15am

Contact Officer: Anthony Monaghan, Planning Services

### **Wards**

**Affected:** Dewsbury South

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## **7: Site Visit - Application 2016/93946**

Demolition of existing building and erection of detached dwelling Bell Cabin, opposite 17 Long Lane, Earlsheaton, Dewsbury

Estimated time of arrival at site: 11.40am

Contact Officer: Emma Thompson, Planning Services

### **Wards**

**Affected:** Dewsbury East

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## **8: Local Planning Authority Appeals**

13 - 36

The Sub Committee will receive a report detailing the outcome of appeals against decisions of the Local Planning Authority, as submitted to the Secretary of State.

Contact: Julia Steadman, Planning Services

### **Wards**

**Affected:** Batley East; Birstall and Birkenshaw; Denby Dale; Heckmondwike and Gomersal; Mirfield

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## **Planning Applications**

37 - 40

The Planning 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 have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 20 February 2017.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 (Extension 74993)

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda.

## **9: Planning Application 2016/92041**

41 - 52

Demolition of existing buildings and erection of 3 no. dwellings at Poplar Farm, Briestfield, Dewsbury

Contact Officer: Anthony Monaghan, Planning Services

### **Wards**

**Affected:** Dewsbury South

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**10: Planning Application 2016/93946**

53 - 62

Demolition of existing building and erection of detached dwelling Bell Cabin, opposite 17 Long Lane, Earlsheaton, Dewsbury

Contact Officer: Emma Thompson, Planning Services

**Wards**

**Affected:** Dewsbury East

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**11: Planning Application 2015/92174**

63 - 74

Demolition of existing dwelling and erection of three storey extension and internal alterations to extend existing mosque at 21-29 Warren Street, Savile Town, Dewsbury

Contact Officer: Anthony Monaghan, Planning Services

**Wards**

**Affected:** Dewsbury South

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**12: Planning Application 2016/93112**

75 - 86

Outline application for erection of 37 dwellings and demolition of existing industrial unit Calder Mould Services, Headlands Road, Liversedge

Contact Officer: Emma Thompson, Planning Services

**Wards**

**Affected:** Liversedge and Gomersal

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**13: Planning Application 2016/93910**

87 - 98

Change of use of shop to snooker and games room at Dual House,  
Wellington Street, Batley

Contact Officer: Liz Chippendale, Planning Services

**Wards**

**Affected:** Batley East

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**14: Planning Application 2016/93244**

99 - 110

Erection of detached dwelling at 53 Far Bank, Shelley, Huddersfield

Contact Officer: Sarah Longbottom, Planning Services

**Wards**

**Affected:** Kirkburton

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**15: Planning Application 2016/93177**

111 -  
120

Erection of detached dwelling with attached garage (within a  
conservation area) adjacent to 14 Manor Road, Farnley Tyas

Contact Officer: Sarah Longbottom, Planning Services

**Wards**

**Affected:** Kirkburton

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**16: Planning Application 2017/90098**

121 -  
132

Erection of eight dwellings and land adjacent to 3 Field Head,  
Shepley, Huddersfield

Contact Officer: Julia Steadman, Planning Services

**Wards**

**Affected:** Kirkburton

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## **Planning Update**

The update report on applications under consideration will be added to the web agenda prior to the meeting.



Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

**Thursday 15th December 2016**

Present: Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor Donna Bellamy  
Councillor Nosheen Dad  
Councillor Michelle Grainger-Mead  
Councillor Marielle O'Neill  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Richard Smith  
Councillor Cathy Scott  
Councillor Kath Taylor

#### **1 Membership of the Committee**

Councillor Sokhal substituted for Councillor G Turner.  
Councillor Wilkinson substituted for Councillor Lawson.

#### **2 Minutes of Previous Meeting**

##### **RESOLVED –**

That the minutes of the meeting held on 13 October 2016 be approved as a correct record.

#### **3 Interests and Lobbying**

Councillor A Pinnock advised that he had been lobbied on Application 2015/90020.  
Councillor Smith advised that he had been lobbied on Application 2015/93261.

#### **4 Admission of the Public**

All matters were considered in public session.

#### **5 Deputations/Petitions**

No deputations or petitions were received.

#### **6 Site Visit - Application 2016/93272**

Site visit undertaken.

**7 Site Visit - Application 2015/91717**

Site visit undertaken.

**8 Site Visit - Application 2016/93056**

Site visit undertaken.

**9 Site Visit - Application 2015/93261**

Site visit undertaken.

**10 Site Visit - Application 2016/90093**

Site visit undertaken.

**11 Site Visit - Application 2016/90756**

Site visit undertaken.

**12 Site Visit - Application 2016/91777**

Site visit undertaken.

**13 Site Visit - Application 2016/93148**

Site visit undertaken.

**14 Site Visit - Application 2016/92811**

Site visit undertaken.

**15 Local Planning Authority Appeals**

The Sub-Committee received a report which set out decisions which had been taken by the planning inspectorate in respect of decisions submitted against the decisions of the Local Planning Authority.

**RESOLVED –**

That the report be noted.

**16 Planning Application 2015/90020**

The Sub-Committee gave consideration to Application 2015/90020 – Demolition of existing hotel and erection of 15 dwellings at the Whitcliffe Hotel, Prospect Road, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Ben Weatherley and Andy Keeling (on behalf of the applicant) and Nick Wilock (on behalf of local residents).

**RESOLVED –**

- 1) That Conditional Full Planning Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; the time limit for development, the development to be carried out in accordance with plans, samples of all facing and roofing materials, details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls for dwellings, vehicle parking areas to be surfaced and drained, scheme detailing proposed improvements to the unmade road leading between Prospect Road and the application site including widening of the access, provision of a passing place and adjacent footways, Phase I Intrusive Site Investigation Report, Phase II Intrusive Site Investigation Report, Remediation Strategy, Reporting of any unexpected contamination, Validation Report, Scheme restricting the rate of surface water discharge from the site to a maximum of 70% of the existing pre-development flow rate to the same outfall, development carried out in accordance with the recommendations of the noise report, details of charging plug-in points for electric vehicles, Arboricultural Method Statement, in accordance with BS 5837 to show how the development will be completed while avoiding damage to trees' and their roots, a Biodiversity Mitigation and Enhancement Plan, a landscape management plan and a scheme for the physical prevention of parking on the public right of way.
- 2) That, unless upon the receipt of further information the development is found to be incapable of sustaining any contributions, the Head of Development Management be delegated authority to secure a S106 agreement to cover a commuted sum in respect of public open space and for the developer to enter into the Metro Card Scheme.
- 3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Development Management shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that it would have secured, and would therefore be permitted to determine the application and impose appropriate reasons for refusal under delegated powers.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, Scott, Smith, Sokhal (9 votes)

Against: Councillors Bellamy, A Pinnock, K Taylor and Wilkinson (4 votes)

**17 Planning Application 2015/93261**

The Sub-Committee gave consideration to Application 2015/93261 – Demolition of existing buildings and outline application for erection of residential development (15 dwellings) at Connection Seating Ltd, Dogley Mills, Penistone Road, Fenay Bridge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Tim O’Sullivan (applicant) and David Storrie (on behalf of the applicant).

**RESOLVED –**

- 1) That Conditional Outline Planning Permission be granted subject to the re-advertisement of the application for a period of 7 days following the receipt of the revised layout, and provided that no new material considerations are raised that have not already been addressed, the Head of Development Management be authorised to approve the application and finalise conditions including matters relating to; standard reserved matters conditions, the development to be in accordance with the Flood Risk Assessment, a scheme to restrict the rate of surface water discharge, a scheme retailing fould, surface water, and land drainage, Phase II Intrusive Site Investiagtion Report, Site Remediation Strategy, site remediation, validation report, affordable housing, public open space, metro card provision, surfacing of vehicle parking areas, biodiversity mitigation and enhancement plan and provision of electric vehicle recharging points.
- 2) That the Head of Development Management be delegated authority to secure a S106 Agreement to cover the relocation of Connection Seating within the district.
- 3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Development Management shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that it would have secured, and would therefore be permitted to determine the application and impose appropriate reasons for refusal under delegated powers.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O’Neill, Pervaiz, A Pinnock, Scott, Smith, Sokhal, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**18 Planning Application 2016/92811**

The Sub-Committee gave consideration to Application 2015/92811 – Erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works at Flockton Hall Farm, Barnsley Road, Flockton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Lin Holroyd and Jimmy Paxton (Kirkburton Parish Council), John Pitts and Dave Coates (local residents) and Paul Thornton (applicant). Under the provsions of Council Procedure Rule 36 (1) the Sub-Committee received a representation from Councillor Armer (Local Member).

**RESOLVED –**

- 1) That Conditional Full Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; the standard time limit for implementation, the development to be in accordance with approved plans, samples of facing and roofing materials to be inspected and approved, the provision of electric charging plug-in, Biodiversity and Management Enhancement Plan, submission of a Phase II Intrusive Site Report, Remediation Strategy Report, remediation to be carried out in accordance with remediation strategy, validation report, development to be in accordance with the Flood Risk Assessment, and Construction Management Plan.
- 2) That, at the request of the Sub-Committee, an additional condition be included to require the provision of cross-hatching on Barnsley Road, across the farm field access.
- 3) That the Head of Development Management be delegated authority to secure a S106 agreement to cover (i) affordable housing of 9 affordable houses, 5 at social rent and 4 at intermediate (ii) off-site drainage works (iii) education (iv) an equipped public open space site off site within Flockton Village (v) bus shelter and (vi) metro card provision.
- 4) That, pursuant to (3) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Development Management shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that it would have secured, and would therefore be permitted to determine the application and impose appropriate reasons for refusal under delegated powers.

Recorded Votes were taken in accordance with Council Procedure Rule 42(5) as follows;

To Refuse;

For: Councillors Bellamy and Smith (2 votes)

Against: Councillors Akhtar, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, Scott, Sokhal, K Taylor and Wilkinson (11 votes)

To approve;

For: Councillors Akhtar, Dad, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, K Taylor and Wilkinson (10 votes)

Against: Councillors Bellamy and Smith (2 votes)

Abstained: Councillor Grainger-Mead

**19 Planning Application 2016/91777**

The Sub-Committee gave consideration to Application 2016/91777 – Erection of 5 dwellings adjacent to 3 Field Head, Shepley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Jeremy Child (on behalf of the applicant).

**RESOLVED –**

That Conditional Full Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; the standard time limit for implementation, the development to be in accordance with approved plans, samples of facing and roofing materials to be inspected and approved, the removal of permitted development rights for extensions or outbuildings, provision of electric vehicle charging points, landscaping scheme, full detail boundary treatments and reporting of any unexpected contamination.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Smith, Sokhal, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**20 Planning Application 2016/93148**

The Sub-Committee gave consideration to Application 2016/93148 – Outline application for erection of 7 dwellings at Dry Hill Farm, Dry Hill Lane, Denby Dale.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Claire Parker-Hugill (on behalf of the applicant) and Simon Blyth (applicant).

**RESOLVED –**

That the application be refused on the grounds that (i) the application is located within designated Green Belt, and would constitute inappropriate development in the Green Belt (ii) the evidence submitted does not outweigh the harm that would result to the Green Belt and (iii) the proposal conflict with Chapter 9 of the National Planning Policy Framework.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Smith, Sokhal, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**21 Planning Application 2015/91717**

The Sub-Committee gave consideration to Application 2015/91717 – Outline application for residential development (maximum 3 no. dwellings) at rear of 40 Church Road, Robertown.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Malcolm Sizer (on behalf of the applicant) and Julian Morton (local resident).

**RESOLVED -**

That Outline Planning Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters

relating to; the standard time limit for implementation, the development to be in accordance with approved plans, finished ground levels relating to ordnance datum (or an identifiable datum), facing material to be natural stone and samples to be provided for walls and roofing, removal of Permitted Development Rights for the erection of further extensions/outbuildings, laying out of areas to be used by vehicles, submission of a scheme demonstrating an adequately designed soakaway for an effective means of drainage of surface water, a scheme for intrusive site investigations (in relation to Coal Mining), undertaking of the scheme of intrusive site investigations (in relation to coal mining), submission of a report of findings arising from the intrusive site investigations (in relation to coal mining), submission of a scheme of remedial works for approval (in relation to coal mining), implementation of remedial works (in relation to coal mining), scheme for provision of low emission charging points, ecological method statement, ecological design strategy, a scheme for the improvement works to be the access/bridleway (Spenborough 126) and drainage details.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Smith, Sokhal, K Taylor and Wilkinson (12 votes)

Against: (No votes)

Abstained: Councillor Grainger-Mead

## **22 Planning Application 2016/90357**

The Sub-Committee gave consideration to Application 2016/90357 – Erection of 2 semi-detached houses with parking provision and a private drive adjacent to 64 Wharf Street, Savile Town, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Marcus Walsh (on behalf of the applicant) and Nick Wilock (on behalf of local residents).

### **RESOLVED –**

That Conditional Full Planning Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; time limit for development to be three years, plans to be approved, finished grounds levels, materials to be natural stone walling and marley modern tile roof (samples to be provided), removal of Permitted Development Rights for extensions or insertion of windows, laying out of areas to be used by vehicles, removal of Permitted Development Rights for extensions, development to be carried out in accordance with Flood Risk Assessment and Mitigation, submission of preliminary risk assessment and scheme for provision of electric vehicle charging points.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Smith, Sokhal, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**23 Planning Application 2016/90756**

The Sub-Committee gave consideration to Application 2016/90756 – Erection of 2 detached dwellings at land to rear of 59 Far Bank, Shelley, Huddersfield.

**RESOLVED –**

That Conditional Full Planning Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; time limit for development, development to be carried out in accordance with the plans and specifications, dwellings to be constructed of the approved facing and roofing materials, boundary treatment, appropriate surfacing of all areas indicated for vehicular access and turning area, no gates/barriers to be erected across the vehicular access from Far Bank, re-location of street lighting column and schedule of landscape maintenance.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, K Taylor and Wilkinson (12 votes)

Against: Councillor Smith (1 vote)

**24 Planning Application 2016/90093**

The Sub-Committee gave consideration to Application 2016/90093 – Demolition of existing single storey side extension and erection of two storey side extension (within a Conservation Area) at 16 Hall Lane, Highburton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Carol Crowther and Irene Battye (local residents), Andy Keeling (on behalf of local residents) and Nick Wilcock (on behalf of the applicant). Under the provisions of Council Procedure Rule 36 (1) the Sub-Committee received a representation from Councillor Armer (Local Member).

**RESOLVED –**

That the application be refused.

(Contrary to the Officer's recommendation, the Sub-Committee resolved to refuse the application on the grounds that the proposed extension would by virtue of its size and siting, result in an overbearing and dominant impact upon neighbouring residents to the detriment of residential amenity, and contrary to Policy D2 of the Unitary Development Plan and the aims of the National Planning Policy Framework).

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, Smith, K Taylor and Wilkinson (12 votes)

Against: Councillor Kane (1 vote)



**25 Planning Application 2016/93056**

The Sub-Committee gave consideration to Application 2016/93056 – Change of use of land to cemetery and formation of access road at land adjacent to Liversedge Cemetery, Clough Lane, Hightown, Liversedge.

**RESOLVED –**

That Full Planning Permission be granted under Regulation 4 of the Town and Country Planning General Regulations 1992, subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; the time limit for implementation, the development to be carried out in accordance with the plans and specifications, and areas to be surfaced and drained.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, Smith, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**26 Planning Application 2016/93198**

The Sub-Committee gave consideration to Application 2016/93198 – Change of use of vacant land to burial ground (within a Conservation area) at Batley Cemetery, Cemetery Road, Batley.

**RESOLVED –**

That Full Planning Permission be granted under Regulation 4 of the Town and Country Planning General Regulations 1992, subject to the delegation of authority to the Head of Development Management to finalise conditions including matters relating to; the time limit for implementation, the development to be carried out in accordance with the plans and specifications, and a drainage pre-commencement condition relating to the submission and approval of a soakaway scheme.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, Smith, K Taylor and Wilkinson (13 votes)

Against: (No votes)

**27 Planning Application 2016/93272**

The Sub-Committee gave consideration to Application 2016/93272 – Erection of single storey rear extension with balcony over at 677 Huddersfield Road, Ravensthorpe.

**RESOLVED –**

That Conditional Full Planning Permission be granted subject to the delegation of authority to the Head of Development Management to finalise conditions including

**Planning Sub-Committee (Heavy Woollen Area) - 15 December 2016**

matters relating to; time limit for development, plans to be approved and wall and roofing materials to match the existing building.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Kane, O'Neill, Pervaiz, A Pinnock, Scott, Sokhal, Smith, K Taylor and Wilkinson (13 votes)

Against: (No votes)

<b>KIRKLEES COUNCIL</b>			
<b>DECLARATION OF INTERESTS AND LOBBYING</b>			
Planning Sub-Committee/Strategic Planning Committee			
<b>Name of Councillor</b>			
<b>Item in which you have an interest</b>	<b>Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)</b>	<b>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]</b>	<b>Brief description of your interest</b>
<b>LOBBYING</b>			

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

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 (HEAVY WOOLLEN AREA)**

**Date: 23 February 2017**

**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 <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
<b>Date signed off by <u>Director</u> &amp; name</b>  <b>Is it signed off by the Director of Resources?</b>  <b>Is it signed off by the Acting Assistant Director - Legal &amp; Governance?</b>	<b>14 February 2017</b> <b>Jacqui Gedman</b>  <b>No financial implications</b>  <b>No legal implications</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Economy, Skills, Transportation and Planning (Councillor McBride)</b>

**Electoral [wards](#) affected: Kirkburton; Batley East; Birstall and Birkenshaw; Dewsbury East; Denby Dale;**  
**Ward councillors consulted: No**

**Public or private: Public**

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- 1. Purpose of report**  
For information
  - 2. Key points**
    - 2.1 2016/90650 - Erection of stables at Land off, Lane Head Road, Shepley, Huddersfield. (Officer) (Dismissed)
    - 2.2 COMP/14/0091 - Alleged unauthorised material change of use of land to HGV storage at Land to the rear of Oakwell House, Nutter Lane, Birstall, Batley, WF17 9LF. (Officer) (Appeal is dismissed and the enforcement notice is upheld with a variation)
    - 2.3 2016/92102 - Erection of single storey side and rear extensions (within a Conservation Area) at 4, Linefield Road, Batley, WF17 0ES (Committee) (Dismissed)

- 2.4 COMP/15/0093 - Alleged material change of use of land from agricultural land to land used for the storage and parking of vehicles and trailers at land to the north side of Coal Pit Lane, Carlinghow, Batley (known as Small Holding). (Officer) (Appeal is dismissed and enforcement notice upheld)
- 2.5 COMP/16/0068 – Appeal against an enforcement notice requiring the reduction in height of a fence to not more than 1m at 1 Northfield Road, Dewsbury, WF13 2JX. (Officer) (The appeals are dismissed, planning permission is refused and the enforcement notice is upheld)
- 2.5 2016/91024 - Prior approval for proposed change of use of agricultural building to one dwelling (within the setting of a Conservation Area) at Pog Hall Farm, Penistone Road, High Flatts, Huddersfield, HD8 8XU (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**

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## Appeal Decision

Site visit made on 1 November 2016

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 9<sup>th</sup> January 2017**

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**Appeal Ref: APP/Z4718/W/16/3155993**

**Land off Lane Head Road, Shepley**

- 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 S Blyth against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/90650/E, dated 24 February 2016, was refused by notice dated 25 May 2016.
  - The development proposed is the erection of stables.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ("the Framework") and development plan policy;
  - (b) The effect of the proposal on the openness of the Green Belt, and;
  - (c) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

#### *Inappropriate development in Green Belt*

3. The appeal site comprises a small disused piece of land, close to Lane Head Road. It contains two small outbuildings, a wooden garage in poor condition and a stone building with a corrugated iron roof. The appeal proposal would create a stable facility that could accommodate up to 3 horses, including a horse box (trailer) store and a feed store/tack room.
4. Paragraph 89 of the National Planning Policy Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the provision of appropriate facilities for outdoor sport or outdoor recreation, so long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

5. It is common ground between the parties that the proposal would amount to a facility for outdoor sport and recreation. It would therefore be capable in principle of meeting this exception. However, paragraph 89 also requires that such proposals are "appropriate". In this case, the appeal site is only 0.1 hectares in size and does not contain sufficient land for the horses to be grazed or exercised. There is limited information before me as to where any grazing or exercise of the horses would take place, and it does not appear practical to transport up to 3 horses on a regular basis to land elsewhere. For these reasons, I do not consider that the proposal would constitute an appropriate facility for outdoor sport and recreation. It would therefore not comply with the relevant exception at paragraph 89 of the Framework.
6. The appellant has not sought to argue that the proposal would meet any of the other exceptions listed at paragraph 89 of the Framework, and it does not appear to me that it would do so. Accordingly, I conclude that the proposal would be inappropriate development in the Green Belt which paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness*

7. There are currently two domestic buildings on the site, which are modest in scale. The proposed stables, attached feed store/tack room and horse box (trailer) store would occupy a greater built footprint and would have a greater built volume than the existing structures. The Framework advises at paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm by reducing openness.
8. Whilst the development would be partially screened from view by existing trees and bushes, which would be retained, it would still be clearly visible from the road and other public vantage points. This consideration would not alter the loss of openness associated with the proposal. In view of these points, I conclude that the appeal proposal would fail to preserve the openness of the Green Belt.

#### *Other considerations*

9. The site is currently disused and the garage building in particular is in a poor state of repair. The appellant states that the proposal would visually improve the appearance of the site. However, the current condition of the land does not significantly detract from the appearance of the area in my view. In any event, the condition of land is a management responsibility for the owner.
10. In addition, the appellant states that the proposal would allow for the better use of the land, which is currently useless to the owner. However, this would be solely a private benefit.

#### *Other Matters*

11. The development would use the existing access onto Lane Head Road that is utilised by the adjacent property. Whilst this access would be onto a busy main road, there is good visibility in both directions and I am satisfied that it would not prejudice highway safety. In this regard I note that the Council's Highways section did not object to the development.



12. The appeal site is just outside the boundary of the Shepley Conservation Area. However, the proposed buildings would be relatively small in scale and would be of a design and materials that would be appropriate to a rural location. Accordingly, the appeal proposal would not harm the setting to the conservation area. For the same reasons, the development would not have any unacceptable visual impact on Toll Bar House, which is not listed.
13. A number of interested parties have raised concerns regarding the apparent lack of storage facilities for manure and other waste products. However, from the arguments put to me, this matter appears to be subject to other legislation, and it therefore carries no weight in my decision.

### **Conclusion**

14. I conclude that the other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to Policy D10 of the Kirklees Unitary Development Plan (1999), and guidance contained in the Framework.
15. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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# Appeal Decision

Site visit made on 30 November 2016

**by Jean Russell MA MRTPI**

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

**Decision date: 08 December 2016**

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## **Appeal Ref: APP/Z4718/C/16/3147220**

### **Land to the rear of Oakwell House, Nutter Lane, Birstall, Batley, WF17 9LF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Brian Mortimer against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 15 February 2016.
- The breach of planning control as alleged in the notice is: without planning permission: the material change of use of land from agricultural land to land used for the storage and parking of vehicles and trailers.
- The requirements of the notice are to: (i) cease the use of the land [shown] edged blue [on the plan attached to the notice] for the purposes of storage and parking of vehicles and trailers and; (ii) return the land to its former condition by removing the hard surface and resulting debris from the land edged blue.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in s174(2)(a), (d), (f) and (g) of the 1990 Act as amended. 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 a variation.**

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### **The Enforcement Notice**

1. The appeal site forms part of a wider property owned by the appellant. It is set back but accessed from Nutter Lane to the north. The appellant operates a haulage business from a building and land ('the haulage area') between the site and the road and that use became lawful through the passage of time.
2. The appellant objects that the land edged in blue on the enforcement plan denotes no current features or points of reference, and is identified by 'arbitrary lines'. He suggests that the plan is at an inappropriate scale and out of date, so that it is open to interpretation. Paragraph 2 of the notice describes the site by reference to the plan, and so the appellant has raised questions about the validity of the notice.
3. I saw that the appeal site is defined on the ground; it is roughly surfaced, enclosed by fencing to south and east, and enclosed by a low wall to the north. The access from Nutter Lane leads through the haulage area, into the site via its northwest corner, and then through the site by a fence to the west. The appellant accepted that the lines on the plan 'indicate approximate locations of field boundaries'; I find that the location, size and shape of the site are drawn with reasonable accuracy.
4. I also consider that the site is correctly plotted in relation to nearby buildings, even if 'recent extensions' to them are not shown. Since it is not unusual for attached plans to be at a 1:1250 scale, I am satisfied that the notice is not unacceptably vague. It is clear where the breach of planning control is alleged to have taken place and where the requirements of the notice must be carried out.

### **The Appeal on Ground (d)**

5. Ground (d) is that, at the date when the notice was issued, no enforcement action could be taken in respect of a breach of planning control which may be constituted by the matters stated in the notice. The onus of proof is on the appellant and the standard of proof is the balance of probabilities.
6. Under s171B(1) of the 1990 Act, no enforcement action may be taken in respect of operations until after the end of the period of four years beginning with the date of substantial completion. S171B(2) relates to a change of use of a building to use as a single dwellinghouse. Under s171B(3), no enforcement action may be taken in the case of 'any other breach of planning control' until after the end of the period of ten years beginning with the date of the breach.
7. The alleged material change of use falls to be considered under s171B(3). The appellant does not claim that the change of use had occurred by 15 February 2006 or that the use continued for any ten year period. His case is that the hard surface falls to be considered under s171B(1) and was substantially completed more than four years prior to the date of the notice. The surface is not described in the breach of planning control, however, and it cannot be subject to a ground (d) appeal.
8. The appellant suggests that the notice is inconsistent because the hard surface is subject to a requirement and not the allegation. However, it is a well-established principle of enforcement case law that a notice directed at a material change of use may require the removal of works integral to the use, even if the works would be immune from enforcement action in their own right. I shall consider whether the requirement to remove this hard surface is excessive under ground (f).
9. I conclude that, at the date that the notice was issued, it was not too late for the Council to take enforcement action in respect of the alleged material change of use of land. The appeal on ground (d) fails.

### **The Appeal on Ground (a) and the Deemed Planning Application (DPA)**

#### ***Scope of the Ground (a) Appeal and the DPA***

10. The appellant does not dispute that the alleged change of use took place; he concedes that vehicles and trailers were stored or parked on the land through 'natural expansion' of the haulage business. However, he has also said that lorries and other vehicles have been removed from the site; only six trailers remain and these are being used to store straw and hay for his livery business. He explained that it is essential to site trailers on the land for storage related to the 'outdoor sport and recreation' use, which represents an agricultural diversification scheme.
11. Like ground (d), ground (a) relates to 'the matters stated in the notice'. The DPA is for the development which has been carried out; it derives its terms directly from the allegation. Under s177(1)(a) of the Act, planning permission may be granted in relation to the 'whole or any part of those matters or...the whole or any part of the land to which the notice relates' but I have no power to grant permission for something completely different from that being enforced against.
12. It is also apparent from the notice that the Council considers agriculture to be the lawful use of the site. The grazing of horses need not result in a material change of use of farmland – but recreational equestrian activities can do so depending on fact and degree. With no information as to the extent of the livery business or when it commenced, I could not speculate as to whether the use of the land for the storage of hay and straw in trailers for a livery would be lawful now or represent a different material change of use from that being alleged.

13. Notwithstanding that the alleged use may have ceased, the appellant has paid the fee for consideration of ground (a) and the DPA. He stated in his grounds of appeal that 'the change of use ought to be granted planning permission'. I shall consider the case for permitting the storage and parking of vehicles and trailers.

### **Main Issues**

14. The appeal site lies within a Green Belt. The *National Planning Policy Framework* (the Framework) states that inappropriate development in the Green Belt is harmful to the Green Belt by definition and should not be approved except in very special circumstances. The main issues for this appeal are:
- whether the material change of use of land to use for the storage and parking of vehicles and trailers is inappropriate development in the Green Belt;
  - the effect of the use on the openness of the Green Belt and the purposes of including land within it;
  - its effect on highway safety; and
  - whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

#### *Green Belt*

15. The Framework states that the construction of new buildings is inappropriate development in the Green Belt except in specified circumstances. The Framework then describes other forms of development which need not be inappropriate in the Green Belt – and the list does not include the making of a material change of use of land. This means that the alleged change of use to the storage and parking of vehicles and trailers is inappropriate development in the Green Belt.
16. The Framework states that engineering operations need not be inappropriate development in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The formation of the hard surface on the site was an engineering operation but this development is not alleged and I cannot consider the case for permitting it in its own right<sup>1</sup>. Insofar as the surface is associated with the unauthorised use, it facilitates harm to the openness and purposes of the Green Belt as discussed below.
17. I conclude that the alleged material change of use is inappropriate development in the Green Belt and harmful to the Green Belt by definition. In accordance with the Framework, I attach substantial weight to this harm.

#### *The Openness and Purposes of the Green Belt*

18. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. The purposes of including land in Green Belts include assisting in safeguarding the countryside from encroachment.
19. The site adjoins the haulage area to the northwest, the garden at Oakwell House to the north, and fields to the east, south and west; it is mainly surrounded by open land. As noted below, the site was itself previously a grassed field and so it would have been an area of countryside that added to the openness of the Green Belt.

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<sup>1</sup> Had I allowed the appeal on ground (a) and granted permission for the use, the notice would have been quashed and then the appellant would not have needed to comply with the requirement to remove the hard surface.

20. Permitting the alleged use could plainly lead to the storage and parking of lorries and lorry trailers – which I would describe as long and bulky chattels or structures. The site is sufficiently large that the use could occur on a significant scale; a condition could restrict the number of vehicles and trailers kept, but not so as to place a disproportionate burden on the appellant. I find that the extent and nature of the use would result in a serious loss of openness in the Green Belt.
21. The site is within hearing distance of but not visually associated with the M62. Dwellings in the wider area are separated from the site by countryside. There is a public footpath to the east and the use would be seen from there as being in the foreground of and an extension to the haulage area. The site is some metres from the footpath; it is also partly screened, particularly from Nutter Lane. Nevertheless, the use would not have any positive impact on the openness of the Green Belt in visual terms, so as to outweigh or justify the actual loss of openness.
22. Since the site was previously used for grazing, I also find that the alleged use would encroach upon the countryside, in conflict with the purposes of including the land within the Green Belt. I attach substantial weight to the harm caused to the openness and purposes of the Green Belt.

#### *Highway Safety*

23. Nutter Lane is an unclassified rural road that leads from the A652 past Oakwell Hall and Country Park and the appellant's property to Nova Lane, which serves a more built-up area and terminates at the B6125. Thus, Nutter Lane is part of a through route and it provides access to land other than the site. However, I saw that the carriageway is sufficiently narrow that even the drivers of cars must slow down to pass each other and/or wait at passing places.
24. Since the appellant's haulage business became lawful through the passage of time, it follows that HGVs will have been driven along Nutter Lane for at least ten years. I cannot speculate as to the planning status of the livery business but I will accept, for the purposes of considering this planning issue, that horse boxes and trailers have also been driven to and from the appellant's land. The Council has not shown that these existing uses have led to, for example, recorded road traffic accidents.
25. However, the site is large enough that the alleged use could take place on a considerable scale. In my view, allowing the parking and storage of vehicles and trailers here would result in a material rise in the movement of heavy vehicles along the constricted Nutter Lane. There would be an increased risk of congestion and collisions, if and when, for example, drivers reverse to passing places.
26. The Framework expects that developments which would generate significant amounts of movements should be supported by a Transport Statement or Assessment, and should achieve safe and suitable access. I find that the use would be liable to generate a significant amount of movement in relation to the standard of the carriageway. The appellant has not provided information to persuade me otherwise, or show that the use would have a safe and suitable access.
27. From the size of the site, the nature of the use, the layout of Nutter Lane and the lack of evidence from the appellant, I conclude that allowing the appeal would be liable to result in an unacceptable loss of highway safety. The use would conflict with the Framework and Policy T10 of the *Kirklees Unitary Development Plan* (UDP), which does not permit development that would create or materially add to highway safety problems or, if it would generate a significant number of journeys, it could not be served adequately by the existing highway network. Given the serious consequences associated with loss of highway safety, I attach considerable weight to the harm that could be caused by the use in this respect.

### *Other Considerations*

28. The Framework describes that 'very special circumstances' will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
29. The Framework supports sustainable economic development, including the development and diversification of agriculture and land-based rural businesses. However, the appellant has not shown that the appeal use could only be operated from this site, or that it would achieve economic or other benefits capable of clearly outweighing the harm caused to the Green Belt. Since I cannot consider the case for the use of trailers for storage in association with a livery business, I attach little weight to the considerations advanced in favour of the appeal.

### *Planning Balance and Conclusion*

30. I have found that the alleged use is inappropriate development in the Green Belt. I attach substantial weight to the harm caused to the Green Belt by definition, and through loss of openness and encroachment into the countryside. The scales are further tipped against the appeal by the threat posed by the use to highway safety – and the other considerations advanced do not outweigh the harm.
31. I have had regard to all other matters raised. Looking at the case as a whole, in accordance with the Framework, I conclude that very special circumstances do not exist to justify a grant of planning permission for the development, which conflicts with the Framework and UDP Policy T10. It follows the appeal on ground (a) should fail and the DPA should be refused.

### **The Appeal on Ground (f)**

32. Ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control, or any injury to amenity which has been caused by the breach. In considering whether the steps are excessive, it is necessary to look at the purpose of the notice. It alleges that a material change of use has taken place and it requires that the use must cease; this means that the purpose of the notice is to remedy the breach.
33. I have found that the plan attached to the notice makes it clear where the breach has taken place and the requirements apply. I have considered the merits of the use under ground (a) and concluded that planning permission should be withheld. It is not excessive for step (i) of the notice to be that the use must cease. The appellant has not proposed a lesser step which might remedy the breach.
34. Turning to step (ii), the appellant claims that that the hard surface was laid to provide circulation space for horseboxes and trailers, and the loading/unloading of horses and ponies. While an enforcement notice concerned with a material change of use can require the removal of operational development which is integral to the unauthorised use, that principle does not apply if the works were undertaken for a different and lawful use, and could be re-used for that lawful purpose.
35. However, the appellant has not shown that there is a lawful livery use and I cannot determine whether this is so through this appeal. I also note that the 2009 and 2011 Google Earth photographs appear to show lorries on the land which were similar to lorries on the haulage area. The appellant's final statement refers to the hard surface being used for parking HGVs and 'also a degree of storage for hay and straw' [my emphasis]. It has not been shown that the hard surface was laid or could be re-used for a lawful purpose.

36. The appellant suggests that the reference in step (ii) to the 'former condition' of the site is vague, but s173(4)(a) is explicit that the requirements of a notice may achieve purposes including 'remedying the breach...by restoring land to its condition before the breach took place'. The landowner is often the person with the best knowledge of what that condition was and the appellant has stated here that the land was grassed before he laid the hard surface.
37. I also find that the requirement to remove the hard surface and 'resulting debris' is plain, unambiguous and necessary to ensure that the site is restored to its previous condition. I conclude that the requirements of the notice are not excessive to remedy the breach of planning control. The appeal on ground (f) fails.

### **The Appeal on Ground (g)**

38. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggests that he would need 12 months rather than one in order to restore the site to its previous condition.
39. I have been unable to speculate as to the lawfulness of the livery use but that has implications for the hard surface. It would be reasonable to extend the period for compliance with step (ii) to give the appellant time to discuss this matter with the Council and/or apply for planning permission or a lawful development certificate.
40. In the event that the surface must be removed, I am not persuaded that this could only take place in fair weather. I accept that returning the site to its previous condition might involve the spreading of soil and grass seed, but even so the works as a whole need not take long. The appellant might need to maintain the grass for his own purposes, but not to comply with the notice.
41. Taking all of the circumstances into account, I conclude that it would be reasonable to vary the notice so that the appellant has six months to comply with step (ii). From the representations on ground (g), however, and the fact that some vehicles have already been removed, I have no reason to extend the period for compliance with step (i). To a limited extent, the appeal on ground (g) succeeds.

### **Conclusion**

42. For the reasons given above and with regard to all other matters raised, I conclude that the enforcement notice should be varied and the appeal should be dismissed.

### **Decision**

43. The enforcement notice is varied by deleting the text of paragraph 5 in its entirety and substituting: '*(i) within one month of the date that this notice takes effect, cease the use of the land edged blue on the plan attached to this notice for the purposes of the storage and parking of vehicles and trailers; and (ii) within six months of the date that this notice takes effect, return the land to its former condition by removing the hard surface and resulting debris from the land edged blue on the plan attached to this notice.*'
44. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

*Jean Russell*

INSPECTOR

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## Appeal Decision

Site visit made on 24 January 2017

**by Andrew McCormack BSc (Hons) MRTPI**

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

**Decision date: 9 February 2017**

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**Appeal Ref: APP/Z4718/D/16/3163310**

**4 Linefield Road, Upper Batley, Batley WF17 0ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to planning permission.
  - The appeal is made by Mr Mohammed Mulla against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92102/E, dated 17 June 2016, was refused by notice dated 5 September 2016.
  - The development proposed is single storey rear and side extension in a conservation area.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the host property and the Upper Batley Conservation Area.

### Reasons

3. The appeal site is a detached bungalow situated on Linefield Road and is set back from the public highway. It forms part of a regular pattern of development along the south side of the road consisting of large detached bungalows of similar design and appearance on spacious plots. To the front of the appeal property is a large grassed garden area with a driveway and detached garage to the side. To the rear is a good-sized garden which is screened by hedging and shrubs to the southeast, southwest and northwest. The adjacent properties either side of the appeal site, Nos 2 and 6 Linefield Road, have similar amounts of amenity space to the front and rear and between the properties there are substantial spaces. The appeal property is located within the Upper Batley Conservation Area (CA).
4. The proposed scheme would extend the original building considerably. Whilst the flat roof elements to the rear would lack any architectural subtlety, they would not be visually prominent. However, they would diminish the character of the host property and alter the appearance of the surrounding area. Furthermore, the combination of the rear addition and the significant side extensions would erode substantially the amount of space around the property.
5. Despite the use of sympathetic materials and its set back from the highway, the bulk of the proposal, particularly relating to the side additions, would be prominent when viewed from the access lane at the front of the property. The side additions would result in the property appearing further elongated and would extend the building across the full width of its plot. This would effectively close the visual



gaps between the appeal property and its detached garage and also between the property and No 6. It would therefore create a terracing effect which would be out of keeping with the prevailing spacious character of the streetscene and would be detrimental to the uniform yet spacious appearance of the group of bungalows on Linefield Road.

6. The appellant states that access paths are to be retained to each side of the property which, it is argued, would diminish any terrace effect. Notwithstanding this, the extent of the frontage of the property incorporating the proposed side additions would be substantially increased and would have a significant adverse impact on its appearance and the character of the area. Furthermore, I note that the proposed floor plan drawings submitted by the appellant indicate that there would be no gap between the proposed side extension and the existing detached garage of the appeal property. As a result, I am not convinced that the proposal would have not create a substantial and seemingly continuous frontage to the property which would be harmful to its character and appearance and that of its surroundings.
7. There is a wall between the appeal property and its boundary with No 6 which, the appellant argues, already creates a terracing effect. However, the wall is set back from the main frontage of the property by a significant distance and therefore does not form part of the main frontage of the property. The bulk, height, scale and position of the proposed side extensions would create an extended frontage which would have a greater visual impact on the streetscene. Furthermore, it would create a significant terrace effect consisting of Nos 2, 4 and 6 Linefield Road.
8. I note the substantial natural boundaries between the properties on Linefield Road to which the appellant refers and the appellant's view that these would soften any adverse impact of the proposal. However, in my view, these would have only a limited mitigating effect on the detrimental effect that the proposed development would have on the spacious character of the area.
9. Whilst reasonably localised in its extent, the effect of the scheme would be to diminish unacceptably the character, appearance and integrity of the host property and the group of bungalows on Linefield Road with consequent harm to the spacious character and appearance of the CA. Whilst the harm to the CA would be less than substantial, I have not been made aware of any public benefits of the proposal which would outweigh that harm I have identified. Moreover, the proposal would fail to preserve or enhance the character or appearance of the CA.
10. Consequently, I conclude that the proposal would have a materially harmful effect on the host property and the Upper Batley Conservation Area. It would therefore be contrary to Policies BE1, BE2, BE5 and BE14 of the Kirklees Unitary Development Plan and the National Planning Policy Framework. Amongst other matters, these policies and guidance seek to ensure that development is not detrimental to the character and appearance of buildings and the surrounding area and that it preserves or enhances the character or appearance of heritage assets, including conservation areas.

## **Conclusion**

11. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Andrew McCormack*

INSPECTOR

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## Appeal Decision

Site visit made on 29 November 2016

**by Martin Joyce DipTP MRTPI**

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

**Decision date: 14 December 2016**

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**Appeal Ref: APP/Z4718/C/16/3146587**

**Land on the north west side of Coal Pit Lane, Carlinghow, Batley, West Yorkshire**

- 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 J H Priestley against an enforcement notice issued by the Kirklees Council.
- The enforcement notice, Ref: COMP/15/0093, was issued on 20 January 2016.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use of land from agriculture to mixed use of agriculture and waste processing/storage and the erection of two buildings.
- The requirements of the notice are to cease the use of the site for the storage and processing of waste including the burning and dismantling of any article or any other method of processing waste; remove from the site all equipment and vehicles used in waste processing such as an incinerator and any vehicles/caravans, parts of vehicles/caravans or articles that are awaiting processing; and, wholly demolish the two buildings outlined in blue on the plan attached to the notice and remove all resultant debris from the site.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in Section 174(2)(c) and (e) of the Town and Country Planning Act 1990 as amended. As the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the Act as amended does not fall to be considered.

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

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### The Appeal Site

1. The appeal site comprises an irregularly-shaped area of rising land on the north-western side of Coal Pit Lane, a public bridleway that runs south-west from Chaster Street. The curtilages of dwellings in Chaster Street to the east, and Spring Mills Grove and Greenfield View, part of a modern housing estate to the north, form boundaries, in places, with the site.
2. The site is divided into three main enclosures by post and wire fencing, and much of it is grassed and used for agricultural or horse grazing purposes. At the time of my visit there were six goats, four sheep and a donkey on the land, with two horses moved temporarily onto adjoining land that was not in the appellant's control. A gateway at the south-eastern corner of the site provides access to a yard area that contains a number of structures, including a large open-sided building, measuring about 15.4m in length, 3.6m in width and 2.4m in height, which is one of the two required to be removed by the notice. That

building, divided into bays, is partly used for stabling purposes, and partly for storage, including agricultural equipment and machinery. It is constructed mainly of timber and plywood.

3. A range of further buildings and structures, including a framework shrouded in tarpaulins, runs along the short easternmost boundary. Further storage takes place in these structures, and also the repair of vehicle components in a rudimentary workshop under the shrouded area. Within the remainder of the yard is a tightly-packed miscellany of sheds, trailers, vehicles, including tractors, other agricultural machinery, a Hymac tracked excavator, a touring caravan, a horsebox, stacks of wood, stone, rubble and vehicle parts, as well as containers holding animal feed.
4. Another gate to the south-west provides a second access to the land from Coal Pit Lane. Close to this gate are two buildings, one of which is the other building at which the notice is, in part, aimed. It is a small animal shelter, open on one side, constructed mostly of plywood sheets, and measuring about 4.2m in length, 2.2m in width and 1.9m in height. It has been damaged by wind and was in a poor condition at the time of my inspection, but still used for shelter for the animals on the land. A more substantial stable building is sited close to the gate, but it is not shown on the plan attached to the notice and is not subject to the requirements of the notice.
5. The south-eastern boundary of the site, beyond the second gateway, is formed by a substantial hedgerow. Within this boundary is a strip of land that appears to be largely used for the storage and processing of waste material, although it does also contain some agricultural machinery, such as a muck spreader. I saw trailers and horse boxes containing a variety of material, including vehicle parts, tractor tyres, wood and metal waste, as well as a substantial pile of soil material, within which has been created an area used for burning waste. One trailer, fitted with high canvas or tarpaulin screening, was embellished with the words "Waste Management".

### **THE APPEAL ON GROUND (e)**

6. The appeal on ground (e) is based upon the contention that others with an interest in the land were not served with a copy of the enforcement notice, specifically, the appellant's sister, brother-in-law and nephew. The Council accept that others help on the land but they are not registered as owners and no evidence has been provided to show that anybody, other than the appellant, has a legal interest in the land. This has been confirmed by a Land Registry search made in November 2015.
7. In considering these matters, I note that the Council chose, in part, to rely upon a response to a Planning Contravention Notice (PCN) served on the appellant in 2014 in connection with action under Section 215 of the Town and Country Planning Act 1990 (The Act). They state that it was obvious, from the answers given by the appellant to that PCN, that the appellant did not understand any of the questions thus, given his documented threatening behaviour and in the knowledge that he "struggles" to understand planning policy and legislation, it was decided to proceed to formal enforcement action without prior contact, as to do otherwise would be futile.
8. I find it surprising that, notwithstanding any communication difficulties, the Council did not seek further information, including through a PCN about the

specific matters alleged in the notice, as that issued in 2014 does not contain any allegation about unauthorised uses or the erection of buildings on the land. Indeed, Section 215 of The Act is concerned with the proper maintenance of land, rather than unauthorised development. Moreover, they acknowledge that others do have an interest in the land, albeit not an apparent legal interest.

9. In this context, the provisions of Section 172(2) of The Act are pertinent. They state that a copy of an enforcement notice shall be served by the Local Planning Authority on (a) the owner and occupier of the land to which it relates, and (b) any other person having an interest in the land, being an interest which, in the opinion of the Authority, is materially affected by the notice. Service of a notice is not, therefore, confined solely to those with a legal interest in the land, as stated by the Council, but extends to occupiers including those with a lease, licence or even oral permission to use the land. This would include the relatives of the appellant who the Council acknowledge help the appellant with his activities on the land. It follows, therefore, that the Council should have served others with a copy of the enforcement notice and their failure to do so is a breach of the requirements of Section 172 of The Act.
10. There is, however, another limb to this matter. Whilst an appeal under Section 174(e) may correctly be made in circumstances where the Council has failed to serve a notice in accordance with Section 172, the provisions of Section 176(5) allow such failure to be disregarded if neither the appellant nor any other person has been substantially prejudiced by this failure to correctly serve the notice. I consider that this situation applies in this case. Whilst the three relatives of the appellant have not been served with the notice there is no suggestion that they were not aware of it, and the appellant does not contend that they have suffered any prejudice through the failure of the Council to follow the correct procedure. Moreover, the other persons with an interest in the land, presumably as a consequence of an oral permission to use the land, are likely, in my view, to have contributed to the grounds of appeal put forward by the appellant, not least because of the presence of two of them at the site inspection, with the appellant's sister showing control of relevant paperwork associated with the notice and the appeal.
11. In all of these circumstances, I conclude on this ground of appeal that the Council has not served the notice in accordance with Section 172 of The Act, but their failure to do so should be disregarded, in pursuit of Section 176(5) of The Act, because, on the balance of probabilities, no prejudice to the appellant or others with an interest in the land has been shown. The appeal on ground (e) therefore fails.

### **THE APPEAL ON GROUND (c)**

12. The appeal on ground (c) relates solely to the allegation that two buildings have been erected on the land without planning permission, and there is no challenge to the alleged material change of use of the land to a mixed use for agriculture and the storage and processing of waste, albeit that the appellant states that the fires on the land have been for the burning of agricultural waste. The appellant also questions why other farmers in the area are permitted to erect buildings, without the need for planning permission, and I take this to be a contention that the buildings at which this notice is aimed do not need planning permission because they are used for the purposes of agriculture.

13. The Council do not directly address the question of whether or not the buildings are exempt from the need for planning permission, rather they contend that they are operational development, having regard to the provisions of Section 55 of The Act, and they draw attention to the fact that the appellant accepts that one of them was completed in the last 14 months. However, neither matter is pertinent to the appeal that has been made, especially as there is no appeal on ground (d).
14. The appellant's contentions seem to relate to the fact that the site is in agricultural use, as accepted in the terms of the enforcement notice, and that the buildings in question are being used for agricultural purposes, as I saw at my site inspection. However, whilst the erection of buildings which are reasonably necessary for agricultural purposes is permitted under the terms of Class A of Part 6 of Schedule 2 to The Town and Country Planning (General Permitted Development (England) Order 2015 as amended, this only relates to agricultural land comprised in an agricultural unit of 5ha or more. I have no evidence before me that the appeal site forms part of an agricultural unit of over 5ha, and the site itself comprises only about 1.7ha of land. There are, therefore, no permitted development rights relating to the erection of agricultural buildings on this site, thus those that have been erected require a grant of planning permission which has not been obtained.
15. As for the storage and processing of waste, the only explanation given by the appellant concerns a claim that the burning of waste, witnessed by a number of local residents, is of farm waste, which he contends is permissible. However, I saw clear evidence of the storage of various types of waste on the land, as detailed above, including significant amounts of wood in the form of cut trees which must have been imported onto the land as there is no evidence of the clearance of woodland from within the site itself. Vehicle parts and other metal waste has also been imported and stored on the land. None of these activities are exempt from the need for planning permission and no such permission has been either sought or obtained.
16. In all of the above circumstances, I conclude that the matters alleged in the notice constitute a breach of planning control as the use of the land for the storage and processing of waste, and the erection of the two buildings in question, requires planning permission which has not been granted. The appeal on ground (c) therefore fails.

### **Other Matters**

17. I have taken account of all other matters raised in the written representations but they do not outweigh the conclusions I have reached in respect of the main grounds and issues of this appeal.

### **Conclusions**

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

### **FORMAL DECISION**

19. The appeal is dismissed and the enforcement notice is upheld.

*Martin Joyce*

INSPECTOR

## Appeal Decisions

Site visit made on 9 January 2017

**by Thomas Shields MA DipURP MRTPI**

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

**Decision date: 16 January 2017**

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**Appeal A: APP/Z4718/C/16/3159837**

**Appeal B: APP/Z4718/C/16/3159838**

**1 Northfield Road, Dewsbury, WF13 2JX**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
  - The appeal is made by Mr Mohsin Daji (Pharmacist2u Ltd) (Appeal A) and Mrs Shereen Daji (Appeal B) against an enforcement notice issued by Kirklees Metropolitan Council.
  - The notice was issued on 26 August 2016.
  - The breach of planning control as alleged in the notice is without planning permission the erection of a fence exceeding 1 metre in height adjacent to a highway (shown blue on the attached plan).
  - The requirement of the notice is:  
Reduce the height of the fence (shown blue on the attached plan) to no more than one metre in height above the ground level that existed prior to the erection of the fence.  
N.B For the avoidance of doubt ground level is the height of the ground in between the fence and existing stone boundary wall.
  - The period for compliance with the requirements is 4 weeks.
  - Appeal B is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act also fall to be considered.
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### Decision

1. The appeals are dismissed, planning permission is refused and the enforcement notice is upheld.

### Procedural matters

2. Some of the appellants' evidence is that sections of the fence, marked on the plan in their submitted evidence as sections 1A and 1B, are replacement fences no higher than existed previously, and as such are not a breach of planning control. This is in effect an appeal on ground (c) – that those sections of fence do not amount to a breach of planning control. Although an appeal was not lodged on that basis the Council have addressed the matter in their statement. As such, I consider that it would not result in any injustice to either party to address this matter in my decision.

### Appeal site

3. 1 Northfield Road (No. 1) is a large two storey semi-detached dwelling house constructed in stone, and positioned in an elevated and prominent corner position at the junction of Northfield Road and Halifax Road within the

Northfield Conservation Area (NCA). Due to its corner position No. 1 has front and side gardens fronting the highway following the sweeping curve of the property's stone boundary wall.

4. A hedgerow that existed above the wall has been removed and replaced with a fence, now subject of this appeal, made from horizontally aligned timber boards. The fence is constructed in two parts; the first part is the length indicated as 1A on the appellants' plan which runs perpendicular from the back edge of the highway and forms part of the separating boundary with No. 3. The second part is that which runs along the front of the property and includes the return element indicated as 1B on the appellants' plan.

### **The appeal on ground (c)**

5. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. This relates to the sections of fence indicated by the appellants as 1A and 1B. The burden of proof in a ground (c) appeal, being on the balance of probability, is on the appellant.
6. Article 3 and Class A, Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') grants planning permission ("permitted development") for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. However, the permission at A.1.(c) excludes any fence/wall which would exceed its former height, or, the height referred to in paragraph A.1 (a) or (b) of the Order as the height appropriate to it (1 metre in this particular case) if erected or constructed, "*whichever is the greater*".
7. The fencing is higher than 1 metre but the appellants argue that the appeal fencing is no greater in height than previously existed.
8. The appellants rely principally on their own photographs and a Google image to demonstrate that the appeal fencing is no higher than previously existed. However, these images offer limited views and appear to differ from the Council's images attached to their statement which show lower height fences. As such there is considerable ambiguity in respect of this part of the appellants' evidence. On balance, from the submitted photographs from both parties, it appeared to me during my visit to the site that the sections of fence at 1A and 1B were higher than previously existed. Overall, on the evidence before me, I conclude that the appellants' have not discharged the burden of proof upon them that the replacement fencing is no higher than previously existed.
9. Given these factors, and the limitation in the Order at Class A.1.(c), I am unable to find that the fencing is permitted development. Consequently, since no planning permission exists for the development, it is a breach of planning control.
10. The appeal on ground (c) therefore fails.

### **The appeal on ground (a)**

11. The main issue is the effect of the development on the character and appearance of the area with particular regard to the NCA, and the effect on highway safety.

### *Character and appearance*

12. Northfield Road is a wide tree lined-street. It comprises mainly mature residential properties constructed in stone, set back in their plots and separated from the pavement by low stone walls. I saw that this layout of plots and their boundary walls is typical of the prevailing character and appearance of the adjoining streets and this part of the NCA. Some plots have hedgerow or other shrubbery screening projecting above the low boundary walls. A few have timber fences, some of which have been drawn to my attention by the appellants.
13. The Council acknowledges, and I agree, that the fence is well made. However, due to its overall length, height, materials and contrasting appearance, I consider that it is starkly at odds with the form and construction of the low stone boundary walls which form a key element of the street scene and the NCA. Given the long sweeping property boundary to the junction with Halifax Road it is particularly incongruous in its immediate context at this very prominent location. Overall, I find that it results in an unacceptable level of harm to the character and appearance of the area and the NCA.
14. I acknowledge the appellant's evidence, including photographs, in respect of boundary fencing at other properties in the area. However, those are in far less prominent positions than is the fence subject of this appeal. They amount to relatively few exceptions to the prevailing character and appearance of the NCA I have described. They do not therefore set a precedent for allowing this appeal which I have found to result in an unacceptable level of harm.
15. The appellants say that the fence improves the property in terms of security and child safety. However, there are many ways of achieving such aims. There is no convincing evidence before me which demonstrates that those aims could not be achieved in other ways without resulting in the level of harm I have identified.
16. While I acknowledge the comments from third parties in support of the appeal these do not lead me to reach any different conclusion.
17. I conclude that the fence results in significant harm to the character and appearance of the area and fails to preserve or enhance the character of the NCA. As such it conflicts with Policies BE5, BE1 and BE2 of the Kirklees Unitary Development Plan (UDP).

### *Highway safety*

18. The new vehicular access replaces a pedestrian only access, and hence now permits the entry and exit of motor vehicles.
19. I have no doubt that the appellants would take every care to avoid accidents. However, the height of the fence where it meets the back edge of the pavement results in the safety of pedestrians walking along the pavement towards the access (from either direction), particularly children, being very much dependent on drivers using the access, instead of pedestrians themselves also being able to have a sufficient view of emerging vehicles.
20. Given these factors I consider that the height of the fence has significantly increased the risk of harm with regard to highway safety. As such, it conflicts with the aims and objectives of UDP Policy T10.



21. I am not convinced that the fence at the original vehicular access, closest to the junction with Halifax Road, has resulted in any significant increase in risk of harm with regard to highway safety than was previously the case. However, this does not overcome the harm I have already found with regard to the character and appearance of the area.

**Conclusion**

22. The fence results in significant harm to the character and appearance of the area; it fails to preserve or enhance the character and appearance of the NCA; it also results in an increased risk of harm with regard to highway safety.
23. For all the above reasons the appeal on ground (a) fails.

*Thomas Shields*

INSPECTOR

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## Appeal Decision

Site visit made on 30 November 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 6<sup>th</sup> January 2017

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**Appeal Ref: APP/Z4718/W/16/3157829**

**Pog Hall Farm, High Flatts, Huddersfield HD8 8XU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015.
  - The appeal is made by Mr Howard Brook against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/91024, dated 29 March 2016, was refused by notice dated 26 May 2016.
  - The development proposed is alterations to existing barn to form one dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2015, having particular regard to the following:
  - (a) Whether the site was used solely for an agricultural use as part of an agricultural unit on 20 March 2013; and
  - (b) Whether the building operations proposed are reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouse).

### Reasons

#### *Agricultural Use*

3. The appeal relates to a small detached single storey building set in a small paddock. The building has a low wall of coursed block work on all four sides, above which are timber walls and a corrugated mono-pitch metal roof, which includes transparent plastic elements to allow natural light into the building. The building is accessed from a long private road that serves a number of buildings including Pog Hall Farm. The access is outside the red line of the application and also serves an adjacent greenhouse (also outside the appeal site) and provides opportunities to access the adjoining field. The site is screened from the main road by a dense bank of coniferous trees.
4. Development is not permitted under Class Q(a) if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. According to the Council, planning permission was granted in 2003 for the building to be used as stables. While the planning history of the unit is not

necessarily determinative in itself, the fact the building was not originally intended to be used as a barn means that it is particularly important to have clear and conclusive evidence that the building was solely in agricultural use on 20 March 2013.

5. The information provided in support of the application is limited. All I have are simple statements from the appellant and tenant that the building has been used in association with sheep farming since 2005. However, I have nothing which provides substantive evidence of the timing of the use, or the relationship between the building and the agricultural unit to which it relates. For example, I have not been provided with such things as copies of lease agreements or any other documentary evidence that would support the appellant's statement.
6. The Council saw no evidence of on-going agricultural use on their site visit. I observed some hay bales in empty stalls and empty feeding troughs outside the building, but these are not conclusive proof of any recent activity relating to sheep farming. While these visits took place after the relevant date and thus carry little weight in themselves, they provide little comfort that the conditions of the GPDO have been met.
7. In addition, the information relating to the agricultural unit is also unclear. The appellant's statement indicates that the agricultural unit to which the building relates is Pog Hall Farm. However, other evidence indicates its use as part of a tenant's agricultural business, which also includes other land owned by different landowners. If it were related to the former, then I have no information as to whether Pog Hall Farm was a working farm on this date or not. If it were the latter, then there is no information relating to the extent of the agricultural unit as a whole or what other land is involved in the business.
8. Paragraph W of Schedule 2, Part 3 of the GPDO places the responsibility to demonstrate compliance with the limitations of Class Q with the applicant. I find I have insufficient evidence to conclude that the building was solely in use for agricultural purposes as part of an established agricultural unit on 20 March 2013. The lack of detail, clarity and apparent inconsistency in the evidence means that I am unable to conclude with any certainty that the relevant GPDO conditions, limitations and restrictions have been met.

#### *Building works*

9. Class Q(b) of the GPDO refers to building operations that are 'reasonably necessary to convert the building' being permitted development. This can include the installation and replacement of walls, windows, doors, roofs and for partial demolition. The National Planning Practice Guidance (PPG) makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements. It further states that the permitted development right only applies where the existing building is structurally strong enough to take the loading which comes with any permitted external works.
10. No structural surveys have been provided to support the application. The appellant's statement indicates that the existing low block work would be replaced by a new full height cavity wall and that this would be clad in stone at the lower level. A new steel roof would also be installed, along with new windows, doors and concrete floor. The statement suggests that the existing

timber would be reused to clad the wall. However, this does not appear to tally with the submitted plans which indicate that there would be new red cedar cladding to "match the profile of the existing building".

11. Irrespective of any reuse of the timber, the extent of demolition and level of new construction would result in a considerable amount of new building with very little, if anything, of the original structure remaining. Owing to the extent of demolition and replacement involved, I cannot conclude that the proposed works would not be structural in nature and that any internal works would go beyond that necessary for the maintenance, improvement or other alteration of the building. I also have nothing substantive that demonstrates the replacement walls and roof would not need new foundations to support the additional weight.
12. There is insufficient information to conclude that the existing building is capable of functioning as a dwelling without significant structural works. Moreover, the evidence I do have suggested that what is proposed would go beyond what is 'reasonably necessary' to convert the building and would constitute what is essentially a rebuild.
13. Taking all relevant factors into account, it is my view that the extent of the works proposed for the building to be used as a dwelling would fall outside the scope permitted under Class Q. Therefore, even if I had found that there was conclusive evidence of the building having been in sole agricultural use on 20 March 2013, I would have still concluded that the development would not be permitted development under the requirements of the GPDO.

#### *Other matters*

14. The appellant has provided additional information on their personal circumstances, the downsizing of the agricultural use and the process they went through with the application. However, these factors do not have a significant bearing on whether the development would meet the specific conditions of the GPDO.
15. The appellant has drawn my attention to other permissions relatively near to the appeal site. However, I have not been provided with the details of these and thus cannot conclude that they are comparable to this proposal. In any event, I have considered the appeal on its own merits.

#### **Conclusion**

16. For the reasons outlined above, the proposed development does not satisfy the limitations in Part 3, Class Q of the GPDO. As such, I consider that the appeal should be dismissed.

*S J Lee*

INSPECTOR

**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 Kirklees Unitary Development Plan (saved Policies 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 Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27<sup>th</sup> March 2012, the Planning Practice Guidance Suite (PPGS) launched 6<sup>th</sup> 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.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **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 NPPF 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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Originator: Anthony Monaghan

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

**Date: 23-Feb-2017**

**Subject: Planning Application 2016/92041 Demolition of existing buildings and erection of 3no. dwellings Poplar Farm, Bristfield Road, Bristfield, Dewsbury, WF12 0PA**

#### APPLICANT

Steven Newton

#### DATE VALID

07-Sep-2016

#### TARGET DATE

02-Nov-2016

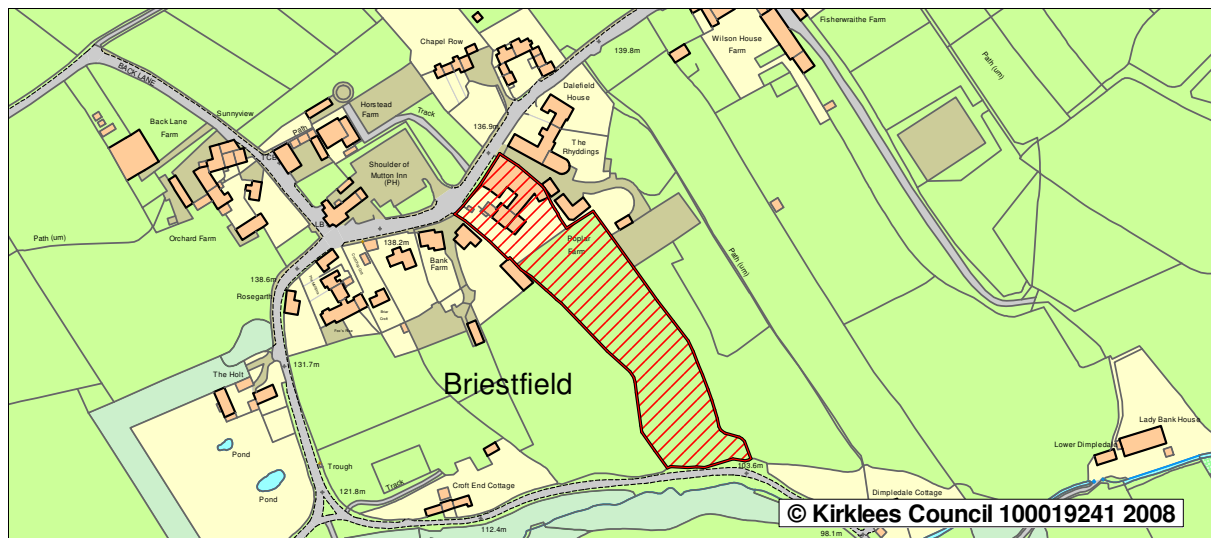
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



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

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**Electoral Wards Affected: Dewsbury South.**

No

Ward Members consulted  
(referred to in report)

**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report following the completion of the matters set out below:-**

- 1. Await the expiration of the amended plan publicity period (15 February 2017)**
- 2. Resolve any outstanding drainage matters**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for determination because of the significant number of representation that has been received. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to a site in the centre of Briestfield village currently occupied by group of disused and derelict farm buildings although the last use was as an unauthorised scrap yard.
- 2.2 At the time of the site visit these buildings have been demolished and the lower part of the site cleared of scrap.
- 2.3 The site is relatively level across the frontage but there is gradual slope down towards the rear of the site where it adjoins the surrounding fields. The front boundary of the site comprises a rough dry stone wall and the road side elevation of one of the farm buildings. To both sides of the site are other residential developments although one also comprises a large stable block/livery. To the rear of the site, on the south side, are open fields belonging to Poplar Farm.
- 2.4 The area of the site is approximately 0.24 hectares and is within the area defined as Green Belt on the UDP proposals map.

### **3.0 PROPOSAL:**

- 3.1 The proposal is a full application for the erection of 3 detached dwellings. The dwellings would be arranged so that the 2 smaller dwellings front the highway with a larger third dwelling located to the rear of the site.
- 3.2 There would be a singular point of access close to the western boundary of the site where the existing access is located.
- 3.3 Full details were submitted of the proposals, however after concerns had been raised by the officer regarding the layout and design, amended plans have been submitted.
- 3.4 The amended proposals show the three dwellings would be faced mostly in natural stone with a slate roof. Some of the elevations facing the internal courtyard would be faced in render.
- 3.5 Drainage would be provided by a package treatment plant for foul water and by soakaways for surface water.
- 3.6 A Design and Access Statement was also submitted.

### **4.0 RELEVANT PLANNING HISTORY:**

**2014/92154** Outline application for erection of 4 dwellings. Granted.

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 A pre-application meeting took place to discuss the proposals for 3 detached dwellings on the site rather than the 4 approved at outline. Initial response was favourable subject to the development having no greater impact than that previously approved.
- 5.2 Initial plans submitted showed some further encroachment into the fields behind the site and amended plans were requested to address this issue. Other details were also amended to improve the design and reduce the scale of the dwellings.
- 5.3 Further alterations were requested and submitted to improve the layout slightly and access through the site. The proposed use of brick on one of the dwellings was replaced with stone.
- 5.4 A foul and surface water drainage assessment has also been requested but not yet submitted. This will be addressed as part of the update to members.

### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The

Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

**BE1-** Quality of design  
**BE2-** Design principles  
**BE11** - Materials  
**BE12** - Space about buildings  
**T10** - New development and access to highways  
**T19** - Parking standards  
**G6** – Land contamination

6.3 Supplementary Planning Guidance / Documents:

None

6.4 National Planning Guidance:

**Chapter 6** - Delivering a wide choice of quality homes  
**Chapter 7** - Requiring Good Design  
**Chapter 9** - Protecting Green Belt Land  
**Chapter 10** - Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** - Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 11 letters of representation received in relation to original proposals. The amended plans were re-publicised and as a result, 5 letters of objection received, 3 of these from previous objectors. As part of the 3<sup>rd</sup> round of publicity, one letter of representation received.

7.2 A summary of the issues raised are as follows:

- No mains sewers. Will need to remove waste.
- Object to use of brick and render, building should be in natural stone.
- Proximity of the dwellings to the highway.
- Should be high quality development.

- Blank elevation facing highway.
- Proximity of the dwelling on plot 3 to “Rhyddings”.
- Proposed boundary treatment should be dry stone walls.
- No topographical survey provided.
- Septic tank would be required.
- The poplar tree on the site should be retained.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**K.C. Highways Development Management** - Initial concerns with the submitted plans due to the distance from the highway of plot 1 and the lack of service vehicle turning area.

Amended plans received and presented at Highways Surgery 25/10/16– no objection subject to provision of bin collection point.

**Coal Authority** - The Coal Authority agrees with the Coal Mining Risk Assessment. There are concerns with development and intrusive investigation should be carried out before development commences.

### 8.2 Non-statutory:

**K.C. Environmental Health** - Concerns regarding contamination. Condition required regarding unexpected contamination.

An electric vehicle charge point required, 1 per dwelling. Recommend footnote regarding noise during development.

**K.C. Ecologist** - No objection subject to mitigation measures being conditioned. This should include further details of ensuring connectivity of bat commuting routes. Mitigation should be aimed at providing replacement bird nesting habitat and maintaining connectivity for foraging bats throughout the site. Connectivity can be maintained through a combination of landscape planting, such as well positioned hedgerows, and dark corridors where no artificial lighting will fall. These measures could be presented in a Landscape and Ecological Management Plan (BSI, 2013).

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is located within the Green Belt and National Planning Policy in chapter 9, Protecting Green Belt Land is relevant. Inappropriate development is, by definition, harmful and should not be approved except in very special circumstances and substantial weight should be given to any harm to the Green Belt.
- 10.2 This site has extant outline approval for 4 dwellings as such the principle of the development was established with the previous application.
- 10.4 In addition NPPF Chapter 6 –“Delivering a wide choice of quality homes”, para 55, suggests that in rural areas housing should be located where it will maintain or enhance the vitality of rural communities. In this case the site is located within the boundaries of Briestfield village, although services are limited within this small village, there is a community and a local public house both of which are likely to be supported by the new dwellings.
- 10.5 The existing site originally comprised of a traditional stone barn and dwelling with stone slate roof around which were a number of additional buildings and unsympathetic extensions. To the lower side of the site are areas of hard-standing where, over the years, a large amount of scrap and general farm waste has built up. This scrap also encroached over a larger area of the field below the site and is evident on aerial photographs. It was considered that due to the large amount of scrap and the state of the buildings overall the site seriously detracted from the character and appearance of the area and of the Green Belt.
- 10.6 Since the approval of the outline application the site has been cleared of the existing buildings and the large amount of scrap over the lower part of the site.
- 10.7 The main consideration here is whether the proposal for the erection of three detached dwellings would have any greater impact on the openness of the Green Belt and the purposes of including land within the Green Belt than the existing development. Information has been provided with the application showing the amount of built form of the original buildings and the site area and that of the proposed dwellings. According to this information there would be a slight reduction in terms of the total floor area and the plans show that the site area would be kept to the same as that approved at the outline application stage.
- 10.8 In terms of the scale of the dwellings the height would be comparable to that of other nearby dwellings and would be lower than the original buildings. Therefore, it is considered by officer that, on balance, there would be limited impact on the openness of the Green Belt and the purposes of including land within the Green Belt.

- 10.9 With regard to the location the village of Briestfield has very limited services, the nearest of which will be in Thornhill or Grange Moor. This lack of services weighs against this type of development in this location; however it is considered that the benefits of redeveloping this derelict site outweigh any harm in terms of the sustainability and location within the Green Belt.
- 10.10 Taking into account the planning history of the site, whereby outline permission has previously been granted for residential development, along with the assessment set out above, it is considered by officers that the proposals are in accordance with the aims of chapter 9 of the NPPF.

#### Urban Design issues

- 10.11 The adjacent dwellings and buildings to the site are of a mixture of designs and materials. There are some rendered buildings including the Shoulder of Mutton public house opposite the site and the adjacent Rhyddings; there are also some attractive stone cottages such as Blackerhill Farm and the buildings around Orchard Farm. Many of the developments are of relatively small scale cottages built in rows or informal terraces but there are also a number of more recent stone built, detached dwellings. There are also a number of white rendered properties within the village.
- 10.12 The layout proposals are for two of the dwellings to be at the front of the site with the main elevations facing into the site; the third dwelling would be located further into the site and offset at a slight angle. This would result in a courtyard type development with a single point of access to the north west of the site. One of the benefits of this type of layout is that the front of the site, which has the greatest impact on visual amenity is not dominated by the parking provision which is located behind the dwellings.
- 10.13 This type of layout is not unusual in Briestfield with Orchard Farm a typical example. In terms of layout therefore, the proposals for three detached dwellings could not be considered out of character with the locality.
- 10.14 The submitted plans indicate a streetscene which would result in the two dwellings to the front of the plot having a similar ridge height to the adjacent dwelling Bank House, however there are no indications of levels through the site or the relationship with the adjacent dwelling to the east, The Rhyddings. In order to ensure that the development is in keeping with surrounding development in terms of topography and scale, a condition is required regarding the submission of further details of levels. It is considered that, subject to appropriate level details being submitted, the proposed development can achieve an attractive addition to the street-scene.
- 10.15 The amended plans show that all three dwellings would be largely constructed from natural stone, however the proposals indicate that render finish would be used on some of the elevations. Whilst stone would be preferred, some use of render on internal facing elevations may be acceptable, however the south west elevation on plot 2 would be visible from the highway and should be natural stone, a condition should be included to this effect.

- 10.16 Natural slate roof and timber doors and windows would be appropriate in this location.
- 10.17 With regard to other detailing, as the development should reflect the character of the area and traditional built dwellings, there should be no fascia, soffits and barge boards used on the dwellings. The guttering should be mounted on stone corbels; again this can be conditioned.
- 10.18 In terms of the boundary treatment the proposed plans indicate that the boundary would be dry stone walling; this was required by condition on the outline application. As no details of height or extent of this boundary treatment have been provided a similar condition should be included with further details to be submitted.
- 10.19 In terms of visual amenity therefore, the proposals are in accordance with policies BE1 and BE2 of the UDP and national policy in chapters 7 and 9 of the NPPF.

#### Residential Amenity

- 10.20 Policy BE12 of the UDP suggests that minimum space around buildings should be provided where appropriate to achieve acceptable distances between dwellings. However it is clear that with a site such as this, given the constraints and considering the impact of the existing development, a pragmatic approach is necessary.
- 10.21 The site is bordered on 2 sides by other residential properties. To the south west is Bank House, a stone built detached dwelling dating from around 1990. This property generally has habitable room windows facing to the front and rear and as such does not face onto the site; the side elevation facing the site contains 3 high level windows, the purpose of which would have to be to avoid overlooking and more importantly avoid prejudicing future development of this adjacent site. The layout plan shows that the nearest proposed dwelling on plot 2 would be approximately 8m away from this elevation. There would be no habitable windows facing this dwelling.
- 10.22 To the north east of the site is "The Rhyddings", a large detached dwelling which is separated from the site by access to this adjacent dwelling. From the appearance of this dwelling habitable room windows are located mainly in the south east elevation facing into the rear gardens of The Rhyddings but there are some looking onto the site. The proposed dwelling on plot 3 would be around 8m from this elevation at the closest point, however the original farm building was built up to the boundary on this side and was much larger in scale; it would have had a greater impact than the proposals. Furthermore this space between the two buildings forms the access to this adjacent dwelling and the stables to the lower part of "Rhyddings".



- 10.23 Given the above, provided that any windows in this side elevation are non-habitable and obscurely glazed (the plans show only bathrooms on this side) there should be no greater impact on residential amenity.
- 10.24 In terms of other dwellings around the site, these are a substantial distance away and as such will not be affected, in terms of overlooking, by the proposed development.
- 10.25 Within the site itself most of the habitable room windows face to the north-west onto Briestfield Road, or to the south east with regard to the dwellings on plots 2 and 3. Plot 2 faces the rear of plot 3 however there are no habitable room windows in the rear elevation of this dwelling and as such sufficient distances are achieved.
- 10.26 With regard to other aspects of residential amenity; the proposed layout provides sufficient outdoor amenity space for these dwellings. In addition given the original nature and appearance of the site, the replacement with 3 dwellings is likely to result in an improvement to the residential amenity of nearby occupiers of dwellings.
- 10.27 A final point to address in terms of residential amenity is the location of the joint access adjacent to Bank House. In this particular case the existing access which served the farm and latterly the scrap yard was in the same position. As such the proposals are unlikely to result in any additional loss of amenity.
- 10.28 Conditions are required to prevent any further doors or windows being inserted in the south west elevation of plots 1 and 2, and the north east elevation of plot 3; also a condition that any windows on the proposed plans in these elevations should be obscurely glazed.
- 10.29 In light of the above, the proposals are considered acceptable from a residential amenity perspective and would be in accordance with policies D2, BE1 and BE12 of the UDP.

#### Landscape issues

- 10.30 Initial landscape details did not provide sufficient native species planting, amended plan submitted on 25/01/17 showed some amendments however this did not address the issue raised by the Council's Ecologist for providing connectivity for bats through the site. Further details are required and can be conditioned to ensure that the proposal complies with the aims of chapter 11 of the NPPF.

#### Housing issues

- 10.31 The proposals would provide an additional 3 dwellings in this village location and would support the Council's objectives of increasing the available housing and would be in accordance with Chapter 6 of the NPPF.

### Highway issues

- 10.32 The site provides sufficient parking for at least two vehicles per dwelling including garages; there would also be space for turning within the site. A bin collection point would be provided close to the access with Briestfield Road so that service vehicles would not need to enter the site.
- 10.33 In terms of visibility at the access, the highway has a speed limit of 30mph and, providing any boundary wall to the front is kept below 1.0m in height, adequate sight lines would be provided. Highways has requested a condition requiring the sight lines to be 2.4m x site frontage.
- 10.34 Subject to the inclusion of appropriate conditions, and also taking into account the planning history on this site, the proposals are not considered, by officers, to materially add to any highway safety implications. The proposals would therefore accord with the aims of policy T10 of the UDP.

### Drainage issues

- 10.35 The site is located in an area where there are no mains foul water drainage. As such an alternative method is required. The submitted drainage plan also suggests that surface water drainage would be via soak-aways. Given that there is no alternative system to this it is essential that these methods can be shown to work before approval is given. A drainage assessment was requested including percolation testing. This information is currently awaited but will be reported to members in the update in order to ensure that the proposal complies with the aims of chapter 10 of the NPPF.

### Representations

- 10.36 11 letters of representation received to the original proposals. Amended plans were publicised, and 5 letters of objection received (3 of these from previous objectors). A third round of publicity is currently underway and ends on 15 February 2017. Should any further comments be received, they shall be reported to members in the update.
- 10.37 Responses to the main issues raised are set out below:
1. No mains sewers. Will need to remove waste.  
**Response:** As previously set out, the drainage assessment is currently awaited. This will be reported to members in the update.
  2. Object to use of brick and render, building should be in natural stone.  
**Response:** This has been addressed in the main report.
  3. Proximity of the dwellings to the highway.
  4. Should be high quality development.  
**Response:** The development is considered, by officers, to be of an acceptable quality for this Green Belt location.

5. Blank elevation facing highway.  
**Response:** The elevations facing the highway are not featureless. The doorways are to the side and rear. The visual impact has been assessed in the report.
6. Proximity of the dwelling on plot 3 to “Rhyddings”.  
**Response:** The plans have been amended to bring the development slightly away from the Rhyddings. Issues of residential amenity have been addressed in the report.
7. Proposed boundary treatment should be dry stone walls.  
**Response:** This has been addressed in the report.
8. No topographical survey provided.  
**Response:** A condition would be included with any approval requiring these details to be submitted.
9. Septic tank would be required.  
**Response:** The proposals are to provide septic tanks for the 3 dwellings.
10. The poplar tree on the site should be retained.  
**Response:** The proposed plans show the poplar tree retained. It should be noted however this is not protected.

#### Planning obligations

- 10.38 Due to the scale of the development the proposals are below the thresholds which would trigger any planning obligations.

#### Other Matters

- 10.39 The site lies with a High Risk Coal Mining Area and is potentially contaminated due to previous uses. A coal mining risk assessment has been submitted and the Coal Authority agrees with the findings. Conditions are required for an intrusive investigation and remediation if required. With regard to the concerns raised by Environmental Health and the issue of unexpected contamination, this can be combined with the above conditions. With the inclusion of conditions, the proposals are considered to comply with the aims of policy G6 of the UDP and chapter 11 of the NPPF.

### **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list – the full wording of conditions including any amendments/additions to be delegated to the Head of Development Management).**

1. Three year time frame for implementation of development.
2. Development to be carried out in accordance with approved plans.
3. Details of existing and proposed site, road, and building levels.
4. Dwellings to be constructed from regular coursed natural stone (sample to be submitted for approval).
5. Roofing materials to be natural slate (sample to be submitted for approval).
6. All doors and windows to be timber/timber framed with painted finish.
7. Guttering to be supported on stone corbels (fascias, soffits, and barge boards not to be used).
8. Surfacing of parking and turning areas in accordance with Environment Agency's guidance.
9. Driveway, parking areas, and turning areas to be surfaced in rustic regatta Brett paving, as shown on plan reference 1541\_14.
10. Sight lines of 2.4m x site frontage shall be provided.
11. The windows in the north-east elevation of plot 3 as shown on drawing number 1541\_SK03\_02\_F and the south-west elevation of plot 1 as shown on drawing numbers 1541\_10\_E to be obscurely glazed.
12. Remove permitted development rights for any new door or window openings in the north-west and south-east elevations of the proposed dwellings.
13. Full details of all boundary treatments.
14. Submission of a Phase II Intrusive Site Investigation Report.
15. Submission of a Remediation Strategy (if required in connection with condition 14).
16. Remediation to be carried out in accordance with approved Strategy.
17. Submission of a Validation Report.
18. Remove permitted development rights for any additional buildings or extensions.
19. Provision of an electric vehicle re-charging point to serve each dwelling.
20. Submission of a Landscape and Ecological Management Plan.
21. Installation of one bat box per dwelling.
22. Installation of one woodcrete sparrow terrace nest box per dwelling.
23. Foul and surface water drainage.

### **Background Papers:**

Application and history files.

Current application: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92041>

Outline application: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92154>

Certificate of Ownership – Certificate A signed 1 June 2016.



Originator: Emma Thompson

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

Subject: Planning Application 2016/93946 Demolition of existing building and erection of detached dwelling Bell Cabin, Opposite 17, Long Lane, Earlseaton, Dewsbury, WF12 8LG

#### APPLICANT

A Yates

#### DATE VALID

30-Nov-2016

#### TARGET DATE

25-Jan-2017

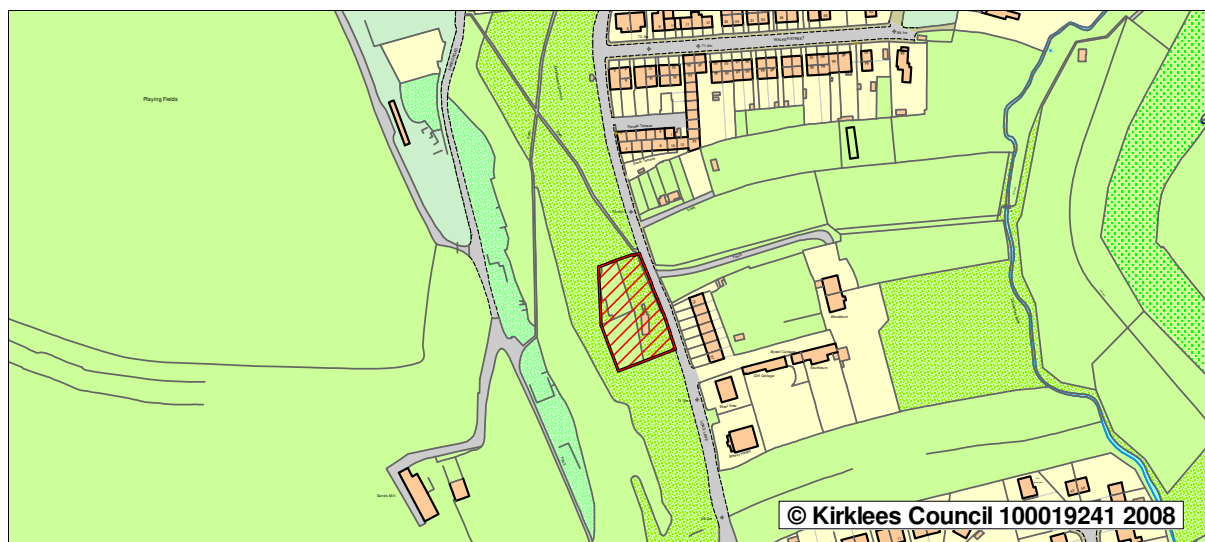
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Dewsbury East**

No

Ward Members consulted

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**RECOMMENDATION: REFUSE**

**1. The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework (NPPF), the construction of new buildings, subject to certain exceptions, is regarded as inappropriate development. The development would harm the openness of the Green Belt by introducing additional built form that would diminish the open space between existing buildings and thus harm the character of the street scene in this Green Belt location and no very special circumstances have been demonstrated to outweigh this harm. To approve the application would be contrary to the aims of Chapter 9 of the National Planning Policy Framework.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation at the request of Councillor Eric Firth for the following reason: *"this is an ideal windfall site, there has been a building on this site for many years and I think given the shortage of land supply and it's a brownfield site I am in full support"*.
- 1.2 The Chair of Sub-Committee has confirmed that Councillor Eric Firth's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committees.
- 1.2 It is the opinion of officers that the erection of a dwelling on this site within the designated Green Belt is not considered to be acceptable and there are no very special circumstances that would outweigh the harm caused to the openness and amenity of the area contrary to Kirklees Unitary Development Plan Policy and the National Planning Policy Framework.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site forms an area of land which is set down significantly from Long Lane. The site has been significantly cleared from trees and shrubbery with some excavation and removal of material to form an area of level hard standing with high stone wall and steep access up to the highway. The engineering works that have taken place on site do not have planning approval.

- 2.2 The site is bound by Long Lane to the east and dense areas of scrub/trees to the west and south. A large area of playing fields occupies the area to the north-west.

### **3.0 PROPOSAL:**

- 3.1 The application is for the demolition of the remaining structure on the site and erection of a dwelling in its place. The footprint of the dwelling would occupy the area where the remnants of the previous structure are located.
- 3.2. The proposal also includes the engineering operations that have already taken place for the formation of the access.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2016/91833 – Demolition of building and erection of dwelling – this application was withdrawn after discussions with the agent. Following discussions it was considered relevant to forward details to the Enforcement Team as it was clear that works had taken place regarding the formation of a new access that were in breach of planning regulations.

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 There have been no negotiations during the course of this application.
- 5.2 Discussions took place with the applicant's agent prior to the submission of the planning application. It was raised at that time that there were concerns regarding the principle of development, which was considered, by officers, to be inappropriate within the Green Belt. Furthermore, the unauthorised works that have already taken place on site were discussed with the agent.

### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is located within the Green Belt on the UDP proposals map.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design Principles  
**BE2** – Quality of design  
**BE12** – Space about buildings  
**T10** – Highway safety

Supplementary Planning Guidance / Documents:

- 6.3 None considered relevant

National Planning Guidance:

- 6.4 **Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring good design  
**Chapter 9** – Protecting Green Belt land  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** – Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was advertised by site notice and neighbour notification letters which have expired. No comments have been received.
- 7.2 Ward Councillor Eric Firth has requested that the application be considered by the Heavy Woollen Planning Sub-Committee. The reason for his request are set out in section 1.0 of this report.

**8.0 CONSULTATION RESPONSES:**

**8.1 Statutory:**

**KC Highways Development Management:** The internal layout of the site parking and the proposed access track are considered acceptable from a highways point of view subject to conditions.

**Coal Authority:** The submitted Coal Mining Risk Assessment Report has been reviewed and conditions are recommended.

**8.2 Non-statutory:**

**KC Environmental Services:** The application site is partially on land that is potentially contaminated due to historic use. Conditions relating to contaminated land are recommended.



**KC Ecologist:** Because the site is in proximity to woodland habitat and is located within the Kirklees Wildlife Habitat Network and within the Kirklees Bat Alert Layer, a condition is suggested relating to the submission of an Ecological Design Strategy.

**KC Arboricultural Officer:** No objections

**KC Strategic Drainage:** Confirmed that there are “no comments”.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The application site is located in the designated Green Belt on the UDP proposals map and as such policy contained in chapter 9 of the NPPF is relevant.
- 10.2 Paragraph 79 of the NPPF states that the “Government attaches great importance to Green Belts . . . (and that) the essential characteristics of the Green Belts are their openness and their permanence”.
- 10.3 The Green Belt serves five purposes that include safeguarding the countryside from encroachment. Paragraph 87 of the NPPF makes reference to “inappropriate development”, stating that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. When considering any planning application for development substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
- 10.4 The erection of a new building is considered as inappropriate, Paragraph 89 sets out the exceptions to this which includes the replacement of a building, providing that the new building is in the same use and not materially larger than the one it replaces. In addition Paragraph 90 sets out the other forms of

development that are not inappropriate in the Green Belt provided that they preserve the openness and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.

- 10.5 Taking into account the points raised, it is the view of officers that it cannot be argued that the existing building is of permanent and substantial construction as what is left is a few small areas of walling. The remnants cannot be described as a building and as such its replacement is not considered appropriate development in the Green Belt.
- 10.6 The site has undergone extensive changes over recent years with substantial tree clearance and engineering operations to level the land. Whilst supporting information submitted with the application states that drive access exists to the site, it is clear from aerial photographs that this has not existed for some time. Whilst this access is showing on historic maps dated 1933 it does not appear from 1955 onwards. It is clear from this time that the land has become overgrown to the point it would be considered to have blended into the surrounding countryside, becoming greenfield in the Green Belt. It is therefore the view of officers that the proposal does not constitute a previously-developed site.
- 10.7 There are no planning permissions for the works that have been undertaken to date and, it is the opinion of officers that there is no justification or very special circumstances to justify approving the erection of a new dwelling in the Green Belt which is inappropriate and would cause harm to the character and openness of the area, contrary to the aims of chapter 9 of the NPPF.

#### Urban Design issues

- 10.8 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.
- 10.9 The proposed building measures 4.6 metres by 13.9 metres and is single storey. It is simple in terms of its design. As it is set down from the public highway and is unrelated to any existing surrounding development the building would be obtrusive irrespective of its scale. Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history and reflects the identity of local surroundings and materials. The use of natural stone and stone slate would meet Policy BE11 of the Kirklees Unitary Development Plan however the development per se is not considered acceptable and would detract from the natural undeveloped character of the area contrary to the NPPF.

### Residential Amenity

- 10.10 In assessing the impact of the development on both dwellings externally surrounding the site and the dwelling proposed within the site, Policy BE12 of the UDP is of relevance. This policy recommends a separation distance of 12m between existing habitable room windows and non-habitable room windows and 21m between habitable room windows of any two dwellings. A distance of 10.5m is recommended from a habitable room window and the boundary of any adjacent undeveloped land and 1.5m between any wall of a new dwelling and the boundary of any adjacent land other than a highway.
- 10.11 Due to the location of the development it is considered that the proposed dwelling would not result in any loss of privacy or amenity of any nearby occupants and would exceed the recommended separation distances set out in Policy BE12 of the UDP.

### Landscape issues

- 10.12 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The application plans do not show any areas of landscaping that are to be incorporated into the development, however the supporting information states that soft landscaping is to be incorporated into the development including grassed and planted areas and low maintenance gardens. Whilst any landscaping that would help to blend the development is welcomed that which is proposed is domestic in appearance and would need further consideration in order to protect the openness and character of the Green Belt. However, landscaping details could be conditioned.

### Housing issues

- 10.13 As the principle of development is not considered to be acceptable the development would not contribute sustainably to the housing stock in the area.

### Highway issues

- 10.14 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. It is considered that, subject to conditions regarding gradient, bin storage, surfacing, and cross-sectional information for any new retaining walls required adjacent to the existing public highway, the development would provide acceptable access to the public highway and adequate off street parking complying with the aims of Policies T10 and T19 of the Kirklees Unitary Development Plan.

### Drainage issues

- 10.15 The Council's Flood Management & Drainage Team has confirmed that there are "no comments" to the proposed development. As such the proposals are considered to be in accordance with Chapter 10 of the National Planning Policy Framework.

### Representations

- 10.16 There have been no representations received.
- 10.17 Comments have been received from Ward Councillor Eric Firth and have been addressed in the "Principle of Development" section of this assessment.

### Other Matters

- 10.18 *Coal*: The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report (July 2016, prepared by Michael D Joyce Associates LLP); that a single mine entry (shaft) poses a risk to both public safety and the stability of the proposed development. Consequently, intrusive site investigation works should be undertaken in order to establish the exact situation regarding it.
- 10.19 The Coal Authority is therefore able to recommend that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development (excluding demolition)
- 10.20 In the event that the site investigations confirm the need for remedial works to the mine entry beneath any parts of site where built development is proposed, this should be conditioned to ensure that the site layout is amended to avoid it.

## **11.0 CONCLUSION**

- 11.1 The erection of a dwelling in the Green Belt would be inappropriate development for which there are no very special circumstances that have been demonstrated to justify the scheme.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the UDP and NPPF. Furthermore the Green Belt designation of the land is one of the specific policies in the Framework that indicate development should be restricted. The application is recommended to be refused.

## **Background Papers:**

### Application Details:

Website link to planning application reference 2016/93946:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93946>

Certificate of Ownership – Certificate A signed by the agent on behalf of the applicant dated 22 November 2016.

### History File Details:

Website link to planning application reference 2016/91833:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91833>

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Originator: Anthony Monaghan

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

**Subject: Planning Application 2015/92174 Demolition of existing dwelling and erection of three storey extension and internal alterations to extend existing mosque**

**21-29, Warren Street, Saville Town, Dewsbury, WF12 9LU**

### APPLICANT

M Ghuasia

### DATE VALID

30-Sep-2015

### TARGET DATE

25-Nov-2015

### EXTENSION EXPIRY DATE

03-Mar-2017

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

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

### LOCATION PLAN



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

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**Electoral Wards Affected: Dewsbury South**

No

Ward Members consulted

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**RECOMMENDATION:**

**DELEGATE approval of the application to the Head of Development Management in order to complete the conditions listed in this report (and any added by the Committee) and to issue the decision notice.**

**1.0 INTRODUCTION:**

- 1.1 The application relates to The Warren Street Mosque and the adjoining property no. 29 Warren Street. The application has been brought to Heavy Woollen Planning Sub-Committee due to the level of representation received.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The existing Warren Street Mosque incorporates nos.21-15 Warren Street and is part of a longer row of two storey terrace properties of stone construction. The mosque has a two storey extension to the rear of the building and a single storey to the front with a minaret.
- 2.2 The adjacent dwelling no.29, is a three storey detached property of traditional construction with a large gable feature to front and rear. It is set in relatively small grounds with gardens to front and rear and driveway to one side.
- 2.3 The surrounding area is mainly residential, made up of rows of terrace dwellings and occasional larger traditional property. There are also a number of educational buildings and places of worship in the area.

**3.0 PROPOSAL:**

- 3.1 The proposal is for the demolition of no. 29 Warren Street and the erection of an extension to the existing mosque. The extension would be three storeys having the same ridge height as the existing dwelling. It would extend across the full width of the plot and would follow the same building line to the front of the existing mosque. The single storey element to the front of the existing mosque would project across the front of the proposed extension. To the front there would be two large dormers in the roof.



- 3.2 The extension would provide an additional female prayer room at ground floor with 4 classrooms per floor on the first and second floor. There would also be additional toilet, ablution and shower facilities as well as internal alterations to the existing mosque.
- 3.3 The amended plan (received 25/01/17) shows 3 parking places and a bin store to the front of the building.
- 3.4 The extension would be constructed from natural stone and tiles to match the existing with uPVC doors and windows.
- 3.5 A supporting statement was submitted on 30/01/17 which gives details of the times of prayer and the number of attendees at prayer and at the madrassah; it also details the number of car journeys made.
- 3.6 Further supporting information in the form of a Travel Plan was submitted on 14/02/17. This gives numbers of attendees at the mosque and madrassah. The proposals also include a designated crossing zone for children and promotion of a car sharing scheme and alternative travel options.

#### **4.0 RELEVANT PLANNING HISTORY:**

**2007/95026** Erection of Conservatory - Approved.

**2002/94204** Change of use of 21 Warren Street to extend existing mosque and erection of 2 storey extension (modified proposal) - Approved.

**2001/92412** Change of use of 21 Warren Street to extend existing mosque and erection of 2 storey extension - Approved.

**87/05699** Erection of extension to mosque - Approved.

**86/02776** Continued use of dwelling as mosque, madrassah and dwelling - Approved (23/25 Warren Street).

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 14/3/16. Concerns initially raised by the planning officer regarding the scale of the proposed extension to replace the dwelling. Amended plans were submitted but these did not address the main concerns. There was also a lack of any information in terms of the numbers of attendees.
- 5.2 7/09/16 Amended plans received to address concerns with the proposed front elevation. These amendments were still not acceptable.
- 5.3 25/01/17 final set of amended plans received.
- 5.4 30/01/17 Supporting Statement received in response to objections received from the Highways Development Management Officer.

5.5 14/02/17 Amended supporting statement received including a Travel Plan.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP proposals map.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

**D2** - General Development policy.  
**BE1** – Design principles  
**BE2** – Quality of design  
**C1** – Community facilities  
**EP4** – Noise sensitive development.  
**H4** - change of use of dwellings.  
**T10** – Highway safety  
**T19** – Parking standards  
**G6** - contaminated land.

### **6.3 Supplementary Planning Guidance / Documents:**

None relevant

### **6.4 National Planning Guidance:**

**Chapter 7** – Requiring good design  
**Chapter 8** – Promoting healthy communities  
**Chapter 11**- Conserving and enhancing the natural environment.

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

7.1 The application was initially publicised by letters, site notice and newspaper advert. Amended plans were publicised on 20/12/16 and again in January 2017, with the final publicity expiring on 10/02/17.

- 7.2 Four (4) letters of objection were received to the original publicity along with a 35 signature petition.
- 7.3 Further four (4) letters and petition received (30 signatures) in response to the second round of publicity.
- 7.4 A summary of the issues raised are as follows:
- Traffic volumes.
  - Road safety. Difficult for pedestrians and children to cross the road.
  - Lack of parking.
  - Increase in pollution and littering.
  - Increase in noise.
  - Youngsters hanging around.
  - Proximity of the extension to the boundary of no. 1 Chapel Street.
  - Loss of light, privacy and increase in noise to no. 1 Chapel Street.
  - Creation of fire exit would infringe on privacy.
- 7.5 The petition is accompanied by a planning consultant's letter which states the following:
- The amended plans do not address the valid concerns raised by the residents.
  - The scale and massing remains the same and does not relate to that of neighbouring properties.
  - No off street parking provided.
  - The proposals do not address the highways issues.
  - The proposals are contrary to policies T10, BE2 and C2 of the UDP and chapter 7 of the NPPF.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**KC Highways Development Management** - Object to the proposals on the grounds of highway safety. There have been a number of accidents in the vicinity and the proposals would add to the problems.

**Health & Safety Executive** - It is considered unlikely that methane would migrate this distance in sufficient quantities to present a hazard. Having said this, it would be appropriate to attach a footnote to any permission informing the applicant of the detected methane levels.

### **8.2 Non-statutory:**

**K.C Flood Management and Drainage** - No comments to make given the scale and nature of the development.

**K.C. Strategic Waste** - Land fill gas monitoring shows methane levels up to 7% v/v and carbon dioxide up to 5% v/v.

**KC Environmental Health** - No objection in principle. Require condition regarding unexpected contamination and footnote regarding construction noise.

**Yorkshire Water** - No comments received.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is unallocated on the Unitary Development Plan proposals map and on such sites there is a presumption in favour of development providing that the proposals would not cause harm to highway safety, residential and visual amenity or any other relevant considerations.
- 10.2 These impacts will be considered in greater detail in the below assessment.
- 10.3 The existing building is a place of worship (Ghuasia Centre) and therefore an established community facility. Paragraph 70 of the NPPF states that planning policies and decisions should “ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community”. The proposed extension would allow the facility to develop and as such the principle of development is acceptable providing the proposals do not prejudice highway safety, and visual and residential amenity.

### Urban Design issues

- 10.4 The existing dwelling on the site is an attractive traditional, stone built property featuring steep gables with a natural slate roof. The other nearby dwellings are mainly smaller, stone built terrace dwellings, many of which have been unsympathetically extended.

- 10.5 In terms of the scale, the proposed extension would have a larger footprint than the existing dwelling but would retain the same ridge height and the same roof pitch to match the existing building. Whilst it is acknowledged this would result in an increase in the bulk of the development, this is not considered to be out of character in this area where other large extensions (albeit to residential properties) have been built. At the rear of the site the extension would be set back from the boundary where there would be a single storey element, with the 3 storey part of the extension being set back a further 2m.
- 10.6 The front elevation has been amended to improve the visual relationship with the existing building; this includes setting the single storey extension back slightly to reduce the linear appearance of this part of the development. Discussions also took place regarding the proposed dormers to the front. The resulting dormers are a compromise between small dormers which would not provide any usable space and 3 larger dormers which would have visually unbalanced the front elevation. The proposed 2 dormers would have a hipped-roof design and would be set down from the ridge but would be built flush with the front elevation.
- 10.7 When evaluating the design issues in relation to this proposal it is important to understand the context. This is an area where there is a high demand for community facilities with very little space available to provide them. It is also in an area which is unallocated on the UDP and whilst good design is important it is not necessarily the overriding factor and a balance must be achieved. As the NPPF states in paragraph 60 “planning decisions should not attempt to impose architectural styles or particular tastes... through unsubstantiated requirements to conform to certain development forms or styles”.
- 10.8 Whilst the extension would undoubtedly appear as a new and fairly prominent element in the streetscene, it is not considered, by officers, to be out of character with the surrounding development.
- 10.9 Overall therefore the proposed extensions would be acceptable in terms of visual amenity and in accordance with policies D2, BE1 and BE2 of the UDP and Chapter 7 of the NPPF.

#### Residential Amenity

- 10.10 The main properties to be affected by this development would be those to the rear of the site, the closest property being no. 1 Chapel Street. The dwelling which is currently on the application site has a rear elevation which faces over an access road serving the rear of these dwellings on Chapel Street and also faces over part of the rear garden. The proposed extension to the mosque would be set slightly further back on the site (closer to the access yard) and would have the same ridge height as the existing dwelling. As such there is likely to be some additional impact from the scale of the building on any properties to the rear to that already existing.

- 10.11 In terms of fenestration the proposed extension would feature windows serving the toilet facilities and a series of classroom windows. The classroom windows would only have a direct relationship with the rear access yard and therefore any overlooking would be limited. In comparison the existing dwelling features habitable room windows which have a more direct relationship with the rear of no.1 Chapel Street.
- 10.12 With regard to any disturbance from the new facilities and the uses, it is likely that there would be a slight increase in the noise from the mosque due to the proximity of the extension to residential properties. Whether this would result in significant harm to residential amenity needs to be assessed and in this respect, Environmental Health has been consulted regarding the proposals. They have not raised the issue of noise in their response. Given this it is considered that there is unlikely to be any additional adverse impact in terms of noise from the proposed extension.
- 10.13 The proposals are therefore considered to be in accordance with policies BE1, EP4 and C1 of the UDP, as well as chapter 11 of the NPPF with regard to residential amenity.

#### Landscape issues

- 10.14 The proposals provide very little in the way of space for any landscaping around the site, as such it is the view of officers that it would not be appropriate to require any landscaping details by condition.

#### Housing issues

- 10.15 The proposal involves the loss of one dwelling. Whilst Policy H4 of the UDP refers to the change of use of dwellings, the principles behind the policy would be relevant to the loss of this dwelling. The policy does state that, whilst the change of use of a dwelling would not normally be acceptable, the change to a community use would be appropriate.

#### Highway issues

- 10.16 The proposals involve a substantial increase to the floor area of the existing mosque. The extension would provide 8 classrooms and a female hall, none of which are indicated on the existing floor plans.
- 10.17 The amended plans indicate that there would be 3 parking places provided to the front of the building, however this is in an existing part of the mosque and there are none proposed on the site of the extension. The agent has stated that there would not be additional vehicle journeys as the attendees would be local and arrive on foot.
- 10.18 In their initial response, Highways Development Management (HDM) considered that the proposed extension would result in intensification of on-street parking and manoeuvring on this part of Warren Street which would be detrimental to both highway and pedestrian safety. In support of this objection

HDM has provided information of number of accidents which have occurred in the vicinity of the mosque. They advise that unless the applicants can demonstrate that this proposal would not result in a significant intensification in use, this application should be refused on highway safety grounds.

10.19 Further to these comments, additional information was submitted by the applicant who provided basic numbers of attendees and vehicle movements associated with the existing mosque. The amended Planning Statement submitted on 14/02/17 provided, in brief, the following information:

- A meeting took place on 26/01/17 to which all concerned residents were invited; The Travel Statement was amended accordingly.
- Maximum number of attendees at the mosque for prayers is currently 60 for evening prayer, 150 for Friday prayers and 80 children attending the Madrassah.
- The projected number remains unaltered for the prayers but increases to 100 children attending the Madressah.
- A drop off zone is proposed on Greenwood Street with children walking the remaining distance.
- The mosque will promote car sharing and encourage children and parents to walk to the mosque.

The applicant also maintains that the extension is purely to provide an improvement to the existing facilities and not to increase the number of attendees, although it is noted from the submitted information that there would be a projected increase from around 80 to 100 children attending the Madressah. HDM have considered this information further, and maintain their concerns regarding the proposals.

10.20 Taking a balanced view, which takes account of the existing use of the site, the surrounding area, the representations received, and the supporting information submitted during the course of the application, together with the proposals to work with the local community and Councillors to improve highway safety around Warren Street, officers are of the opinion that the proposals would enhance the existing facility at the site. In order to ensure that this remains the case, a condition is recommended to be imposed which restricts the number of attendees to those stated in the submitted Travel Plan and that the development is carried out in accordance with the aims and details submitted in the Travel Plan.

10.21 To conclude, and on balance, subject to the inclusion of recommended conditions, it is the assessment of the planning officer that the proposals would not materially add to highway safety implications and would accord with the aims of policies D2 and T10 of the UDP.

#### Drainage issues

10.22 K.C Flood Management and Drainage were consulted on the application, however given the scale and nature of the development they have no comments to make. Given that this is an extension to a building which would

replace an existing dwelling it is likely that any connections would be to the existing system. Building Control and Yorkshire Water would be the relevant bodies to regulate this. The proposal is considered to comply with the aims of chapter 10 of the NPPF.

### Representations

10.23 In total 8 letters of objection have been received along with 2 petitions. The main issues raised are addressed by officers as follows:

1. Traffic volumes.  
**Response:** *This has been addressed in the main report under Highways Issues.*
2. Road safety.  
**Response:** *This has been addressed in the main report under Highways Issues.*
3. Lack of parking.  
**Response:** *This has been addressed in the main report under Highways Issues.*
4. Increase in pollution and littering.  
**Response:** *There is no evidence submitted which suggests that this would result from the development.*
5. Increase in noise.  
**Response:** *This has been addressed in the main report under residential amenity.*
6. Youngsters hanging around.  
**Response:** *There is no evidence submitted which suggests that this would result from the development.*
7. Proximity of the extension to the boundary of no. 1 Chapel Street.  
**Response:** *This has been addressed in the main report under residential amenity.*
8. Loss of light, privacy and increase in noise to no. 1 Chapel Street.  
**Response:** *This has been addressed in the main report under residential amenity.*
9. Creation of fire exit would infringe on privacy.  
**Response:** *confirmation has been requested from the applicant that this would not be used as a general access. A condition can also be included restricting this to emergency exit only.*

10.24 The petition is accompanied by a planning consultant's letter which states the following:

- The amended plans do not address the valid concerns raised by the residents.
- The scale and massing remains the same and does not relate to that of neighbouring properties.
- No off street parking provided.
- The proposals do not address the highways issues.



- The proposals are contrary to policies T10, BE2 and C2 of the UDP and chapter 7 of the NPPF.

**Response:** *All of the above issues have been considered in the report.*

#### Planning obligations

10.25 None required.

#### Other Matters

10.26 *Landfill Gas* - The site is also close to an old land fill site as such there is the risk from land fill gas. The councils Environmental Strategic Waste officer was consulted on this and returned the latest landfill gas readings from the site. The Council's Minerals Health and Safety officer has commented that the methane levels recorded on the nearby tipped site following the most recent monitoring exercise fall within the lower explosive limit. However as the site is approximately 150 metres from the generation source it is considered unlikely that methane would migrate this distance in sufficient quantities to present a hazard. Nonetheless, it would be appropriate to attach a footnote to any permission informing the applicant of the detected methane levels.

10.27 There are no other matters considered relevant to the determination of this application.

### **11.0 CONCLUSION**

11.1 The proposals are for a fairly large extension on a confined site, there would undoubtedly be some slight adverse impact on visual and residential amenity from the proposals. However this has to be weighed against the benefits of providing the community facility in this locality. There is clearly a functional need for this development in this area and it is the assessment of the officer that on balance, the proposals are acceptable with the inclusion of appropriate conditions.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

### **12.0 CONDITIONS (Summary list – The full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

1. Time limit of 3 years for implementation of development.
2. Development to be carried out in accordance with approved plans.
3. Facing stone to match that used on the existing building.

4. Roof slate to match that used on the existing building.
5. Reporting of any unexpected land contamination.
6. Restriction of the use of the fire exit.
7. The development is carried out in accordance with the details and aims of the submitted Travel Plan.
8. The maximum number of attendees for evening prayer not to exceed 60 worshippers; The maximum number attendees for Friday prayer not to exceed 150 worshippers; The maximum number of children in the Madressah classrooms not to exceed 100 children at any one time; as set out in the submitted Travel Plan.

### **Background Papers:**

Application and history files.

Application link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f92174>

Certificate of Ownership – Certificate A signed on 6 July 2015.



Originator: Emma Thompson

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

**Subject: Planning Application 2016/93112 Outline application for erection of 37 dwellings and demolition of existing industrial unit Calder Mould Services, Headlands Road, Liversedge, WF15 7NT**

#### APPLICANT

H Seale

#### DATE VALID

20-Sep-2016

#### TARGET DATE

20-Dec-2016

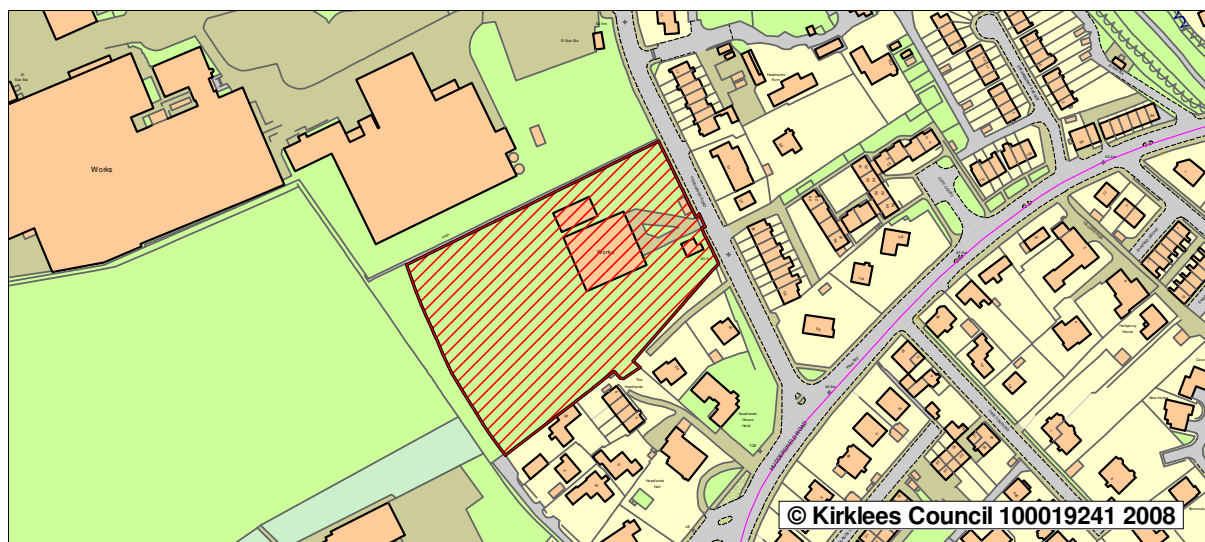
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



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

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**Electoral Wards Affected: Liversedge and Gomersal**

Yes

Councillor David Hall  
Councillor Lisa Holmes  
Councillor Michelle Grainger-Mead

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought forward to the Heavy Woollen Planning Sub-Committee for determination as the site is in excess of 0.5ha. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises of approximately 1.1ha of land which is located on the western side of Headlands Road, Liversedge. The site contains a group of factory buildings which are located towards the front of the site near the Headlands Road frontage. Most of the units are vacant, and the one that is still occupied is due to be vacated in the near future as the business relocates. The remainder of the site is a green area and has become very overgrown and unkempt.
- 2.2 There are a number of mature trees on this site, not least along the southern boundary which are considered to be of visual merit.
- 2.3 There are dwellings on the southern side of the site and on the opposite side of the road. To the north is a commercial unit and to the west are the playing fields associated with Spen Valley Sports College. There is a public footpath along the northern boundary of the site. The application site is at a higher level than the public right of way.

**3.0 PROPOSAL:**

- 3.1 Outline permission is sought for the demolition of the existing industrial unit and the erection of 37 dwellings. Only access is applied for at this stage, but an illustrative layout for 37 dwellings, comprising a mix of terrace, semi-detached and detached properties, is submitted for information.

- 3.2 Access to the site is off Headlands Road, in approximately the same position as the current access.
- 3.3 The proposal also allows for the widening of the public footpath to the north of the site to facilitate a shared cycling/pedestrian route to the Spen Valley Sports College.

#### **4.0 RELEVANT PLANNING HISTORY:**

2013/91037 – Outline application for the erection of 37 dwellings with access included for consideration. This application was approved at Planning Committee on the 26<sup>th</sup> September 2013 (with the decision being issued on 27<sup>th</sup> September 2013)

2012/91567: Outline application for 37 dwellings - Withdrawn.

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 During the course of the application it was not considered necessary to enter into discussions with the agent or their applicant.

#### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The application site is unallocated on the Kirklees UDP proposals map.

#### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

**D2** - Unallocated land

**B4** – Change of use of land and buildings last used for business or industry

**BE1** – Design principles

**BE2** – Quality of design

**BE12** – Space about buildings

**BE23** – Crime prevention

**H8** – Change of use to residential  
**H10** – Affordable housing  
**H18** – Provision of open space  
**T10** – Highway safety  
**T19** – Parking standards  
**G6** – Land contamination  
**EP4** – Noise sensitive development  
**NE9** – Retention of mature trees  
**R13** – Improving Public Rights of Way

6.3 Supplementary Planning Guidance / Documents:

Interim Affordable Housing Policy

Council's Guidance on Education Contributions as a Result of New Residential Development.

6.4 National Planning Guidance:

**Chapter 4** - Promoting Sustainable Transport  
**Chapter 6** - Delivering a wide choice of high quality homes  
**Chapter 7** - Requiring good design  
**Chapter 10** - Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** - Conserving and enhancing the natural environment.

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice and neighbour notification letters.

7.2 Two letters of objection were received. The concerns raised are summarised as follows:

- Increase traffic
- Demand for parking
- Road junctions
- Site wall is in disrepair and is affecting the trees
- Local amenities will suffer

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**K.C Highways Development Management** – No objections subject to conditions

**Environment Agency** – Refer to Lead Local Flood Authority

**Coal Authority** – No objections subject to conditions

## 8.2 Non-statutory:

**K.C Environmental Services** – No objections

**K.C. Ecology** – Updated Ecological Assessment required

**K.C. Strategic Drainage** – A Flood Risk Assessment (FRA) has been submitted. Comments are awaited and will be reported to members in the update.

**K.C. Strategic Housing** – Contribution required

**K.C. Education** – Contribution required

**K.C. PROW** – No objections

**K.C. West Yorkshire Police Architectural Liaison Officer** – No objections

**Yorkshire Water** – No objections subject to conditions

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning permission was granted in 2013 for a similar proposal for the erection of 37 dwellings - Application number 2013/91037. The site was last in use for employment purposes. As such the proposal needs to be considered in line with guidance contained in the National Planning Policy Framework (NPPF). Paragraphs 14 and 17 of the NPPF indicate a presumption in favour of sustainable development, and support sustainable economic development to meet the needs of both new business and industry and new homes. Paragraph 22 indicates that Local Authorities should avoid the long term protection of existing employment sites where there is no reasonable prospect of the site being reused for that purpose. Also paragraph 51 indicates a presumption in favour of change of use from business and industry to

residential where there is no strong economic reason to retain the premises for employment purposes. The relevant policy in the Kirklees UDP is Policy B4 which seeks to retain employment uses unless a number of criteria are met.

- 10.2 The applicants have submitted a statement to address Policy B4 of the UDP. This indicates that the premises are largely vacant, and will be entirely vacant shortly. This is despite the offer of the use of the premises free for a 12 month period. Also the remainder of the site has been marketed for a considerable period of time with no positive take up, and a number of site specific problems being identified - not least problems with deliveries.
- 10.3 As a result of this, it is considered by officers that the applicant has demonstrated that the existing site is unlikely to be brought back into a beneficial employment use. It is also considered that notwithstanding the loss of this site there are alternative more modern premises available within the Kirklees District, as such, there is no policy objection to the loss of this site from employment use. Policy B4 also indicates that any proposal should be assessed against its compatibility with neighbouring users; and the effect the use may have upon the future operational flexibility of any neighbouring businesses.
- 10.4 This scheme relates to a piece of land which is flanked to the south by residential, and to the north by the Birkby Plastics factory. Clearly there is no conflict with the residential to the south. The illustrative layout that accompanies the application indicates that it is likely that there will be a number of dwellings which are likely to have habitable room windows and/or gardens facing towards the Birkby Plastics site. An acoustic report accompanies this application relating to noise source from both the factory and Headlands Road, and a condition recommending the acceptable levels of noise attenuation and ventilation is recommended, together with validation that adequate attenuation has been delivered prior to any dwellings being occupied. This condition is specific to the elevation facing towards the Birkby Plastics and should safeguard both future residential amenity and the operational flexibility of the factory.
- 10.5 In light of the above, officers have no objection in principle to the release of this site for residential use, subject to the imposition of appropriate conditions. Especially when taking into account the planning history on this site whereby outline permission for residential development was established under approval 2013/91037.
- 10.6 Other relevant UDP policies relate to residential use on a site of this size and scale, namely policy H10 (Affordable Housing); policy H18 (Provision of Public Open Space) and the Council's education contributions policy. These matters are dealt with in detail in the consultation section, however for clarity, and as the application is outline, the issues of affordable housing and POS will be the subject of conditions



- 10.7 Public open space will be sought in accordance with the criteria detailed in Policy H18. It is likely that at reserved matters stage an off-site financial contribution in lieu of an onsite provision will be acceptable. An education contribution is required.

#### Urban Design issues

- 10.8 Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history, and reflects the identity of local surroundings and materials. As the application is in outline with all matters reserved there are no details of scale, materials or design. The nature of existing residential development that surrounds the site is mixed in scale and character, with no single style or design of property taking precedent.
- 10.9 The site contains a number of vacant units resulting in an area of land that is underused and becoming increasingly unkempt. As a consequence the site offers very little in terms of visual amenity. Subject to considered design and detail the redevelopment of the site could contribute positively to the area.
- 10.10 There are a number of mature trees on the site, particularly along the southern boundary which are of some visual merit. As part of a coordinated landscape scheme for the entire site, they could also afford screening for privacy. As such it is proposed to impose a condition that none of the trees be felled until full landscape details have been approved.
- 10.11 It is considered that matters of visual amenity can be satisfactorily dealt with by means of conditions at this stage. As such, it is the view of officers that development could be appropriately designed without detriment to the character of the area, in accordance with Policies D2, BE1, and BE2 of the Kirklees UDP as well as chapters 6 and 7 of the NPPF.

#### Residential Amenity

- 10.12 The site is currently in employment use, and within an area which has a mixture of uses, i.e. residential to the south and on the opposite side of the road, employment land to the north, and school playing fields to the west. The busy Headlands Road also serves another school, a Council depot, and an abattoir.
- 10.13 Taking into account the above, there are issues of future residential amenity for both the occupants of the proposed dwellings as well as the nearest existing dwellings. At present the application is for access only and therefore the proposed layout is not being considered or approved at this stage. However, it is considered from the illustrative layout submitted that a satisfactory layout can be achieved on this site which would protect privacy and residential amenity. The indicative scales of 2 and 2.5 storeys are also realistic in this location.

- 10.14 There are two boundaries to this scheme which are the most vulnerable to potential disturbance. These are the northern boundary facing towards Birkby Plastics and the eastern boundary which fronts onto Headlands Road. Environmental Health has recommended specific noise attenuation measures to be incorporated into each of these boundaries, to be validated prior to any occupation. These are considered satisfactory to deal with this issue and would accord with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.

#### Landscape issues

- 10.15 Landscaping is not included for consideration and is retained as a reserved matter. As previously set out, any future landscaping scheme would need to incorporate the retention of some of the existing tree screening within the site.

#### Housing issues

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

#### Highway issues

- 10.17 Headlands Road runs in a roughly north/south direction linking Halifax Road (A649) to the north and Huddersfield Road (A62) to the south. Headlands Road is a single two lane carriageway with a running width of approximately 7.7m with footways to either side and street lighting to appropriate standards. Headlands Church of England School is located approximately 250m to the north and Headlands Road is a 'School Zone' with traffic calming in the form of plateaus, signing and lining. Vehicle speeds on Headlands Road are observed to be in the order of 25mph.
- 10.18 This application seeks approval to access with all other matters reserved. The application site is an existing industrial development which the applicant claims is underused and partly vacant.
- 10.19 An indicative layout plan is provided which demonstrates how the site could be developed. Sight lines of 2.4 metres x 50 metres are shown onto Headlands Road. The indicative layout shows the proposed carriageway to be 5.5 metres in width with 2.0 metre wide footways to both sides returning into the site leading to a shared surface carriageway with a turning head sufficient in size to accommodate a refuse vehicle. Sufficient off street and visitor parking spaces appear to be shown on the indicative plan.
- 10.20 Planning permission was granted in 2013 for a similar proposal for the erection of 37 dwellings - Application number 2013/91037. The previous permission also included conditions requiring bus stop improvements including a detailed scheme for the provision of bus shelters at bus stop nos. 15622 & 28483.

- 10.21 Whilst the indicative layout is unlikely to be considered acceptable it does demonstrate that the site can potentially provide sufficient and acceptable off-street parking provisions, internal turning, and adequate sight lines onto Headlands Road. Given that the anticipated traffic generation is relatively low with fewer HGV movements.
- 10.22 With regard to the public right of way, the physical widening of public access at Spenborough footpath 111a is welcomed by officers and supports the aims of Policy R13 of the UDP. The works to provide groundworks for a widened path for Spenborough 111a, as proposed in submissions (D&AS page 6, drawing 11/195/B Rev C.) are considered acceptable.
- 10.23 This proposal is considered acceptable in regard to highway safety and would accord with the aims of policies D2 and T10 of the UDP.

#### Drainage issues

- 10.24 Matters are outstanding with regards to drainage and flood risk. A Flood Risk Assessment has been submitted during the course of the application. Final comments awaited from the Council's Strategic Drainage officer and will be reported to members in the update to ensure that the proposal complies with the aims of chapter 10 of the NPPF.

#### Representations

- 10.25 Increase traffic  
**Response:** It is accepted that Headlands Road is a busy road, serving a range of differing uses. However the level of traffic this scheme will generate is not significantly greater than the existing factory use, and will remove any commercial vehicles using the site. Highways raise no objections to the development.
- 10.26 Demand for parking  
**Response:** There is ample room for provision of parking for each dwelling within the site, without any spillage onto Headlands Road. Highways have assessed the proposals and consider the development to be acceptable.
- 10.27 Road junctions  
**Response:** Highways have assessed the proposed development including the access details and raise no objections.
- 10.28 Site wall is in disrepair and is affecting the trees  
**Response:** The development would improve the amenity of the area with the introduction of landscaping.
- 10.29 Local amenities will suffer  
**Response:** Contributions are required regarding education and housing.

### Planning obligations

#### 10.30 Education:

The proposed development is for 37 dwellings and as such triggers consultation with School Organisation and Planning to establish whether a contribution is required. It has been confirmed that a contribution of £91,430 is required. A condition is recommended to secure this provision.

#### 10.31 Housing:

Further to comments provided by Strategic Housing the Council are applying the interim affordable housing policy requirement of 20% of the development being affordable. This matter will be secured through a planning condition and at Reserved Matters stage when detailed layout and house numbers are confirmed.

### Other Matters

#### 10.32 *Biodiversity:*

The scale of the above development is such that there is potential for significant ecological impacts, however the ecological report submitted in support of the application is based on survey undertaken in 2012. The report cannot be considered current and therefore, during the course of the application an Ecological Impact Assessment (EcIA) was requested.

10.33 The EcIA has not been submitted to date. However, on taking a pragmatic approach, which takes account of the existing site conditions, this is an outline application where landscaping is a reserved matter, along with the planning history, it is considered by officers that, in this instance, a pre-commencement condition to supply this information could be used in order to ensure compliance with the aims of chapter 11 of the NPPF.

#### 10.34 *Coal Mining Legacy:*

A Coal Mining Risk Assessment has been submitted with the application and comments received from the Coal Authority. There are no objections to the proposals providing conditions are imposed to ensure there is no risk as a consequence of development.

## **11.0 CONCLUSION**

11.1 The proposal is considered to comply with current planning policies and it is the opinion of officers that there would be no significant adverse impact in terms of visual or residential amenity. Furthermore there would be no issues with regard to highway or pedestrian safety. For the reasons detailed above, it is considered by officers that, subject to the imposition of appropriate conditions, the proposal is acceptable.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

**It is proposed that the following planning conditions would be included should planning permission be granted:**

- 1 3 year time limit permission for submission of Reserved Matters**
- 2 Reserved Matters of Layout, Scale, External Appearance and Landscaping to be applied for.**
- 3 Development to commence within 2 years of the date of approval of the last reserved matters to be approved.**
- 5. Development to be in accordance with approved plans**
- 6. Affordable Housing contribution**
- 7. Education contribution**
- 8. Public Open Space provision**
- 9. Phase I Desk Study**
- 10. Phase II intrusive investigation as necessary**
- 11. Remediation as recommended in the Phase II**
- 12. Remediation strategy**
- 13. Validation**
- 14. Noise attenuation**
- 15. Ventilation**
- 16. Separate systems of drainage**
- 17. Drainage details**
- 18. Surface water drainage**
- 19. Submission of an Ecological Impact Assessment and enhancement measures**

**Background Papers:**

Application and history files

Website link to be inserted here

Certificate of Ownership – Notice served on/ or Certificate A signed:

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Originator: Liz Chippendale

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

Subject: Planning Application 2016/93910 Change of use of shop to snooker and games room Dual House, Wellington Street, Batley, WF17 5TH

#### APPLICANT

Mr Raza Ayoub

#### DATE VALID

24-Nov-2016

#### TARGET DATE

19-Jan-2017

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Batley East**

Yes

Ward Members consulted  
(referred to in report)

## **RECOMMENDATION: REFUSE**

**1. It has not been demonstrated that the proposed change of use to a snooker and games room (D2 use), particularly due to the lack of any continuous management of the premises and its external area, would not result in an increase in the fear of crime and anti-social behaviour for the local community. The increased fear of crime and anti-social behaviour would outweigh the benefits of the re-use of the vacant building and fail to create a safe and accessible environment, significantly undermining the quality of life of the local community, contrary to the aims of Chapter 8 of the National Planning Policy Framework.**

### **1.0 INTRODUCTION:**

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination due to the level of representations received in objection to the development. A petition of 43 signatures and 38 letters of objection were documented. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The proposed change of use of the vacant building to D2 use (Leisure and Assembly) as a snooker and games room is considered to not impact unduly on the residential and visual amenity of neighbouring occupants and, in this respect would accord with Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan and the core principle of the National Planning Policy Framework.
- 1.3 Furthermore, the current level of off-street parking, although it is under the recommended level for the proposed use, is considered acceptable when taking into account the associated traffic movements of the established use and level of on-street parking. The development is therefore not considered to materially add to highway safety implications, and would accord with the aims of policy T10 of the Kirklees Unitary Development Plan too.
- 1.4 However, although the NPPF is committed to securing sustainable economic growth by encouraging business and job creation, it also promotes safe and accessible environments where crime and disorder, and the fear of crime, do



not undermine quality of life or community cohesion. In the circumstances of this planning application, officers attach greater weight to these latter objectives, which the development is considered to clearly conflict with.

- 1.5 In this instance, it is considered, by officers, that the resultant impact of the change of use in regards to the increased fear of crime for the local community would outweigh the benefits of the re-use of the vacant building in contract to guidance within Chapter 8 of the National Planning Policy Framework.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site consists of a two storey detached building faced in natural stone with tiled mono pitched roof. The principal elevation has three entrances directly from the parking area to the front with shutter box and perforated roller shutter over. To the West of the principal elevation is a delivery hatch at first floor level. The building has a floor area of 180 square metres over two floors with a total of 360 square metres.
- 2.2 To the East, attached perpendicularly, is a two storey building which is currently vacant. The users of this building do not have right of access to the building from or use of the car park.
- 2.3 Directly to the front of the building is a tarmac parking area with access and exist points directly from Wellington Street with 5 off-street parking spaces. The site is enclosed by a stone wall with iron railing detail.
- 2.4 Directly to the South and West of the site are residential properties. To the North is a sheltered housing scheme with are 2 no. retail units.
- 2.5 Wellington Street is a category C adopted highway which is subdivided by a grass verge giving access to the application site, 113- 121 Wellington Street via Purlwell Lane.

## **3.0 PROPOSAL:**

- 3.1 Permission is sought for the change of use of the building to a snooker and games room. The building is currently vacant and has a floor area of approximately 180 square metres over two floors. A total floor area of 360 square metres.
- 3.2 The ground floor will accommodate a snooker room, reception area, office space and WC facilities. The first floor will accommodate 5 no. individual pool tables. The proposed use is said to generate approximately 10 users per hour. The service users will pay at the reception desk, use one of the pool or snooker tables and socialise with friends. It is proposed that soft drinks and snacks will be available to buy.
- 3.3 The parking and access will remain as existing with the provision for 5 off-street parking spaces.

3.4 There are no external alterations proposed to the building.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 The application before sub-committee seeks full planning permission for the change of use of a vacant two storey building with current use of B1 business/office to a D2 use class as a snooker and games room (Leisure and Assembly).

4.2 Records show that the application site has been subject to the following planning history:

- 2002/90188 – Change of use from workshops to combined workshop/office and showroom – Conditional full permission
- 2003/94602 – Change of use of workshop to retail outlet to supply central heating – Refused
- 2004/90700 – Change of use of workshop to retail/trade to supply central heating and bathroom – Refused

4.3 An enforcement investigation was opened on 23<sup>rd</sup> November 2016 with reference COMP/16/0294 following an allegation that the building was undergoing alterations to change the use to a shisha and snooker centre without the necessary planning permission. The application under consideration was registered on 24<sup>th</sup> November. As such formal enforcement action was not commenced, however, an action was added to the case file to monitor whilst awaiting the outcome of this planning application.

4.4 A further enforcement investigation case was opened on 13<sup>th</sup> December 2016 with reference COMP/16/0310 following concern as to the amount of waste accumulated to the front of the site on the car park which was considered by the complainant to have created an eyesore within the street scene. Throughout bad weather the waste was reported to spread out of the site into neighbouring areas. Contact was made with the applicant on 3<sup>rd</sup> January 2017 requesting that the site be cleared. Confirmation was received that the site had been cleared on 17<sup>th</sup> January 2017 allowing the enforcement case file to be closed as breach amicably resolved.

#### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The case officer has not requested amendments to the scheme given the nature of the application for a change of use as there are no associated external alterations proposed.

5.2 Further information was requested and submitted by the applicant of a more detailed description and logistics of the proposed use, proposed floor plans and the estimated number of service users.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007).
- 6.2 The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the Kirklees UDP proposals map.

### **6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

- **D2** – Unallocated Land
- **BE1** – Design Principles
- **BE2** – Quality of Design
- **T10** – Highway Safety
- **T19** – Parking Standards
- **EP4** – Noise sensitive development

### **6.4 Supplementary Planning Guidance / Documents:**

There are no relevant supplementary planning guidance/documents

### **6.5 National Planning Guidance:**

- **Paragraph 17** – Core Planning Principles
- **Chapter 1** – Building a strong, competitive economy
- **Chapter 8** – Promoting healthy communities
- **Chapter 11** – Conserving and enhancing the natural environment

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

- 7.1 As a result of the publicity 38 representations and a signed petition containing 43 signatures have been received in objection to the proposed change of use. The comments are summarised as follows:
- The intensification of the current level of traffic by other businesses within the area

- Disturbance from associated nuisance and noise particularly during the evening and into the night
- An increase in the number of vehicles parked on Wellington Street which will be of detriment to highway safety
- The site has inadequate parking facilities
- The use as a snooker/games room will attract crime and anti-social behaviour.
- Loss of privacy for local residents

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

- **KC Highways Development Management** – No Objection

### 8.2 Non-statutory:

- **KC Environmental Health** – No Objection. However, in order to protect the residential amenity of neighbouring properties the following condition is proposed:

“The use hereby permitted shall not be open to customers outside the hours of 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 Sundays”

- **Police Architectural Liaison Officer** – Object to the application because it is likely to cause an increase in serious anti-social behaviour, nuisance, and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters
- Conclusion

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application seeks full permission for the change of use of a vacant two storey building with a current use as B1 Business/workshop to D2 use (Assembly and Leisure) as a snooker and games room. The site is unallocated within the Kirklees Unitary Development Plan (UDP), therefore policy D2 applies. Policy D2 states that “planning permission for the development of land and buildings without notation on the UDP proposals map, and not subject to specific policies in the plan, will be granted provided that proposals do not prejudice the following:

- The implementation of proposals in the plan;
  - The avoidance of over-development;
  - The conservation of energy;
  - Highway Safety;
  - Residential Amenity;
  - Visual Amenity;
  - The character of the surroundings;
  - Wildlife interests; and
  - The efficient operation of existing and planned infrastructure.
- 10.2 Further policies of the Kirklees UDP are also applicable in regards to the design of the development. Policies BE1 and BE2 set out guidance in relation to the design, materials and scale to ensure that a sense of local identity is retained and promotes a healthy environment.
- 10.3 The core principle of the National Planning Policy Framework (paragraph 17) states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. Further matters for consideration are referenced in Chapter 1 of the NPPF which states that the planning system should “do everything that it can to support sustainable growth” with Chapter 8 of the NPPF adding that the planning system can “play an important role in facilitating social interaction and creating healthy, inclusive communities”.
- 10.4 A full assessment of the above will be considered below.

#### Urban Design issues

- 10.5 There are no external alterations proposed to the building as part of the proposal for a change of use to snooker and games room. Although, it is envisaged that in time the current signage on the principal elevation would be removed following the closure of the former business use.
- 10.6 There are currently no planning applications submitted for proposed signage. However, depending on the design and scale of the signage it could benefit from permitted development rights under the Town and Country Planning (Control of Advertisements) Regulations 2007.

#### Residential Amenity

- 10.7 The application seeks permission for the change of use of a vacant two storey building with a current use as B1 Business/workshop to D2 use (Assembly and Leisure) as a snooker and games room. The building has an existing car park to the front with access from Wellington Street.

#### *Noise*

- 10.8 The application site is set within an area which is predominantly residential. The nearest residential property is 113 Wellington Street to the North West which has a separation distance of 4.5m. Directly to the South of the application site is 15 Hamza Street which is 23.7m from the Southern elevation which also forms the boundary to the dwellings associated amenity space.

- 10.9 The building is within close proximity to residential properties and as such it is the concern of local residents that they would be unduly impacted by an increased level of noise disturbance associated with the use and service users.
- 10.10 It is considered by officers that although the use is likely to create an increased footfall, this can be minimised and controlled by the implementation of a condition restricting the hours of operation to 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 on Sundays, as recommended by KC Environmental Health. This restriction would limit the level of disturbance to ensure that the residential amenity is not unduly impacted.
- 10.11 Given the implementation of the attached condition, it is considered that any harm arising from the change of use can be mitigated against and the proposed change of use should not therefore cause any significant harm to the residential amenities of neighbouring residential properties. Subject to the condition relating to hours of use, the proposed development would comply with policies D2, BE1, and EP4 of the Kirklees Unitary Development Plan as well as the aims of chapter 11 of the NPPF in this respect.

#### *Over Looking*

- 10.12 There are currently no existing windows or access doors within the Southern or Western elevations with no additional windows proposed. The building holds all windows and access doors within the Northern elevation.
- 10.13 As the level of overlooking will not be altered by the addition of windows within the building the level of overlooking will remain as original with no considered impact to the residential properties to the South or West. The development would therefore comply with policy D2 in terms of residential amenity.

#### Highway issues

- 10.14 Policy T10 sets out guidance for new development to ensure that there is a limited impact upon highway safety. Policy T19 sets parking standards for new developments. There have been a high number of representations received concerning the associated increase level of vehicle movements and impact of parking on Wellington Street.
- 10.15 KC Highways DM were consulted on the application. It was assessed that the current use as B1 Business/workshop, if brought back into use, would generate an estimated 30 two way vehicle movements per day which would be inclusive of HGV deliveries associated with the use.
- 10.16 Supporting information states that the proposed use would have an average of approximately 10 users per hour (numbers established as per a site within the same use that the planning agent recently worked on).

- 10.17 Policy T19 of the UDP states that for use class D2 Leisure and Assembly would require 1 parking space per 3 members of staff and 1 visitor parking space per 2 patrons. Based upon the applicants anticipated use of the snooker and games room there would be a requirement of 7 spaces in order to meet the recommended parking standards.
- 10.18 Whilst it is acknowledged that the current level of parking spaces (5 off-street) does not meet the required 7 spaces, given the level of vehicles movement associated with the established use and the available on-street parking spaces, the development is not considered to materially add to any undue highway safety implications and would be in compliance with policies T10 and T19 of the Kirklees UDP.

#### Crime and anti-social behaviour

- 10.19 Chapter 8 of the National Planning Policy Framework sets out the important role that the planning system plays in facilitating social interaction and creating healthy and inclusive communities. Chapter 69 states 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 or community cohesion'.
- 10.20 There has been a high level of representation received with concern for the potential associated anti-social behaviour as a result of the change of use to snooker and games room.
- 10.21 The Police Architectural Liaison Officer (PALO) was consulted on the application for the proposed D2 (Leisure and Assembly) Snooker and games room. As part of the assessment, the Neighbourhood Police Inspector for the Batley area was also consulted.
- 10.22 It is the considered view of West Yorkshire Police that the approval of the proposed D2 (Leisure and Assembly) Snooker and games room would be likely to cause an increase in the serious anti-social behaviour, nuisance and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community.
- 10.23 The assessment is based upon the opinion that an approval would create a 'honeypot' (a place where people have an excuse to congregate and linger). Crime and anti-social behaviour are more likely to occur at a specific location if potential offenders have a 'legitimate' reason to meet there.
- 10.24 There are no details submitted with the application detailing how both the premises and external area would be managed which further adds to the concerns.
- 10.25 In the absence of continuous management, it is considered by officers that the proposed use as a snooker and games room would bring the likelihood of criminal or anti-social behaviour to the immediate vicinity which would in turn raise the level of crime amongst nearby residents.

- 10.26 To summarise, it is considered that the proposed use as D2 (Leisure and Assembly) Snooker and games room would be contrary to the aims of chapter 8 of the National Planning Policy Framework due to the increased fear of crime for local residents which would result in a decrease in the quality of life and social cohesion of the local community.

### Representations

- 10.27 The intensification of the current level of traffic by other businesses within the area.

**Response:** The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.28 The perceived level of disturbance from the associated nuisance and noise particularly during the evening and into the night.

**Response:** The hours of operation of the snooker and games room will be restricted by condition to ensure that the impact on residential amenity of residential properties is limited.

- 10.29 Generate an increase number of vehicles parked on Wellington Street which will be of detriment to highway safety.

**Response:** The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.30 The site has inadequate parking facilities.

**Response:** The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.31 The use of a snooker/games room will attract crime and anti-social behaviour.

**Response:** This objection forms the basis for the suggested reason for refusal of the application.

- 10.32 Loss of privacy for local residents.

**Response:** There are no additional windows or access points proposed within the application. It is therefore considered that the level of overlooking will remain as existing with no detriment to neighbouring residential properties.



Other matters:

10.33 There are no other matters considered relevant to the determination of this application.

**11.0 CONCLUSION**

11.1 To conclude, and taking all matters into account, although there are considered to be minimal concerns in regards to the impact on highway safety, visual and residential amenity, it is the view of officers that it has not been demonstrated that the proposal would not result in an increase in the fear of crime and anti-social behaviour at the premises, particularly due to the lack of any continuous management of the premises and its external area. The resultant decrease in the quality of life and social cohesion of the local community would outweigh this and result in a use which would not create a safe and accessible environment and significantly undermine the quality of life of the local community which is contrary to Chapter 8 of the NPPF.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

**12.0 Reason for refusal**

12.1 1. It has not been demonstrated that the proposed change of use to a snooker and games room (D2 use), particularly due to the lack of any continuous management of the premises and its external area, would not result in an increase in the fear of crime and anti-social behaviour for the local community. The increased fear of crime and anti-social behaviour would outweigh the benefits of the re-use of the vacant building and fail to create a safe and accessible environment, significantly undermining the quality of life of the local community, contrary to the aims of Chapter 8 of the National Planning Policy Framework.

**Background Papers:**

Application web page: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93910>

Certificate of Ownership – Notice B served. The applicant, Mr Raza Ayoub, served notice on the land owner, Masum Krolia, on 17<sup>th</sup> November 2016.

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Originator: Jonathan Fletcher

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

Subject: Planning Application 2016/93244 Erection of detached dwelling 53, Far Bank, Shelley, Huddersfield, HD8 8HS

#### APPLICANT

Mr Rylance

#### DATE VALID

21-Sep-2016

#### TARGET DATE

16-Nov-2016

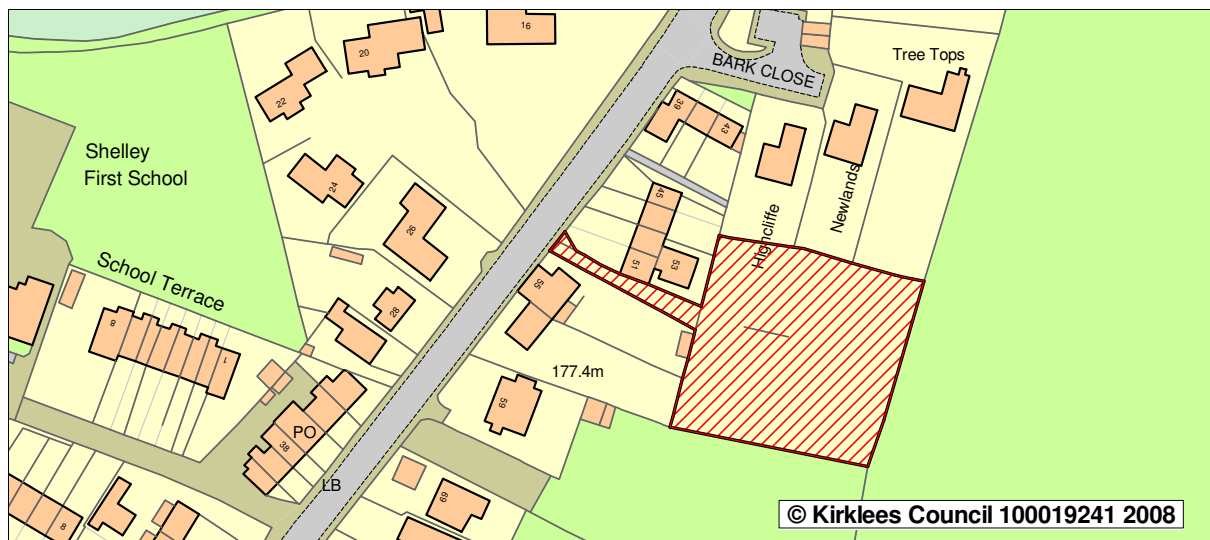
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Kirkburton**

No

Ward Members consulted  
(referred to in report)

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**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report.**

## **1.0 INTRODUCTION:**

- 1.1 The application has been referred to the Heavy Woollen Planning Sub-Committee as the proposal presents a departure from the Kirklees Unitary Development Plan. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application seeks planning permission for the erection of a detached dwelling on land allocated on the Unitary Development Plan as Provisional Open Land (POL). There is an extant planning permission (ref: 2014/91428) at the site for an alternative scheme for a detached dwelling.
- 1.3 The application site can be accessed safely in highway terms and its development would not prejudice any potential future development of the wider POL allocation. On balance, there would be no harmful effect on visual or residential amenity. Subject to conditions, drainage issues would be addressed. An ecological survey, which includes results of bat activity surveys has been submitted in relation to a previous application and there are no statutory constraints to development in respect of ecology and protected species.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is an open area of land to the rear (east) of No.53 Far Bank at Shelley. The site is bounded by residential properties off Bark Close to the north, open land to the east, and the rear garden areas of properties off Far Bank to the west. Planning permission has recently been granted for two dwellings on an adjacent site to the southern boundary however this permission has not yet been implemented. The site is accessed via an existing access between No. 51 and No.55 Far Bank. The site slopes downwards from north to south and from west to east. Along the boundaries of the site are a number of mature trees.

### **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for the erection of a detached dwelling with a detached garage. The dwelling is designed with the main elevation facing southeast and the entrance door on the side elevation facing the access drive. The floorplans indicate that the building would provide five bedrooms across three storeys, with a range of reception rooms on the ground floor. The garage is designed with a dual pitched roof and would be sited to the northwest corner of the site. The development would be constructed with a combination of ashlar and coarse natural stone to the walls, with zinc roofs. The existing garage on the site would be demolished.

### **4.0 RELEVANT PLANNING HISTORY:**

2006/91942 – Certificate of lawfulness for existing use of land as garden – Granted

2006/93374 – Demolition of part of existing dwelling (No.53) and outline application for incorporation of remaining part No.51 and erection of 1no detached dwelling with attached garage. Refused on the ground that the site is allocated as POL and the proposed development is not required in connection with the established use of the site and would prejudice the contribution of the site to the character of its surroundings and to the possibility of development in the longer term.

2007/91818 – Alterations to improve access to 51, 53 and 55 Far Bank – Conditional Full Permission

2012/93728 – Outline application for erection of 5 dwellings. Refused on the grounds the proposal would be contrary to policy B5 which safeguards POL land.

2013/92822 – (No.53 Far Bank) Erection of two storey side extension, rooms in roof space and conservatory to side. Demolition of existing garage and erection of detached garage – Conditional Full Permission

2014/90093 – Outline application for erection of 5 dwellings – Conditional Outline Approval

2014/91428 – Part demolition of No.53 Far Bank and outline application for erection of detached dwelling – Conditional Outline Permission

2014/93349 – Reserved matters application for erection of one dwelling pursuant to outline permission 2014/91428

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Officers engaged with the agent during the application process to seek amendments to the scheme in order to improve the visual impact of the development and the effect on the residential amenity of adjacent occupiers. The following amendments have been made:

- A reduction in the massing of the building at first floor level
- The removal of the Juliette balconies on the south elevation
- Lowering the height of the ridgeline
- A reduction in the scale of the entrance
- The garage has been re-sited further away from the boundary and with a revised roof pitch away from the boundary
- The outline of the building as originally submitted is indicated on the proposed elevations for reference.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is allocated as Provisional Open Land on the Kirklees UDP Proposal Plan.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

**D5** – Provisional open land  
**BE1** – Design principles  
**BE2** – Quality of design  
**BE12** – Space about buildings  
**T10** – Highway Safety  
**D2** – Unallocated Land  
**EP11** – Ecological landscaping  
**NE9** – Retention of mature trees

### **6.3 Supplementary Planning Guidance / Documents:**

NA

#### 6.4 National Planning Guidance:

**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

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

7.1 Three representations have been received in relation to this application. A summary of the concerns raised is set out below:

- The entrance to the site is unsuitable and has restricted visibility due to the level of on-street parking in the area.
- Brownfield sites should be developed before this type of site.
- There is a need for smaller property sizes in the area.
- The development would not be in keeping with the traditional style of properties in the area.
- A reduced building size/height would maintain views for local residents
- It is requested that construction traffic associated with the development does not use Bark Close for parking and/or turning due to prevent undue disturbance and future maintenance issues.

#### 8.0 **CONSULTATION RESPONSES:**

##### 8.1 **Statutory:**

**K.C. Highways Development Management** – No objection subject to conditions

##### 8.2 **Non-statutory:**

**K.C. Ecologist** – No objection subject to conditions

#### 9.0 **MAIN ISSUES**

- Principle of development
- Sustainability
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Ecological issues
- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The principle of residential development has been established at this site under previous applications and, indeed, there is an extant planning permission (ref: 2014/91428) which was granted in 2014 for the erection of a single dwelling on the site.
- 10.2 In terms of more detailed issues within the site, NPPF paragraph 58 sets out the requirement for developments to “*optimise the potential of the site to accommodate development*”. As this proposal only covers part of the POL site, consideration has been given to the need to demonstrate that it does not prevent the remainder of the POL site being developed. The POL allocation includes land to the south of the site with three possible access points off Far Bank. The Council have previously agreed there are potential access points off Far Bank, and as the area within the red line boundary is a private garden space physically separated from the wider POL allocation, it is considered that the development of this small section of the POL would not prejudice the longer term development of the wider site.

### Sustainability

- 10.3 Paragraph 7 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. Paragraph 8 states that these roles are mutually dependent and should not be undertaken in isolation. “Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.”
- 10.4 Economic: A proposal for one dwelling provides limited economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF a new house would support growth and satisfy housing needs thereby contribute to the building of a strong economy.
- 10.5 Social: Whilst there would be a social gain through the provision of new housing at a time of general shortage, the local village of Shelley is lacking in community facilities; and residents would generally have to travel outside of the area to access health, education, shops and employment opportunities. The area is however well connected to Huddersfield Town Centre and on a bus route.
- 10.6 Environmental: The development of a greenfield site represents an environmental loss. However, whilst national policy encourages the use of brownfield land for development it also makes 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.
- 10.7 The Council’s Ecologist has reviewed the application and raises no objection which is discussed in more detail below.



- 10.8 Assessing the policies in the NPPF as a whole in accordance with the paragraph 14 test, the limited environmental harm arising from the development of this greenfield site is outweighed by its sustainability and the benefits to be gained from the provision of housing which will help to address a current shortfall in the 5-year supply.
- 10.9 Furthermore, the granting of previous permissions on this site for residential development has already established the principle.

#### Urban Design issues

- 10.10 Officers have previously raised concern in relation to the scale of the dwelling being proposed however, on balance, the revised scheme is considered to be acceptable in this context.
- 10.11 Given the limited visibility of the development it has been concluded that a refusal could not be substantiated on the basis that the scale of the building is out of character with the other properties in the area. It is noted that there are a range of property types adjacent to the site including two storey terrace properties on Far Bank and two storey detached properties on Bark Close. The location of the site behind the properties which face onto Far Bank would ensure that the scale of the dwelling would not be readily visible from the surrounding area to the west. The site is well screened by mature trees to east and south boundaries, which would serve to obscure long range views of the building from the open countryside beyond. The closest public footpath is well removed from the development, at approximately 225m to the east of the application site.
- 10.12 The footprint of the structure could be adequately accommodated within the site area with space being retained to the boundaries for tree retention and soft landscaping. The combination of materials being proposed is considered to be acceptable in this location and would complement the contemporary design of the dwelling. The orientation of the main elevation towards the south boundary of the site would present a rational site layout as this elevation would not be read within the street scene of Far Bank, with only limited views being afforded to the east side elevation of the property which includes the entrance door. A condition is recommended to prevent any further enlargement of the property under permitted development rights due to the scale of the structure being proposed.
- 10.13 The setting of Shelley Methodist Church which is a listed building would not be affected by the proposal given that it is located approximately 118m to the south of the site.
- 10.14 Overall the proposal is deemed to be consistent with policies BE1 and BE2 of the UDP as well as chapters 6 and 7 of the NPPF.

### Residential Amenity

- 10.15 The amendments made within the application process were also sought to reduce the impact of the development on the residential amenity of adjacent occupiers. The site is bounded by residential properties to the north and west, and two properties have been granted planning permission on the adjacent site to the south boundary. The revised proposals are considered to have overcome officers' concerns.
- 10.16 The reduction in the height of the ridgeline of the dwelling and the massing of the first floor element has created an acceptable arrangement in terms of the residential amenity of occupiers to the north of the site. The site sections submitted in support of the application identify that the dwelling would be set into the slope of the site and at a lower level than the adjacent properties which would serve to reduce the impact of the development. The proposed dwelling would be located approximately 23.8m from these properties which would ensure that the level of inter-visibility would not unduly impact on the level of privacy enjoyed by these occupiers.
- 10.17 The reduction in the scale of the dwelling has also improved the relationship to the south boundary and it is noted that the approved dwellings on the adjacent site would be set a lower level than the proposed development. The original proposal included Juliette balconies on the north elevation which would have created a sense of overlooking and surveillance which would not have been acceptable, albeit that the separation distances recommended under policy BE12 of the UDP would have been achieved. A condition is recommended to ensure that Juliette balconies are not introduced to the property once constructed.
- 10.18 Lastly, the detached garage has been redesigned to reduce the impact on the properties to east of the site. The garage is located close to this boundary however the change in the roof pitch would ensure that bulk of the building onto the boundary has been limited to eaves level. The outlook from the side elevation of the dwelling would be at an angle to the properties on Far Bank and acceptable separation distances would be achieved.
- 10.19 The proposals are therefore considered acceptable from a residential amenity perspective and would comply with the aims of policy BE12 of the UDP.

### Landscape issues

- 10.20 As noted above, the layout of the site would provide for space at the boundaries of the site for soft landscaping. The application is supported by a landscaping plan and a condition is recommended to ensure that this is implemented.

### Housing issues

- 10.21 Previous planning permissions have demonstrated that a greater density of development could be achieved at the site, with five dwellings being granted outline planning permission in 2014 (ref: 2014/90093). The current proposals would create a single dwelling which would provide a limited contribution to housing delivery in the district.
- 10.22 Paragraph 47 of the NPPF confirms that local authorities should 'set out their own approach to housing density to reflect local circumstances.' There is no provision within the current Development Plan however to resist residential development under certain densities. Moreover, there are no policies which require certain property sizes or affordable units under applications relating to minor development.

### Highway issues

- 10.23 The new dwelling is proposed to be served by an existing vehicular access onto Far Bank. The Council's Highway Engineer has been consulted and raises no objection to the proposals on the basis of highway safety. The Highways Engineer has noted that the proposed access road is to remain unchanged from a previous planning permission and that the level of off-street parking would meet the standards set out in the UDP. The extant planning permission included a condition to require improvements to the access, in particular, the visibility onto Far Bank which have now been completed and therefore this condition is no longer necessary. A condition is recommended however ensure that parking area is properly surfaced and retained thereafter.
- 10.24 Subject to conditions, the proposal is not considered to materially add to any undue highway safety implications and would accord with the aims of policy T10 of the UDP.

### Drainage issues

- 10.25 Historical maps and surface water flood plans indicate the presence of a piped/culverted watercourse within the site. There are no details of its size, flow and structural condition, and it is not possible to determine whether it is suitable to accept surface water flows from the development. An investigation is therefore required as to its location and condition and it is advised there should be no building within at least 3 metres of the centre line of the watercourse to protect it from structural loading. Consideration of flood routing in respect of the layout of the development is also critical in managing flood risk and there is a possibility any pipework/culvert may have to be renewed. No examination of existing sewers serving adjacent properties has been carried out and the current diameter of local sewers may be inadequate for connection.

10.26 The Council's Drainage Engineer recommended a number of conditions in relation to the extant planning permission concerning to the following areas:

- the submission of a scheme detailing foul, surface water and land drainage,
- an assessment of the effect of 1 in 100 year storm events with an additional allowance for climate change on drainage infrastructure and surface water run-off pre and post development, between the development and surrounding area in both directions, and
- a condition regarding an investigation into the location, size, condition and flows within piped or culverted watercourses within the site.

10.29 These conditions are also recommended in relation to the current proposals to ensure the development complies with chapter 10 of the NPPF.

#### Ecological Issues

10.30 The Council's Ecologist has reviewed the details of the Ecology Report submitted in relation to the previous application ref: 2014/91428 and is satisfied that the site will not have changes significantly since this survey was completed. It is indicated that the habitats present do not support protected species and that development of the site will not result in significant ecological impacts, however this is subject to enhancement measures being implemented which the Council's Ecologist has requested are secured by conditions, in accordance with the aims of chapter 11 of the NPPF.

#### Representations

10.31 The majority of the issues raised within the representations have been discussed above however further comments are provided below in relation to the outstanding matters:

- Loss of View – It is recognised that the proposed dwelling would be located adjacent to existing properties which enjoy views to the open countryside to the south and east. The application has been assessed in terms of the proximity of the development to these properties and no unacceptable impacts have been identified in relation to the structure being overbearing or creating overlooking or shadowing effects. Beyond these considerations, the retention of a view is not a material planning consideration which can be significant weight in the determination of a planning application.
- Construction Traffic - Any disturbance created through the construction phase of the development would be relatively limited given the scale of development being proposed. It would not meet the relevant tests therefore to impose a condition requiring the implementation of construction management plan in this case.

10.32 Whilst the comments which have been submitted are noted there is not considered to be sufficient justification to warrant a refusal of the application on this basis.

### Planning obligations

10.33 No planning obligations are being sought in relation to this application.

### Other Matters

#### 10.34 *Air Quality*

The NPPF requires the planning system to contribute to and enhance the natural and local environment by among other things preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. It also encourages the promotion of sustainable transport.

10.35 The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point within the parking areas associated with the proposed dwelling. This in turn can impact on air quality in the longer term. A condition can be imposed to secure the charging point for the proposal to comply with the NPPF.

## **11.0 CONCLUSION**

11.1 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.

11.2 The application would not prejudice any potential future development of the wider POL allocation. There would be no materially harmful effect on highway safety visual or residential amenity. There would be no materially harmful impact on the setting of adjacent listed buildings.

11.3 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. The application is recommended for approval accordingly.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

1. Standard time limit for implementation of development (3 years)
2. Development to be carried out in accordance with the approved plans

3. Materials to be natural stone walling and zinc roof: samples to be submitted to and approved in writing
4. Implementation of landscape scheme
5. Removal of permitted development rights for extensions including Juliette balconies
6. Laying out of areas to be used by vehicles
7. The submission of a scheme detailing foul, surface water and land drainage
8. An assessment of the effect of 1 in 100 year storm events
9. An investigation into the location, size, condition and flows within piped or culverted watercourses within the site.
10. No removal of hedgerows, trees or shrubs within nesting season
11. Ecological Design Strategy
12. Scheme for provision of electric vehicle charging points

### **Background Papers:**

Application and history files:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93244>

Certificate of Ownership – Certificate A signed on 6 September 2016.



Originator: Sarah Longbottom

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

**Subject: Planning Application 2016/93177 Erection of detached dwelling with attached garage (within a Conservation Area) Adjacent to, 14, Manor Road, Farnley Tyas, Huddersfield, HD4 6UL**

#### APPLICANT

Mr & Mrs Bullas

#### DATE VALID

30-Sep-2016

#### TARGET DATE

25-Nov-2016

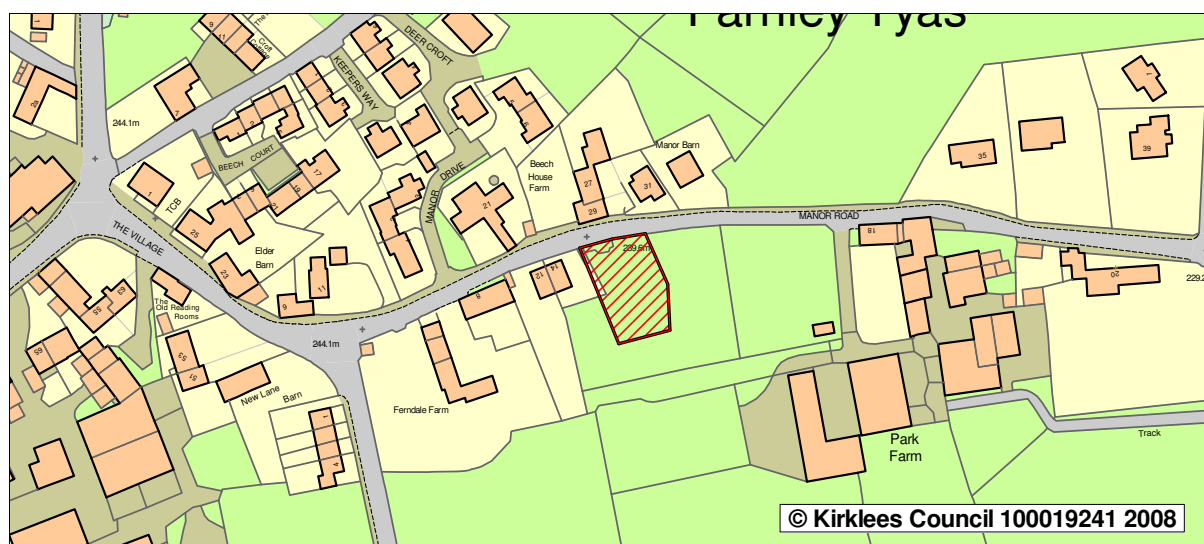
#### EXTENSION EXPIRY DATE

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#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Kirkburton**

Yes

Ward Members consulted

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**RECOMMENDATION: REFUSE**

1. The proposal would result in the loss of an important open space between two distinct clusters of development which makes a positive contribution to the significance of the Conservation Area. The proposal provides no public benefit to outweigh the harm caused to the character of the Conservation Area, and as such would not constitute sustainable development, contrary to Policy BE5 of the Kirklees Unitary Development Plan and government guidance contained within Chapter 12 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for determination due to previous Heavy Woollen Planning Sub-Committee interest in the wider site.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises of an open piece of land measuring 672 sq m, forming part of a larger field located off Manor Road, Farnley Tyas. The site itself is within the Farnley Tyas Conservation Area which covers the majority of the village; the Conservation Area was designated as an area of high architectural and historic interest in the 1980's; it is a rural village of largely stone built houses which has an intimate relationship with its natural landscape surroundings. The houses within the Conservation Area are close knit and appear to have been developed along the principal thoroughfares but also in an organic nature. The houses vary in date but many appear to be of 18<sup>th</sup> and 19<sup>th</sup> century origin.
- 2.2 Manor Road contains two distinct clusters with the application site acting as the main separation of these clusters. To the west of the site is the larger cluster known as Farnley Tyas which includes the main amenities associated with the village. It also includes the recent development of Beech Farm. To the east is the smaller cluster known as Netherton which mainly comprises of larger dwellings in a linear layout.



- 2.3 There are two Listed Buildings within close proximity of the application site, 21 Manor Road which is located to the north-west on the site and 18 Manor Road to the east.

### **3.0 PROPOSAL:**

- 3.1 The proposals relate to a full application for one detached dwelling. This would be of a two storey scale with integral garage and constructed of natural coursed stone with stone slate roof. Access would be taken directly off Manor Road leading to a parking and turning area to the front.
- 3.2 The proposed dwelling would address Manor Road with main habitable room windows located to the north (front) and south (rear) elevations. An area of private amenity space would be located to the rear of the dwelling.

### **4.0 RELEVANT PLANNING HISTORY:**

2016/93524 (14 Manor Road) – Erection of two storey side extension and change of use of land to domestic curtilage – Approved

2015/90663 – Erection of 2 dwellings – approved at Heavy Woollen Planning Sub Committee (30 October 2015)

2015/90759 – (Park Farm) Erection of 6 dwellings and conversion of barn into dwelling and associated works, pending decision (amended plans received and re-consultation to take place)

2014/93187 – Erection of 3 detached dwellings - Withdrawn

2000/92243 – Erection of 4 dwellings with garages - Refused and dismissed at appeal

1999/91843 – Erection of 4 dwellings with garages - Refused

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The application site has been the subject of previous planning applications and discussions. Throughout these discussions, Officers have maintained the view that the open space between 14 Manor Road and Park Farm should be retained. Furthermore, a previous appeal decision has noted the importance of this, and the appeal was dismissed on this basis.
- 5.2 The previous application ref: 2015/90663 for two dwellings was approved at the Heavy Woollen Planning Sub Committee on 30 October 2015. This related to the provision of two dwellings closer to Park Farm to the east, forming part of the existing cluster of development at Park Farm and Netherton to the east. As a result, the two distinct clusters would remain intact and the land between would remain open providing the separation between the two. At that Committee Meeting, Members expressed their support for the two dwellings proposed, provided that no further applications were submitted for the remaining land.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is located within the Farnley Tyas Conservation Area on the Kirklees Unitary Development Plan.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

**BE1** – Design principles  
**BE2** – Quality of design  
**BE5** – Preservation/enhancement of conservation areas  
**BE11** – Materials  
**BE12** – Space about buildings  
**T10** – Highway safety  
**T19** – Parking standards

### **6.3 National Planning Guidance:**

**Chapter 6** - delivering a wide choice of high quality homes  
**Chapter 7** – Requiring Good Design  
**Chapter 11** – Conserving and enhancing the natural environment  
**Chapter 12** – Conserving and enhancing the historic environment

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

- 7.1 The application has been publicised by site notice, neighbour notification and press advert. As a result of site publicity, 34 representations have been received. The concerns raised in representations can be summarised as follows:
- Site is located within the Conservation Area on land that is currently used for agriculture. The land provides a gap between housing above and below on Manor Road and is important to the rural and agricultural character, location and setting of Farnley Tyas

- The gap has already been significantly reduced by the ongoing construction of two substantial dwellings to the eastern side of the same land; further development of the land would be detrimental to the conservation area as the gap would be practically non-existent
- Closing the gap would restrict views into and out of the Conservation Area and be detrimental to the wider area
- Proposed Dwelling is substantially larger than the houses opposite and adjacent to it
- The full extent of the current site must be retained and protected from future unnecessary development. Less than 1/3 of the original paddock will be undeveloped if the application is approved
- Previous applications for development on this site have been refused, even on appeal. The two properties currently under construction were given permission only if the third (i.e Orchard Cottage) was withdrawn
- Submitted plans do not indicate the location of the 2 dwellings currently under construction
- Highway safety concerns
- Proposed development would have an overbearing impact upon 29 Manor Road which is directly opposite and at a lower level
- The submitted Design and Access Statement incorrectly states that the site was historically the location of the old Parish Rooms
- Development offers no benefit to the public, and would only benefit those who want to profit from the site
- The emerging Local Plan has identified sites for future housing development and the application site is not included within this plan

7.2 Councillor Bill Armer and Councillor John Taylor have also commented on the application confirming that they object, and echoing the concerns raised above.

7.3 Kirkburton Parish Council has objected to the application on the grounds set out above.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways Development Management:** Recommend amendments to the proposals

### 8.2 Non-statutory:

**KC Environmental Services:** Recommend the imposition of conditions, should permission be granted

**KC Conservation and Design:** Object to the development on this land.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is a greenfield piece of land measuring 672 sqm in size, forming part of a larger field. It is situated within the Farnley Tyas Conservation Area. Planning permission is sought for the erection of one dwelling to be located to the east of 14 Manor Road.
- 10.2 As set out previously within the report, Farnley Tyas is made up of two character areas, both of which make a positive impact upon the Conservation Area as a whole. There is a cluster area centred on the village and includes the public house as well as the recently constructed 'Beech Farm' development. The second cluster is located to the east of Manor Road and is known as the hamlet of Netherton. The application land forms a natural separation between these two clusters and as such, consideration needs to be given to any potential development on the land.
- 10.3 The application site has been subject to a number of applications over the past 30 years with two applications in 1984 & 2001 being dismissed at appeal. The open gaps between the clusters were cited as been a main reason for the applications' dismissal. A more recent application was approved at the Heavy Woollen Planning Sub Committee on October 2015 relating to the erection of two dwellings adjacent to Park Farm. With this, Officers consider that there is an issue that any further development will erode this open space, to the detriment of the Conservation Area.
- 10.4 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that all applications must either preserve or enhance the character of the Conservation Area. The proposed development impacts upon the open space to such a degree that the character of the Conservation Area is substantially harmed and as such fails to meet the requirements of Section 72.
- 10.5 Paragraph 138 of the NPPF states that the loss of a building (or other element as is the case here) which makes a positive contribution to the significance of the Conservation Area should be treated as substantial or less

than substantial harm as defined by paragraphs 133 or 134. In this instance, the proposals would not result in the total loss of the open gap, therefore Officers consider that less than substantial harm occurs, and paragraph 134 applies. This requires a balance between the harm caused and the public benefit of the proposal, including securing its optimum use. Officers are of the view that the proposals offer no public benefit and therefore the balance is tipped towards the significance of this open gap being retained. As such, the proposed development would not comply with the guidance set out within Paragraphs 132, 134 and 138 of the NPPF.

- 10.6 The applicant considers that views into and out of the Conservation Area would be maintained, and with regard to Paragraph 134 of the NPPF, that the provision of one dwelling at a time when the Council is unable to demonstrate a 5 year supply of housing land, and its construction, which would provide work for local trades, represents a public benefit. Whilst this is noted, Officers would take the view that the provision of one dwelling would not overcome the Council's lack of a 5 year supply of housing land. Furthermore, whilst the use of local trades and contractors would be welcomed, it would be difficult for this to be enforced, nor is it considered to outweigh the harm caused. The harm, whilst less than substantial, is significant and as such significant public benefit has to occur. Officers do not consider the benefit afforded by the applicant to be significant.

#### Urban Design issues

- 10.7 The proposed development would comprise a two storey detached dwelling constructed of natural stone with stone slate roof. The submitted plans indicate that traditional features such as quoins, corbels and mullions would be incorporated within the design of the proposed dwelling. Notwithstanding this, the development is considered to have a contemporary layout, with the garage projecting from the front elevation and the dwelling set back from the road.

#### Residential Amenity

- 10.8 The impact of the development on residential amenity needs to be considered in relation to Policy BE12 of the Unitary Development Plan. Policy BE12 sets out recommended distances that are suggested to be achieved between existing and proposed dwellings.
- 10.9 The layout of the proposed development is such that the aims of Policy BE12 would generally be met in relation to adjacent existing residential development (the separation distance between the front elevation of the proposed dwelling and 29 Manor Road would be 20m, where 21m is recommended within Policy BE12 of the Unitary Development Plan). Separation distances amongst existing dwellings vary and as such, this relationship is considered to be acceptable.

### Highway issues

- 10.10 Access to the development would be taken from Manor Road, leading to a driveway and turning area. The dwelling would also have the benefit of a double garage, and therefore adequate off street parking and internal turning provision is provided by the development.
- 10.11 The application site is located on the southern side of Manor Road, in excess of 50m from the junction with The Village. The carriageway to the frontage of the development site varies in width between approximately 3.8m on the western side and 4.5m on the eastern side. There is a 0.6m wide verge to the development site frontage and a 1.1m wide footway on the opposite side.

### Ecology

- 10.12 Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments.
- 10.13 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site.
- 10.14 The application site consists of part of an open field enclosed by dry stone walls. No ecological information has been submitted with application. However, the previous application (2015/90663) was accompanied by an ecological survey in order to determine the overall ecological value of the land as well as proposing mitigation measures for the loss of the field.
- 10.15 The previously submitted survey report established that the grassland is of low ecological value and the site overall is of limited value. A series of mitigation and enhancement recommendations were made. Furthermore, additional measures were recommended in order to improve biodiversity in the local area. Such measures would accord with the aims of Chapter 11 of the NPPF.

### Drainage

- 10.16 The development proposes to dispose of foul drainage via the existing mains sewer and surface water drainage to soakaway, however no further information has been supplied to demonstrate that the use of soakways is feasible in this instance.

### 10.17 Representations

The representations set out above relate are addressed as follows:

#### Principle of Development/Planning History of the site:

**Response:** These matters are addressed above.

Proposed Dwelling is substantially larger than the houses opposite and adjacent to it

**Response:** There is a mix of house types within the immediate locality, however the dwellings immediately to the west and opposite the site are smaller than that which is proposed.

Submitted plans do not indicate the location of the 2 dwellings currently under construction

**Response:** This is correct. The submitted plans do not show the development approved as part of application ref: 2015/90663.

Highway safety concerns

**Response:** This matter is addressed above.

Proposed development would have an overbearing impact upon 29 Manor Road which is directly opposite and at a lower level

**Response:** The impact of the development upon the amenity of the occupiers of No.29 is assessed above.

The submitted Design and Access Statement incorrectly states that the site was historically the location of the old Parish Rooms

**Response:** Analysis of historic maps indicates the "Parish Room" within the vicinity of the site, although it is not clear specifically where this was located. In any case, the character of the site is that of an open field and the principle of the development must be assessed on that basis.

Development offers no benefit to the public, and would only benefit those who want to profit from the site

**Response:** As stated above, the harm resulting from the proposals, whilst less than substantial, is significant and as such significant public benefit has to occur. Officers do not consider the benefit afforded by the applicant to be significant.

The emerging Local Plan has identified sites for future housing development and the application site is not included within this plan.

**Response:** The site is not included on the draft local plan as an accepted housing option.

#### Other Matters

- 10.18 **Air Quality:** Paragraph 109 of the NPPF 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 relatively small new developments, this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This could be secured by planning condition, if the proposals were considered to be acceptable.
- 10.19 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice.
- 11.3 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which indicate the development should be restricted. It is recommended that the application be refused.

## **12.0 Reason for Refusal**

1. The proposal would result in the loss of an important open space between two distinct clusters of development, which makes a positive contribution to the significance of the Conservation Area. The proposal provides no public benefit to outweigh the harm caused to the character of the Conservation Area, and as such would not constitute sustainable development, contrary to Policy BE5 of the Kirklees Unitary Development Plan and government guidance contained within Chapter 12 of the National Planning Policy Framework.

### **Background Papers:**

Application and history files:

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93177>

Certificate of Ownership – Certificate A signed on 30 August 2016





Originator: Julia Steadman

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 23-Feb-2017

Subject: Planning Application 2017/90098 Erection of eight dwellings Land adj,  
3, Field Head, Shepley, Huddersfield, HD8 8DR

#### APPLICANT

Worth Homes (Yorkshire)  
Ltd

#### DATE VALID

17-Jan-2017

#### TARGET DATE

14-Mar-2017

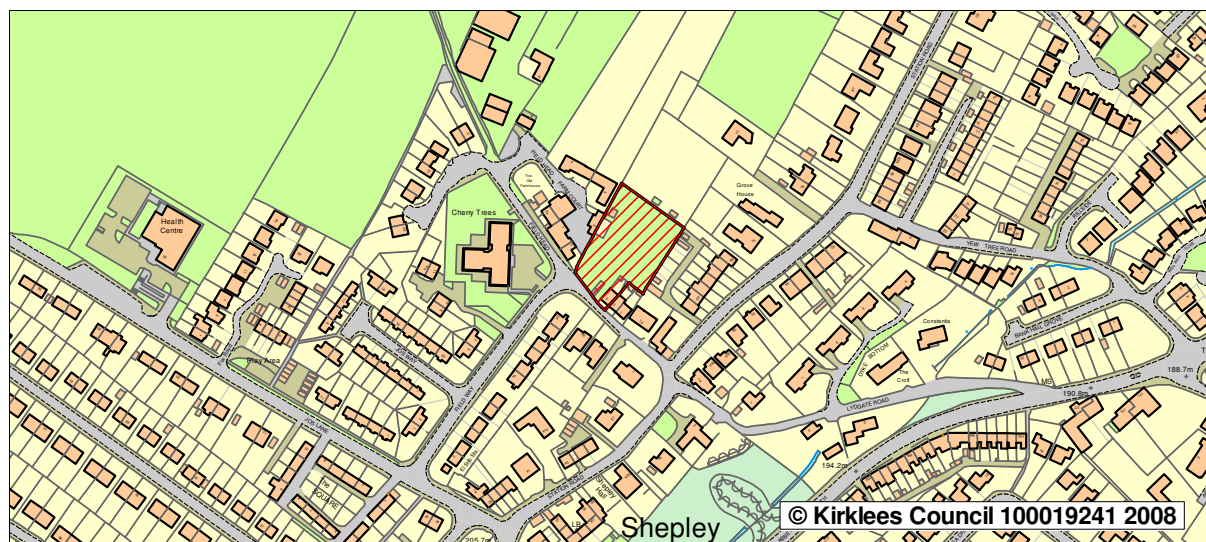
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected:**

**Kirkburton**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report and the matters as set out below:**

- 1. Await the expiration of the publicity period (17 February 2017)**
- 2. Resolve any outstanding drainage matters**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Committee as the application represents a departure from the Kirklees Unitary Development Plan. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The principle of residential development has previously been established on this site through the granting of outline planning permission for the erection five dwellings (under application reference 2014/90136). The principle was further supported following the approval of a full planning application for the erection of five large detached dwellings (under application reference 2016/91777) which was approved by the Heavy Woollen Planning Committee on 15 December 2016. In light of the above recent planning history, the principle of development is still considered to be acceptable by officers.
- 1.3 Discussions have taken place during the course of the application to secure further information to demonstrate that the scheme would be acceptable to officers from a visual and residential amenity perspective. Following receipt of amended plans, the proposals are also considered acceptable from a highway safety perspective too.
- 1.4 Further information is required to be submitted in relation to drainage. An acceptable drainage scheme was approved as part of the recent planning approval (2016/91777), and therefore, officers do not anticipate that this should cause a significant issue. The recommendation reflects this.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is a 0.24 hectare field with a frontage to Long Lane between no.3 Field Head and no.2 Field Head Farm Court at Shepley. The site is bounded by open land to the north-east, by the rear of domestic garages associated with properties off Station Road to the south-east, by the rear of residential properties off Field Head to the south-west, and by residential properties at Field Head Farm Court to the north-west. The site is accessed via an existing vehicular access adjacent to No.3 Field Head.

## **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of eight dwellings. The access would be positioned centrally within the site with three plots (1, 7, and 8) in the western portion of the site and five plots (plots 2-6) in the eastern portion.
- 3.2 The layout comprises of one detached dwelling (plot 1), two pairs of semi-detached dwellings (plots 2 & 3, and 7 & 8), and a row of three terraced dwellings (plots 4, 5, and 6)
- 3.3 The proposals also include a replacement garage for No.3 Field Head. A bin collection point is proposed adjacent to the access on the footway, along with two visitor parking spaces.

## **4.0 RELEVANT PLANNING HISTORY:**

2016/91777 – Erection of five detached dwellings – Conditional Full Permission

2014/90136 – Outline application for erection of 5 dwellings – Conditional Outline Permission

2001/90529 – Re-use, extension and adaptation of farm buildings to form 2 no dwellings and erection of 4 no dwellings with covered parking – Withdrawn

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Officers have sought additional information and amended plans from the applicant to secure the following:
- There was initially concern regarding the extent of hardstanding associated with the development. The position of parking spaces to serve plots 1, 7, and 8, has now been amended so that it not one large area of hardstanding. Parking spaces to the frontage of plots 2 to 6 has also been broken up using some soft landscaping and use of alternative materials.
  - Additional information in the form of sections through the site was provided due to the slight increase in height of some of the proposed plots.

- Amendments to the depth of some of the car parking spaces.
- Further information has been requested to address drainage matters. This information is still awaited.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (adopted 1999) remains the statutory Development Plan for Kirklees.

The site is allocated Provisional Open Land on the UDP proposals map.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

**D5** – Provisional open land  
**BE1** – Design principles  
**BE2** – Quality of design  
**BE12** – Space about buildings  
**T10** – Highway Safety  
**D2** – Unallocated Land  
**H10** - Affordable housing  
**H12** – Arrangements for securing affordable housing  
**EP11** – Ecological landscaping  
**H18** – Public open space

### **6.3 Supplementary Planning Guidance / Documents:**

Interim Affordable Housing Policy

### **6.4 National Planning Framework:**

**Chapter 6** - Delivering a wide choice of high quality homes  
**Chapter 7** - Requiring good design  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** - Conserving and enhancing the natural environment

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

- 7.1 The application was advertised by neighbour letter, site notice and press notice. As a result of this publicity one objection has been received to date.
- 7.2 The main concerns raised in the one representation are summarised as follows:
1. Object specifically to plot 1 – the plot would have significant impact on both natural light and views from their property (no.2 Field Head Farm Court)
  2. Concern about construction noise and later maintenance because of proximity to their boundary.
- 7.2 Kirkburton Parish Council – No comments received.
- 7.3 As the publicity does not end until 17 February 2017, should any further representations be received, they shall be reported to members in the update.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C Highways Development Management** – Following receipt of amended plans, confirmed no objection.

### **8.2 Non-statutory:**

**K.C Flood Management** – Further drainage information is required to be submitted pre-determination.

### **8.3 Previous consultation response(s) received in relation to planning permission 2016/91777.**

#### **Non-statutory:**

**K.C Environmental Services** – No objection subject to a condition relating to the reporting of unexpected contamination and the provision of dedicated electric vehicle recharging point(s). A footnote relating to the hours of construction is also suggested.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Drainage issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 The application site is allocated Provisional Open Land (POL) on the UDP proposals map. However, the principle of residential development, for five dwellings, has previously been established on the site under outline application reference 2014/90316, which was considered by the Heavy Woollen Planning Committee on 29 May 2014. A further full planning application was approved by the Heavy Woollen Planning Sub-Committee on 15 December 2016 for the erection of five large detached dwellings.

10.2 In light of the above, the principle of residential development is acceptable.

### Urban Design issues

10.3 Policies BE1 and BE2 of the UDP are considerations in relation to design and layout. Chapter 7 of the NPPF also highlights the importance of 'requiring good design'.

10.4 In this instance, there is a mix of house types within the surrounding area, comprising of detached, semi-detached, and terraced two storey dwellings, as well as single storey brick-built bungalows.

10.5 As previously set out, the layout comprises of eight dwellings, all being two stories in height. The previously approved scheme comprised solely of large detached dwellings however, this scheme includes detached, semi-detached, and terraced house types. All of which would contribute to providing a good mix of house types within the locality. The proposed layout, scale, and overall design of the dwellings would, in the opinion of officers, be appropriate within the context of this residential area.

10.6 The levels of the site are below that of the adjacent highway, Field Head. Plot 1, due to its proposed position, would have a prominent impact within the street scene. During the course of the previously approved application, site sections were requested in order to demonstrate the relationship of the proposed dwelling within the street scene. This section indicated that plot 1 would be higher than the neighbouring property to the north-west however, it was the view of officers and members of the Heavy Woollen Sub-Committee that this relationship would not appear out of keeping when taking into account the various scale of development within the surrounding area. Furthermore, there would be a reasonable degree of separation retained between plot 1 and this neighbouring property. Plot 1 is unchanged from that which was previously approved by members on 15 December 2016.

10.7 The two storey scale of the proposed dwellings would relate satisfactorily to the terraced properties located to the south of the proposed access into the site, nos. 2 and 3 Field Head, which are dominant, traditional two storey dwellings. As well as with the large, terraced dwellings to the east, which front onto Station Road (and separated by the application site by their detached garages).

- 10.8 With regard to the design and fenestration detail, as previously set out, there are a mix of house types within the vicinity ranging from the farm conversion at Field Head Farm Court, the older persons bungalows opposite the site, traditional terraces to the south-east, and a pair of large, modern dwellings on the opposite side of Field Head. In light of this, it is the opinion of officers that the design and fenestration of the proposed dwellings is acceptable from a visual amenity perspective and would not appear out of keeping with the surrounding area.
- 10.9 To summarise, the proposals are considered, by officers, to be acceptable from a visual amenity perspective and would accord with the aims of policies BE1 and BE2 of the UDP as well as the aims of chapter 6 and 7 of the NPPF.

#### Residential Amenity

- 10.10 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings. In this instance, the nearest neighbouring properties which would be affected by the development are Nos.2, 3 and 4 Field Head Farm Court to the west, Nos.2 and 3 Field Head to the south, and Nos. 57-69 Station Road to the east.
- 10.11 Although there has been an increase in the number of dwellings being proposed as part of this application, as demonstrated on the submitted drawings, the proposed dwellings would be within very similar footprints to those previously approved (with plot 1 being in exactly the same position as previously approved). However, for clarification, the relationship shall be assessed below:
- 10.12 No.2 Field Head Farm Court:  
The main aspect to this dwelling faces into the courtyard serving the properties at Field Head Farm Court. There are windows located in the side elevation of this property facing towards the application site. Plot 1 has been positioned so that there would be no direct relationship with these windows because it would be set further back into the site than no.2 Field Head Farm Court. It should however, be noted that plot 1 would be higher than the application site and, because it would be set further back from Field Head than no.2 Field Head Farm Court, there would be a degree of overshadowing to the main aspect of this dwelling. It is however, the view of officers that this relationship, because of the separation distance which would be retained, would be acceptable and would not be so dissimilar to existing relationships within the Courtyard. Furthermore, this relationship is unchanged from that previously approved as part of the recent application reference 2016/91777.
- 10.13 No.3 Field Head Farm Court:  
The main aspect of this dwelling once again faces into the courtyard, away from the application site. There is one window in the rear elevation of this existing dwelling which faces onto the application site. However, there would be no plots directly adjacent, with plots 2 and 3 being set some 22m away (no closer than the previously approved plot 2).

10.14 No.4 Field Head Farm Court:

The main aspects to this property face either into the courtyard (south) or onto fields to the north. Whilst there are some openings in the side elevation of this property facing onto the application site, they appear to serve non-habitable rooms. Plots 7 and 8 would replace the previously approved plot 5, but would actually have a smaller footprint because the integral garage is to be removed and replaced with gardens associated with those dwellings. This proposal is therefore considered to have less of an impact on the amenity of these neighbouring occupants than that previously approved.

10.15 Nos. 2 and 3 Field Head:

A distance of just over 20m would be provided between the gable elevation of plot 2 and the rear of these properties which is considered acceptable (once again, no closer than the previously approved plot 2). The detached garage to serve no.3 Field Head would be some 12m from the rear elevation of no.2 Field Head. There is an existing window in the gable of no.3 Field Head however, this does not appear to serve a habitable room and, due to the position of plot 1 (which is unchanged from the previous approval), which is set further back into the site, there would be no direct relationship. Furthermore a distance of some 13m would be provided.

10.16 Nos. 57-59 Station Road:

There would be a distance of over 30 metres to these properties. The occupants of no.63 have previously stated that they have a home office in the garage with rear facing windows and are concerned about loss of light. The agent has asked to extend the section through the site to clearly show the relationship to these neighbouring properties. It is the view of officers that this relationship is acceptable because a distance of between approximately 9-10m would be retained between plots 3 & 4 and the existing garage. Once again, this relationship would not be significantly different from that which was previously approved.

10.17 Within the site:

The separation distance between the plots within the site is considered satisfactory and would result in a layout that would not be out of keeping with that in the surrounding area. Adequate distances would be achieved between the proposed dwellings in order to safeguard the amenity of future occupants.

10.18 Overall

It is the view of officers that the layout has taken into consideration the siting of neighbouring properties and it is considered to be acceptable, complying with the aims of policy BE12 of the UDP. As such, from a residential amenity perspective, the proposals are considered satisfactory.

Landscape issues

- 10.19 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site.



- 10.20 An ecological appraisal was submitted with the previously approved application. This was undertaken in March 2014 as part of the previous outline application. It recommends that detailed ecological mitigation /enhancements should be incorporated into the layout and design, to include retention of hedgerows and trees within and adjacent to the site, a landscape design to retain and create features of ecological interest, production of a long term management plan to ensure the continuing ecological viability of these landscape features is maintained, and incorporation of biodiversity features within the buildings.
- 10.21 in this instance, it is considered reasonable and pragmatic by officers (and agreed by members of the Heavy Woollen Planning Sub-Committee in December 2016) to impose a landscaping condition to ensure that appropriate species are planted within the scheme in order to enhance the biodiversity of the site, in accordance with the aims of policy EP11 of the UDP and chapter 11 of the NPPF.

#### Highway issues

- 10.22 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety.
- 10.23 During the course of the application amended plans were sought in regard to the length of parking spaces which would serve some of the plots, along with the provision of pedestrian access between the driveways. The amended plans are considered acceptable, and adequate parking provision would be provided to serve the development. In addition, the access and turning facilities have previously been established as acceptable with the granting of the previous planning approval.
- 10.24 To summarise, the proposals are considered acceptable from a highways perspective and would not materially add to any highway safety implications. The proposals are considered to comply with the aims of Policy T10 of the UDP. Conditions are suggested to include the provision of visibility splays, turning facilities, and appropriate surfacing and drainage.

#### Representations

- 10.25 One representation has been received. Officers responses to the comments raised are as follows:-
1. Object specifically to plot 1 – the plot would have significant impact on both natural light and views from their property (no.2 Field Head Farm Court)  
**Response:** Plot 1 was previously approved under application reference 2016/91777 which was considered by the Heavy Woollen Planning Sub-Committee on 15 December 2016.

2. Concern about construction noise and later maintenance because of proximity to their boundary.

**Response:** As set out above, plot 1 has previously been approved in this location. In terms of the construction noise, this cannot be used as a reason to refuse an application however, as with the previous approval, a footnote can be imposed which sets out suggested hours of construction. With regard to future maintenance, once again, this is not a matter to refuse a planning application on. However, it should be noted that the plot 1 would not immediately abut the shared boundary.

### Other Matters

- 10.26 With regard to drainage, consultation has been carried out with the Council's Strategic Drainage officer. As with the previously approved application, further information has been requested. Taking into account the previous approval on the site, it is the view of officers that a suitable drainage scheme could be achieved on this site. The recommendation therefore reflects this in order to ensure that the proposal complies with the aims of chapter 10 of the NPPF.
- 10.27 Environmental Services have previously raised no objections, subject to the reporting of any unexpected contamination, which can be conditioned in order to ensure compliance with the aims of policy G6 of the UDP as well as chapter 11 of the NPPF. In the interests of sustainable transport, it is also advised that each dwelling with dedicated parking includes a charging point for low emission vehicles. Once again, this matter can be conditioned.
- 10.28 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 To conclude, the principle of residential development on this site has previously been established following the granting of outline planning permission and more recently, a full application for the erection of five dwelling by the Heavy Woollen Planning Sub-Committee on 15 December 2016.
- 11.2 The proposal, following receipt of amended plans and subject to the inclusion of appropriate conditions, is considered, by officers, to be acceptable for the reasons set out in this assessment. And subject to the submission of a satisfactory drainage scheme.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

**It is proposed that the following planning conditions would be included should planning permission be granted:**

1. Standard time limit for implementation (3 years)
2. Development to be in accordance with approved plans
3. Samples of facing and roofing materials to be inspected and approved
4. Removal of permitted development rights for extensions or outbuildings
5. Provision of electric vehicle charging points
6. Landscaping scheme
7. Full detail of boundary treatments
8. Reporting of any unexpected contamination
9. Highway works for the provision of visibility splays, turning facilities, and appropriate surfacing and drainage to be completed prior to first occupation

**Background Papers:**

Application and history files:-

Website Link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90098>

Certificate of Ownership – Certificate B signed.

Notice served on: Mr and Mrs Milner, 8 Cliff Side, Shepley.

Website link to the previously approved application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91777>

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