

Public Document Pack



**Assistant Director, Governance and
Monitoring**

Julie Muscroft

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Please ask for: Andrea Woodside

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Wednesday 29 March 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 6 April 2017**.

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", on a light-colored background.

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

Liberal Democrat

R Eastwood
A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Committee held on 23 February 2017.

3: Interests and Lobbying

9 - 10

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.

4: Admission of the Public

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

5: Deputations/Petitions

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

6: Local Planning Authority Appeals

11 - 18

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 Officer: Julia Steadman, Planning Services

Wards

Affected: Dewsbury West; Kirkburton

7: Direction from Secretary of State (DEFRA) to Make an Order to Add a Public Footpath at Hey Beck Lane to the Definitive Map and Statement of Public Rights of Way

19 - 34

To consider the report.

Contact Officer: Giles Cheetham, Definitive Map Officer

Wards

Affected: Batley East

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 3 April 2017.

To pre-register, please contact andrea.woodside@kirklees.gov.uk or phone 01484 221000 (extension 74995).

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

8: Planning Application - Application No: 2017/90333 39 - 46

Erection of single storey side and rear extensions at Copse House,
10 Blenheim Drive, Westborough, Dewsbury

Contact Officer: Sarah Longbottom, Planning Services

Wards

Affected: Dewsbury West

9: Planning Application - Application No: 2015/90435 47 - 60

Erection of 14 dwelling with integral garages at former Parkham
Foods Site, 395 Halifax Road, Liversedge

Contact Officer: Louise Bearcroft, Planning Services

Wards

Affected: Liversedge and Gomersal

Planning Update

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

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 23rd February 2017

Present: Councillor Paul Kane (Chair)
Councillor Donna Bellamy
Councillor Nosheen Dad
Councillor Michelle Grainger-Mead
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Graham Turner

1 Membership of the Committee

Councillor Armer substituted for Councillor Smith
Councillor Wilkinson substituted for Councillor Lawson
Councillor Fadia substituted for Councillor Akhtar
Councillor S Hall substituted for Councillor O'Neil

2 Minutes of Previous Meeting

RESOLVED –

That the minutes of the meeting held on 15 December 2016 be approved as a correct record.

3 Interests and Lobbying

Councillor Armer declared that he had been lobbied on Agenda Item 15 (minute no. 15 refers), and that he would be speaking on the item in his capacity as Ward Member. He advised therefore that he would not therefore participate in the debate or vote to determine the application.

Councillor Fadia declared that she had been lobbied on Agenda Item 13 (minute no. 13 refers).

Councillor Dad declared that she had been lobbied on Agenda Item 11 (minute no. 11 refers).

Councillor Pervaiz declared that she had been lobbied on Agenda Item 13 (minute no. 13 refers).

Councillor Scott declared that she had been lobbied on Agenda Item 13 (minute no. 13 refers).

Councillor Kane declared that she had been lobbied on Agenda Items 10, 11, 13 and 15, and advised that he would not participate in the vote to determine Agenda Item 10 (minute no's. 10, 11, 13 and 15 refer).

4 Admission of the Public

It was noted that all agenda items would be considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Site Visit - Application 2016/92041

Site visit undertaken.

7 Site Visit - Application 2016/93946

Site visit undertaken.

8 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.

9 Planning Application 2016/92041

The Sub-Committee gave consideration to Application 2016/92041 – Demolition of existing buildings and erection of three no. dwellings at Poplar Farm, Bristfield, Dewsbury.

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

RESOLVED –

That authority be delegated to the Head of Development Management to approve the application (subject to the resolution of any outstanding drainage matters), issue the decision notice, and finalise the list of conditions including matters relating

Planning Sub-Committee (Heavy Woollen Area) - 23 February 2017

to; a three year time frame for implementation of development, development to be carried out in accordance with approved plans, details of existing and proposed site, road and building levels, dwellings to be constructed from regular coursed natural stone (samples to be submitted for approval), roofing materials to be natural slate (samples to be submitted for approval), all doors and windows to be timber/timber framed with painted finish, guttering to be supported on stone corbels (and fascias, soffits, and barge boards not to be used), surfacing of parking and turning areas to be in accordance with Environment Agency guidance, driveway/parking/turning areas to be surfaced in rustic regatta brett paving, as shown on plan reference 1541_14, provision of sight lines of 2.4m x site frontage, windows in the north east elevation of plot 3 (drawing 1541_SK03_02_F) and south east elevation of plot 1 (drawing 1541_10_E) shall be obscurely glazed, removal of permitted development rights for any new door or window openings in the north west and south east elevations of the proposed dwellings, full details of all boundary treatments, submission of a Phase II Intrusive Site Investigation Report, submission of a Remediation Strategy (if required), remediation to be carried out in accordance with approved strategy, submission of a validation report, removal of permitted development rights for any additional buildings or extensions, provision of an electric vehicle re-charging point to serve each dwelling, submission of a landscape and ecological management plan, installation of one bat box per dwelling, installation of one woodcrete sparrow terrace nest box per dwelling and foul and surface water drainage.

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

For: Councillors Armer, Bellamy, Dad, Fadia, Grainger-Mead, S Hall, Kane, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (13 votes)

Against: (No votes)

10 Planning Application 2016/93946

The Sub-Committee gave consideration to Application 2016/93946 – Demolition of existing building and erection of detached dwelling Bell Cabin, opposite 17 Long Lane, Earlsheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Amanda Yates (applicant) and Andy Oldroyd (on behalf of the applicant).

RESOLVED –

That the application be refused on the grounds that (i) the application site is located within designated Green Belt and is regarded as inappropriate development (ii) the development would harm the openness of the green belt by introducing additional built form that would diminish the open space between the 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 (iii) to approve the application would be contrary to the aims of Chapter 9 of the National

Planning Sub-Committee (Heavy Woollen Area) - 23 February 2017

Planning Policy Framework, and (iv) due to the proposed driveway gradients, in addition to the acute angle at which the access meets the highway (Long Lane), the access serving the site is not acceptable and would result in sub-standard sightlines to the detriment of means of access and highway safety, contrary to Policy T10 of the Kirklees Unitary Development Plan.

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

For: Councillors Armer, Bellamy, Dad, Fadia, Grainger-Mead, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (12 votes)

Against: (No votes)

Abstained: Councillor Kane

11 Planning Application 2015/92174

The Sub-Committee gave consideration to Application 2015/92174 – Demolition of existing dwelling and erection of three storey extension and interval alterations to extend existing mosque at 21-29 Warren Street, Savile Town, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mr Auzar (mosque treasurer), Mr Amin (local resident) and Mr Neki (applicant's agent).

RESOLVED –

That authority be delegated to the Head of Development Management to approve the application, issue the decision notice, and finalise the list of conditions including matters relating to; a three year time frame for implementation of development, development to be carried out in accordance with approved plans, facing stone to match that used on existing building, roof slate to match that used on the existing building, reporting of any unexpected land contamination, restriction on the use of the fire exit, development to be carried out in accordance with the details and aims of the submitted travel plan, maximum number of attendees for Friday prayer not to exceed 150 worshippers and the maximum number of children in the madressah classrooms not to exceed 100 children at any one time as detailed in the submitted travel plan.

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

For: Councillors Armer, Bellamy, Dad, Fadia, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (12 votes)

Against: (No votes)

Abstained: Councillor Grainger-Mead

12 Planning Application 2016/93112

The Sub-Committee gave consideration to Application 2016/93112 – Outline application for erection of 37 dwellings and demolition of existing industrial unit in Calder Mould Services, Headlands Road, Liversedge.

RESOLVED –

That authority be delegated to the Head of Development Management to approve the application, issue the decision notice, and finalise the list of conditions including matters relating to; a three year time limit permission for submission of reserved matters, reserved matters of layout/scale/external appearance/landscaping to be applied for, development to commence within two years of the date of approval of the last reserved matters to be approved, development to be in accordance with approved plans, affordable housing contribution, education contribution, public open space provision, phase I desk study, phase II intrusive investigation as necessary, remediation as recommended in the phase II, remediation strategy, validation, noise attenuation, ventilation, separate systems of drainage, drainage details, surface water drainage, submission of an ecological impact assessment and enhancement measures.

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

For: Councillors Armer, Bellamy, Dad, Fadia, Grainger-Mead, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (13 votes)
Against: (No votes)

13 Planning Application 2016/93910

The Sub-Committee gave consideration to Application 2016/93910 – Change of use of shop to snooker and games room Dual House, Wellington Street, Batley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from local residents Ms Quayum, Ms Rashid (in objection) Mr Saddiq, Mr Sabir, Mr Chunara, Mr Baig, Mr Adam, and Mr Anwar (in support), and Mr Ayoub (applicant).

RESOLVED –

That the application be deferred to request further information relating to how the premises would be managed, including hours of use, CCTV provision, parking provision and Travel Plan details, and that discussions shall include local residents.

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

For: Councillors Armer, Bellamy, Dad, Grainger-Mead, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor and G Turner (11 votes)
Against: (No votes)
Abstained: Councillors Fadia and Wilkinson

14 Planning Application 2016/93244

The Sub-Committee gave consideration to Application 2016/93244 – Erection of detached dwelling 53 Far Bank, Shelley, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Nick Jones (applicant's architect).

RESOLVED -

That authority be delegated to the Head of Development Management to approve the application, issue the decision notice, and finalise the list of conditions including matters relating to; the standard time limit for the implementation of development (3 years), development to be carried out in accordance with the approved plans, materials to be natural stone walling and zinc roof (samples to be submitted to and approved in writing), implementation of landscape scheme, removal of permitted development rights for extensions including Juliette balconies, laying out of areas to be used by vehicles, the submission of a scheme detailing foul, surface water and land drainage, an assessment of the effect of 1 in 100 year storm events, an investigation into the location/size/condition/flows within piped or culverted watercourses within the site, no removal of hedgerows/trees/shrubs within nesting season, ecological design strategy, 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 Armer, Bellamy, Dad, Fadia, Grainger-Mead, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (13 votes)

Against: (No votes)

15 Planning Application 2016/93177

The Sub-Committee gave consideration to Application 2016/93177 – Erection of detached dwelling (within a Conservation Area) adjacent to 14 Manor Road, Farnley Tyas.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Rob Goodwin, Dawn Goodwin and Richard Wood (local residents), David Storrie and Clare Parker Hugill (applicant's agents) and Cllr Armer (ward member).

RESOLVED -

That the application be refused on the grounds that the proposal (i) 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 and

Planning Sub-Committee (Heavy Woollen Area) - 23 February 2017

(ii) 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.

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

For: Councillors Bellamy, Dad, Fadia, Grainger-Mead, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (12 votes)
Against: (No votes)

16 Planning Application 2017/90098

The Sub-Committee gave consideration to Application 2016/90098 – Erection of eight dwellings at land adjacent to 3 Field Head, Shepley, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Hamish Gledhill (applicant's agent).

RESOLVED –

That authority be delegated to the Head of Development Management to approve the application and issue the decision notice, resolve any outstanding drainage issues, and finalise the list of conditions including matters relating to; the standard time limit for the implementation (3 years), development to be in accordance with approved plans, samples of facing and roofing materials to be inspected and approved, removal of permitted development rights for extensions or outbuildings, provision of electric charging points, landscaping scheme, full detail of boundary treatments, reporting of any unexpected contamination, and highway works for the provision of visibility splays/turning facilities/appropriate surfacing/drainage to be completed prior to first application.

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

For: Councillors Armer, Bellamy, Dad, Fadia, Grainger-Mead, Kane, S Hall, Pervaiz, A Pinnock, Scott, K Taylor, G Turner and Wilkinson (13 votes)
Against: (No votes)

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Lobbying

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

Name of meeting: PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Date: 6 APRIL 2017

Title of report: LOCAL PLANNING AUTHORITY APPEALS

The purpose of the report is to inform Members of planning appeal decisions received in the Heavy Woollen area since the last Sub-Committee meeting.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Assistant Director & name	Paul Kemp 28 March 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	No financial implications
Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No legal implications
Cabinet member portfolio	Economy, Skills, Transportation and Planning (Councillor McBride)

**Electoral wards affected: Liversedge and Gomersal; Dewsbury West;
Ward councillors consulted: No**

Public or private:

1. Summary

This report is for information only. It summarises the decisions of the Planning Inspectorate, in respect of appeals submitted against the decision of the Local Planning Authority. Appended to this Item are the Inspector's decision letters. These set out detailed reasoning to justify the decisions taken.

2. Information to note: The appeal decision received are as follows:-

- 2.1 2016/62/92885/E - Erection of single storey rear extension (within a Conversation Area) at 13, Hall Lane, Highburton, Huddersfield, HD8 0QW. (Officer) (Dismissed)

2.2 2015/70/93293/E - Variation of condition 6. (opening times) on previous permission no. 2012/90468 for erection of extension (Modified Proposal) at Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3ET. (Officer) (Dismissed)

3. Implications for the Council

3.1 There will be no impact on the four main priority areas listed below

- Early Intervention and Prevention (EIP)
- Economic Resilience (ER)
- Improving outcomes for Children
- Reducing demand of services

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

6. Officer recommendations and reasons

To note

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer

Mathias Franklin –Development Management Group Leader (01484 221000) mathias.franklin@kirklees.gov.uk

9. Background Papers and History of Decisions

Not applicable

10. Assistant Service Director responsible

Paul Kemp

Appeal Decision

Site visit made on 2nd February 2017

by Alison Roland BSc DipTP MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/Z4718/D/16/3162556

13 Hall Lane, Highburton, Huddersfield, HD8 0QW.

- 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 Mrs Carol Dudley against the decision of Kirklees Metropolitan Council.
 - The application Ref: 2016/62/92885/E, dated 23 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is single storey lean-to rear extension to form larger kitchen and downstairs w.c.
-

Procedural Matter

1. The appeal form identifies the site address as Kirkburton as opposed to Highburton. However, as the latter is employed on all other correspondence, including the plans and application forms submitted to the Council, I have therefore adopted it in the header above.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue in this appeal is the implications of the proposal for the living conditions of occupiers of No 15 Hall Lane, by virtue of the potential for overbearing, oppressive effects.

Reasons

4. The appeal property which is mid terraced, has previously been extended at the rear through the addition of a two storey extension. The proposed extension would be attached to this. In its own right, it would be a modest addition to the property.
 5. However, in conjunction with the aforementioned extension, it would result in a considerable degree of projection beyond the original rear elevation of No 15, which contains a rearward facing window at ground floor. This would lead to an oppressive sense of enclosure to that window, as well as the rear of the property in general. The combined effect of the existing and proposed
-

extensions at the appeal property would present a long blank wall in very close proximity to the side boundary with No 15, which would be uncomfortably overbearing thereon.

6. Although the appellant points out that the extension would be set away from the wall with No 15, the distance would be negligible and insufficient to overcome my concerns.
7. I appreciate the appellant is aggrieved with the way they were dealt with by the Council insofar as they believe they were misinformed as to whether an extension of this type would be supported. However, that is not a matter I can take into account in assessing the planning merits of the appeal.
8. Overall on the main issue, I conclude that the proposal would, in conjunction with the existing extension to the property, have an oppressing and overbearing effect on the occupiers of No 15 Hall Lane. This would bring it into conflict with Policies BE14 and D2 of the Kirklees Unitary Development Plan (UDP) Written Statement (Revised with effect from 28 September 2007), which seek to ensure that proposals do not prejudice the residential amenities of adjoining dwellings. The Council have supplied a number of additional policies with the appeal other than those cited in the Decision Notice. However, none are relevant to the main issue in question.

Other Matters

9. The site falls within the Highburton Conservation Area and I am bound by the provisions of Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing its character or appearance. The Parish Council have expressed a concern that the original building would no longer be the dominant feature on the site and in this regard, I am mindful of that particular objective as expressed in Policy BE13 of the UDP. On balance however, as the rear of this particular terrace has been subject to substantial extensions and alterations and its original form is much altered, I consider the proposal would have a neutral impact on the Conservation Area, thereby leaving its character and appearance unharmed. However, this would not outweigh my concerns on the main issue.

ALISON ROLAND

INSPECTOR

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: 16 February 2017

Appeal Ref: APP/Z4718/W/16/3163276

**Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury
WF13 3ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ashiq Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/70/93293/E, dated 13 October 2015, was refused by notice dated 15 July 2016.
 - The application sought planning permission for '*erection of extension (modified proposal)*' without complying with a condition attached to planning permission Ref 2012/62/90468/E, dated 30 July 2012.
 - The condition in dispute is No 6 which states that: '*The use hereby permitted shall not be open to customers outside the hours of 1200 to 1600 on Saturdays, Sundays and Bank Holidays with no opening to customers Monday to Friday*'.
 - The reason given for the condition is: '*To accord with the terms of the application and in the interests of residential amenity and highway safety, in accordance with Policies D2, B5 and T10 of the Unitary Development Plan*'.
-

Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The appeal follows the granting of planning permission Ref: 2012/62/90468/E, dated 30 July 2012, and relates to the subsequent application to vary an attached Condition with regard to opening hours. The Council refused the subsequent application Ref: 2015/70/93293/E on 15 July 2016 on the grounds that varying the relevant Condition would result in material harm to the living conditions of neighbouring occupiers in terms of noise, disturbance and highway safety. An appeal was lodged against that decision. This appeal therefore seeks the variation of the Condition to extend the opening hours of the appeal premises, as specified.
3. I understand that the proposed variation in opening hours is already being operated at the appeal premises. I did not see evidence of this during the site visit. However, I have noted that this has been raised in evidence by the Council and interested parties and that the Council state that the application was made retrospectively. As such, I have had due regard to this in my consideration of the proposed variation to the Condition. It is against this background and on this basis that I have determined the appeal.

Main Issues

4. The main issues are the effect of the proposal variation of Condition No 6 on:
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and
 - the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

5. The appeal property is a former Working Men's Club (WMC) situated to the rear of existing dwellings which front on to the busy Huddersfield Road. The site originally comprised of the WMC building and an associated bowling green. Since that time, the site now operates as The Grand Banqueting Suite and is a large venue for functions and weddings. The building has been substantially extended with undercroft parking beneath. The site is accessed by a lane from Huddersfield Road. The access serves as the only entry and exit for the site and is positioned adjacent to a terrace of dwellings. Furthermore, the access is opposite the junction between Huddersfield Road and Spen Valley Road.

Living conditions: noise and disturbance

6. From what I have seen and read, I note that although unauthorised, the proposed opening hours have already been in operation at the appeal site. As a result, several issues have been raised by local occupiers and the Council relating to adverse effects on the living conditions of neighbouring residents. These include excessive noise and disturbance from vehicles including the revving of engines, horns beeping and private residential parking spaces being used by customers of the appeal premises without permission.
7. The site currently has approximately 100 parking spaces configured around a one way circulatory system. Furthermore, the venue can cater for up to 1400 people attending events. In these circumstances the amount of available parking on site would be substantially inadequate to cater for visitors. From the evidence before me, this would result in traffic congestion, noise and disturbance in and around the site. Due to the amount of traffic generated by the appeal property during events, I find that the proposed variation to the Condition would only increase the regularity of these events and extend the period of potential noise and disturbance for nearby occupiers.
8. Whilst I note the appellant's point that visitors would arrive and leave only once, having events ending at 2300 hours as proposed rather than at 1600 hours would simply have the effect of transferring the noise and disturbance issues to a later time in the evening for nearby occupiers. Furthermore, I find that extending the opening hours as proposed would only increase the frequency of the noise and disturbance and exacerbate the harmful impacts currently experienced by neighbouring occupiers. As such, I find that this would have a significant adverse impact on living conditions.
9. I appreciate that there would be economic benefits associated with this proposal. However, from the evidence before me, I have seen nothing substantive to suggest that any such benefits would outweigh the significant harm I have identified.

10. Consequently, I conclude that the proposal would have a detrimental effect on the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to Policy D2 of the Kirklees Unitary Development Plan (UDP). Amongst other matters, this policy seeks to ensure that development has no materially detrimental effect on the amenity of local residents and occupiers in terms of noise and disturbance.

Highway network: safety and efficiency

11. The Council states that it only recently became aware of the extent to which the seating capacity of the appeal premises had increased and that this far exceeded the envisaged 40% increase on the former use considered under the previous approved planning application. Therefore, even with a potential increase of car parking spaces on site, it is likely that a significant proportion of the relatively large number of customers would have to park off site and on nearby side streets.
12. Notwithstanding the appellant's points on the frequency and timing of traffic arriving at and leaving the site, I find that it is the volume of traffic and the overspill onto nearby side streets which would have a detrimental effect on the efficiency and safe operation of the local highway network. The potential to cater for up to 1400 people would inevitably lead to a shortage of available off street parking, even at times where the venue is not at full seating capacity. As a result, I find it reasonable to consider that in many cases where an event is taking place, the adverse impact on parking and the highway network would be significant.
13. I acknowledge that the proposed variation of opening hours would potentially move the volume of traffic related to the appeal premises away from the afternoon peak period. However, this would not necessarily always be the case. Due to the nature of the venue and its current use, I find that it to be entirely possible for customers to be arriving at or leaving the site during the busy afternoon peak period, depending on the particular event.
14. The traffic management and mitigation measures identified by the appellant, including traffic marshalling on site at busy times and the availability of overflow parking on an adjacent site, would have some beneficial effect with regard to traffic flow. However, in my view, these would not be sufficient to outweigh the harmful impact on the local highway network and would not effectively deal with the impact on traffic congestion and parking in the locality.
15. Consequently, I conclude that the proposal would have a significantly harmful effect on the safe and efficient operation of the highway network in the surrounding area of the appeal site. Therefore, it would be contrary to Policy T10 of the UDP. Amongst other matters, this policy seeks to ensure that development has no adverse impact on highway safety and efficiency.

Conclusion

16. 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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Name of meeting: Planning sub-committee (Heavy Woollen Area)

Date: 6 April 2017

Title of report: Direction from Secretary of State (DEFRA) to make an order to add a public footpath at Hey Beck Lane to the definitive map and statement of public rights of way.

Purpose of report: Members are asked to note a direction given to the Council by the Secretary of State DEFRA to make a definitive map modification order (DMMO) to add a public footpath to the definitive map and statement as shown between points A and B, on the plan 'A' attached to this report **and to approve the making of a DMMO** to meet the requirements of the direction.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Joanne Bartholomew on behalf of Naz Parkar 28 March 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes. 27 March 2017
Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?	Julie Muscroft 28 March 2017
Cabinet member portfolio	N/A

Electoral wards affected: Batley East

Ward councillors consulted: Cllrs. M Akhtar F Fadia & A Stubley were notified of the SOS direction.

Public or private: Public

1. Summary

- 1.1 The council received an application for an order to be made to delete a public footpath and to add a public footpath to the formal record of public rights of way at Hey Beck Lane.
- 1.2 The sub-committee of 13 October 2016 refused both parts of that application. The applicant appealed to the Secretary of State against the council's decision.
- 1.3 The inspector appointed by the Secretary of State has allowed part of that appeal and the council has been directed to make an order to add a public footpath as shown on the attached Plan A.

2. Information required to take a decision

- 2.2 In October 2016 members considered an application for a definitive map modification order (DMMO) to add a public footpath to the definitive map and statement at Hey Beck Lane and to delete a public footpath from the definitive map at Hey Beck Lane.
- 2.3 After consideration members resolved not to make an order to do either, on the grounds that there was insufficient evidence to support the application.
- 2.4 The applicant exercised his right to appeal to the Secretary of State DEFRA against the Council's decision not to make any order
- 2.5 In March 2017 the Secretary of State issued her decision on the appeal. Her inspector concluded 'that a public right of way on foot has been reasonably alleged to subsist along the addition route, as shown in attached Plan A. '
- 2.6 The Secretary of State has therefore directed the Council to make a DMMO to add the claimed route to the definitive map and statement as a public footpath
- 2.7 The inspector's decision dismisses the appeal against the council's refusal to make an order to delete a public footpath through the applicant's property.
- 2.8 The committee papers regarding the October decision papers may be consulted.
- 2.9 It is the council's statutory duty to maintain the definitive map and statement.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

- 3.1.1 Providing better facilities for physical activity works towards local and national aims of healthy living.

3.2 Economic Resilience (ER)

3.2.1 There is an indirect impact of a welcoming environment which helps promote and retain inward investment

3.3 Improving Outcomes for Children

3.3.1 See 3.1.1

3.4 Reducing demand of services

3.4.1 See 3.5.

3.5 Other (eg Legal/Financial or Human Resources)

3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.

3.5.2 The Council must comply with the Secretary of State's direction to make an order to add the claimed route to the definitive map and statement. To accord with the Council's delegation scheme, this must be authorised by the sub-committee.

3.5.3 Any person may make an objection or representation to the order adding the route to the definitive map and statement in accordance with the direction. Any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

4 Consultees and their opinions

4.1 The full committee papers regarding the 13 October 2016 report and decision are available.

4.2 Ward members have been informed of the Secretary of State's direction.

5 Next steps

5.1 Officers are not empowered to make an order under the delegation scheme. Members are therefore asked to note the direction and authorise officers to make the order.

5.2 The order would be advertised and notice served.

5.3 A decision would then be required on any objections that are received, any potential confirmation by the council and/or referral of the order (if opposed) back to the Secretary of State.

6. Officer recommendations and reasons

6.1 That the Council make the definitive map modification order (“DMMO”) as directed by the Secretary of State, to modify the Definitive Map and Statement to record the route as shown by the bold dashed line on Plan ‘A’ as a public footpath, i.e. the addition route applied for and shown on the application plan signed by the applicants and received by the council on 5 February 2014.

7. Cabinet portfolio holder’s recommendations

7.1 Not applicable

8. Contact officer

Giles Cheetham, Definitive Map Officer

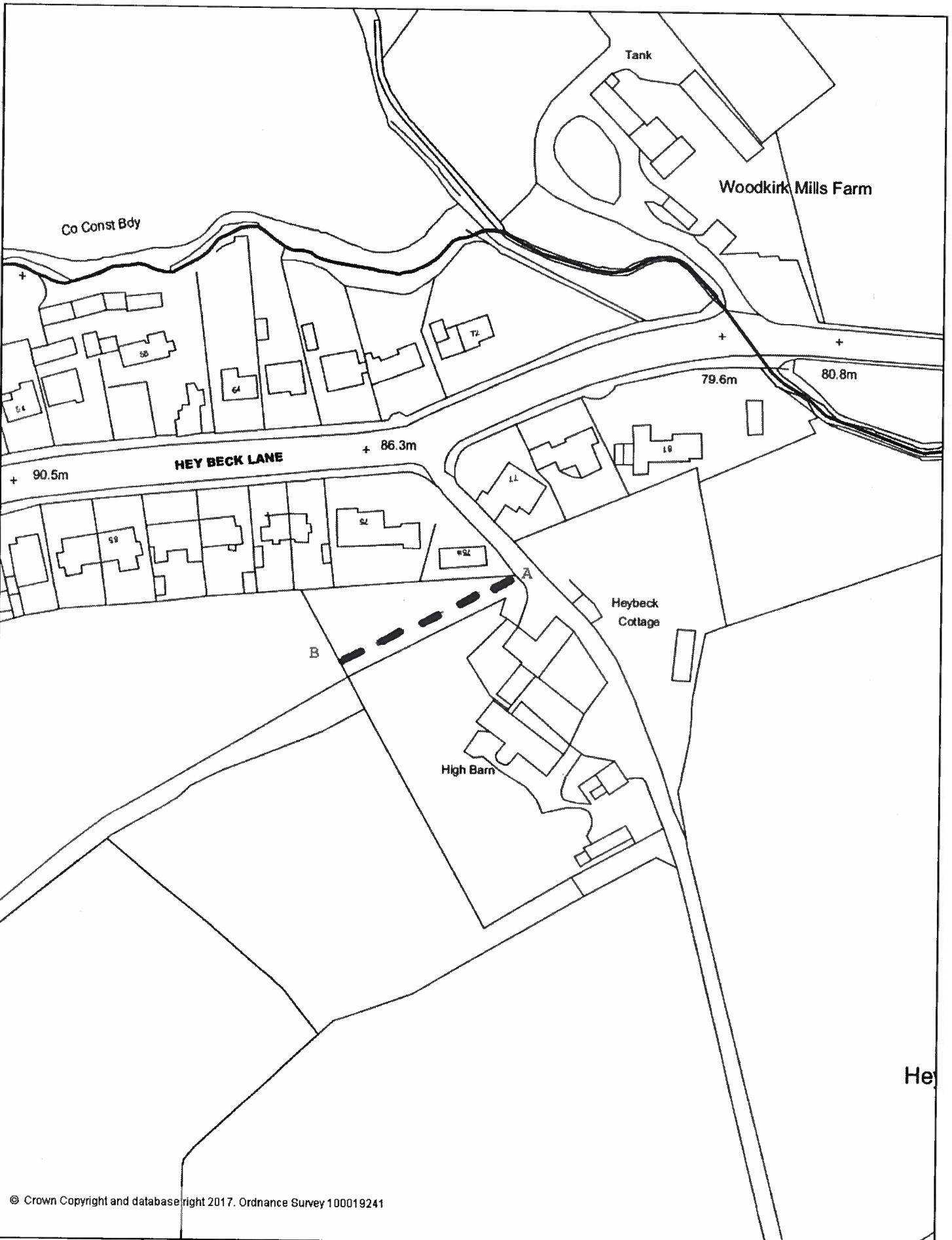
9. Background Papers and History of Decisions

9.1 872/1/MOD/181

9.2 As sub-committee report and decision : Item 10 of 13 October 2016

10. Assistant Director responsible

10.1 Joanne Bartholomew, Assistant Director, Place



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Kirklees
COUNCIL

Kompass
Kirklees Mapping Service

Tel: 01484 221757
(Internal 860 1757)
E-Mail: maps@kirklees.gov.uk

Plan A - DMMO direction

FOOTPATH TO ADD A --- B

0 m 30 m 60 m

Scale 1 : 1250

N
W E

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Appeal Decision

by Susan Doran BA Hons MIPROW

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 20 March 2017

Appeal Ref: FPS/Z4718/14A/1

- This Appeal is made under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981 against the decision of Kirklees Council not to make an Order under Section 53(2) of that Act.
- The Application dated 4 July 2014 was refused by Kirklees Council on 18 October 2016.
- The Appellant claims that the appeal route, part of Footpath 49 Batley commencing on Hey Beck Lane, Woodkirk, Dewsbury should be deleted from the definitive map and statement for the area, and a public footpath be added at Hey Beck Lane.

Summary of Decision: The appeal is allowed in part

Preliminary Matters

1. I have been directed by the Secretary of State for Environment, Food and Rural Affairs to determine an appeal under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981 ("the 1981 Act").
2. I have not visited the site but I am satisfied I can make my decision without the need to do so.
3. The Appeal concerns two routes. For ease I shall refer to the route which the Appellant claims should be deleted from the Definitive Map and Statement ("DMS") as 'Route A' and the route which the Appellant claims should be added to the DMS as 'Route B'. Route A runs from Hey Beck Lane in a south westerly direction between Nos. 75 and 75A Hey Beck Lane. Route B runs along Footpath 55, a track leading off Hey Beck Lane, in a south easterly direction to the south eastern corner of No. 75A where it turns to run across land at High Barn.

Main issues

4. The application was made under Section 53(2) of the 1981 Act which requires the surveying authority to keep their DMS under continuous review, and to modify them upon the occurrence of specific events cited in Section 53(3).
5. Section 53(3)(c)(iii) of the 1981 Act specifies that a Modification Order should be made by an Authority following the discovery of evidence which (when considered with all other relevant evidence available to them) shows that there is no public right of way over land shown in the map and statement as a highway of any description.
6. The DMS is conclusive evidence as to the existence of a public right of way, unless and until it is modified by an order under the provisions of Section 53 of

the 1981 Act to show that the path had been included in error, there having been no public right of way over the path when it was added to the Definitive Map and Statement.

7. Guidance¹ provides that, *"The evidence needed to remove what is shown as a public right from such an authoritative record as the definitive map and statement ... will need to fulfil certain stringent requirements. These are that:*
 - *the evidence must be new – an order to remove a right of way cannot be founded simply on the re-examination of evidence known at the time the definitive map was surveyed and made*
 - *the evidence must be of sufficient substance to displace the presumption that the definitive map is correct*
 - *the evidence must be cogent"*.
8. In considering the evidence, I also have regard to the judgement in the *Trevelyan* case² and in particular to the following statement by Lord Phillips M.R., *"Where the Secretary of State or an inspector appointed by him has to consider whether a right of way that is marked on a definitive map in fact exists, he must start with an initial presumption that it does. If there were no evidence which made it reasonably arguable that such a right of way existed, it should not have been marked on the map. In the absence of evidence to the contrary, it should be assumed that the proper procedures were followed and thus such evidence existed. At the end of the day, when all the evidence has been considered, the standard of proof required to justify a finding that no right of way exists is no more than the balance of probabilities. But evidence of some substance must be put into the balance, if it is to outweigh the initial presumption that the right of way exists"*.
9. The *Leicestershire* case³, where the alignment of a route but not its existence was at issue, may also be relevant. Here, Collins J held that *"...it is not possible to look at (i) and (iii) in isolation because there has to be a balance drawn between the existence of the definitive map and the route shown on it which would thus have to be removed", and, "If [the Inspector] is in doubt and is not persuaded that there is sufficient evidence to show the correct route is other than that shown on the map, then what is shown on the map must stay because it is in the interests of everyone that the map is to be treated as definitive...where you have a situation such as you have here, it seems to me that the issue is really that in reality section 53(3)(c)(iii) will be likely to be the starting point, and it is only if there is sufficient evidence to show that that was wrong – which would normally no doubt be satisfied by a finding that on the balance of probabilities the alternative was right – that a change should take place. The presumption is against change, rather than the other way around"*.
10. The main issue is whether the evidence shows that, on a balance of probability, an error had been made when Route A was recorded, and that it should be deleted. In considering the evidence, and in view of the above, my starting point is that Route A is presumed to exist. It is for those contending a mistake

¹ Department for Environment, Food and Rural Affairs, Rights of Way Circular 1/09, Version 2 October 2009, paragraph 4.33

² *Trevelyan v Secretary of State for the Environment, Transport and the Regions* [2001]

³ *Leicestershire County Council v Secretary of State for the Environment, Food and Rural Affairs* [2002]

has been made to provide evidence which demonstrates that, on a balance of probability, no way existed over Route A when it was added to the DMS.

11. In this case it is argued that there is no right of way over Route A, and that Route A has been diverted by legal process to follow the line of Route B.
12. Section 53(3)(c)(i) of the 1981 Act specifies that an Order should be made on the discovery of evidence which, when considered with all other relevant evidence available, shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.

As made clear in the High Court in the case of *Norton and Bagshaw*⁴, this involves two tests:

Test A. Does a right of way subsist on a balance of probabilities? This requires clear evidence in favour of the Appellant and no credible evidence to the contrary.

Test B. Is it reasonable to allege on the balance of probabilities that a right of way subsists? If there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot be reasonably alleged to subsist, then the answer must be that it is reasonable to allege that one does subsist.

13. I shall consider the user evidence against the requirements of Section 31(1) of the Highways Act 1980 ("the 1980 Act") which provides that "*Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it*" and Section 31(2), that "*The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice ... or otherwise*".
14. The question of dedication may also be examined in the context of common law. At common law a right of way may be created through expressed or implied dedication and acceptance. The onus of proof is on the claimant to show that the landowner, who must have the capacity to dedicate, intended to dedicate a public right of way; or that public use has gone on for so long that it could be inferred; or that the landowner was aware of and acquiesced in public use. Use of the claimed way by the public must be as of right (without force, stealth or permission) however, there is no fixed period of use, and depending on the facts of the case, may range from a few years to several decades. There is no particular date from which use must be calculated retrospectively.

Assessment of the evidence

Documentary evidence

The Definitive Map

15. The 1950 Survey Card, part of the process that led to the publication of the first DMS further to the National Parks and Access to the Countryside Act 1949,

⁴ R v Secretary of State for the Environment ex parte Mrs J Norton and Mr R Bagshaw [1994]

recorded Footpath 49 Batley commencing on Hey Beck Lane. It was described as un-metalled and in fair condition, the reason for claiming it being uninterrupted use within living memory. It appeared on the Draft and Provisional Maps unchallenged and finally on the first DMS produced by West Riding County Council, with a relevant date of September 1952.

16. The successor authority, West Yorkshire Metropolitan County Council, subsequently produced a modified DMS with a relevant date of April 1985. This shows and describes the same route in the same location, there being no change to its alignment portrayed since its original depiction in 1952. Accordingly, there is no indication from the 1985 DMS that the alignment of Footpath 49 has altered since its first recording in 1952.
17. It is the Appellant's contention that an order was made by Batley Borough Council in the late 1960s or early 1970s to divert the definitive alignment (Route A) to an alternative line (Route B). Further, that such order was lost or destroyed.
18. No documentary evidence of the existence of a legal order affecting Route A has been adduced by either the Appellant or Kirklees Council ("the Council") to demonstrate that its alignment has been legally altered since 1952, or 1985. The Council's investigations have revealed nothing in newspaper or court records, nothing connected with the 1966 land sale by Savile Estate, the 1985 review of the DMS by West Yorkshire Metropolitan County Council, or anything relevant in any other sources researched.

Land Registry and conveyancing documents

19. In 1966, the then owners of 75 Hey Beck Lane, Mr and Mrs Buckley, purchased the triangle of land to the east of their property from the Savile Estate. The conveyance states the land was sold subject "To the footpath crossing the entire length of the North Western boundary of the property hereby conveyed as indicated on the said plan annexed hereto". The route referred to corresponds with Route A as recorded in the 1952 DMS. There is no evidence that in transferring the land in 1966 the Savile Estate realigned Footpath 49 on its own land. Indeed, the conveyance offers no support for such a contention.
20. It is common ground between the parties that since c.1966 and the development of stables on the triangle of land, the definitive line of Route A has not been available for public use. It was not until November 2003 when investigating the proposed diversion of another part of Footpath 49 that the Council discovered the legal alignment from Hey Beck Lane as recorded in the DMS was that of Route A.
21. A 1971 land registry document attached to a statutory declaration of Mr Buckley comprises an OS base map showing a footpath on a similar alignment to Route B. This records a physical feature in existence on the ground. The statutory declaration does not mention Footpath 49.
22. The Appellant purchased No. 75 Hey Beck Lane in 1981. The land search did not seek a response to the public right of way question in the optional Part II of the document, so it is unsurprising that no record of Footpath 49 was noted. The only land search provided which did document Footpaths 49 and 55 is dated July 1998. On a copy of the 1992 diversion order plan (paragraphs 31

and 32) a route equivalent to Route B is indicated as the alignment of Footpath 49.

23. These documents do not alter public rights of way, but can record their existence. The 1966 conveyance expressly includes Route A; and the 1998 land search indicates an understanding on behalf of the person completing it that the alignment of Footpath 49 was Route B. However, this in itself would not alter the legal record (the DMS).

Planning documents

24. Mr and Mrs Buckley were granted planning permission to construct a stable building on the triangle of land in January 1966. This included providing a screen fence around the curtilage of the land. In 1982 consent was granted to the Appellant to erect a garage on the site. Then in 2012, planning permission was granted for the conversion of the building to a dwelling, which became 75A Hey Beck Lane. The plans for this dwelling indicate the presence of Route A across the property, as shown in both the DMS of 1952 and 1985.
25. The granting of planning consent in itself does not authorise the stopping up or diversion of a public right of way, and none of the documents provided refer directly to the closure or diversion of the footpath.

Council records

26. A Batley Borough Council document dated December 1971 referring to an unlawful closure/obstruction further to the west along Footpath 49 described the path as "leading from the Farm, Hey Beck Lane". This is contemporary with the purchase of the triangle of land and alleged repositioning of Route A to Route B by the late 1960s/early 1970s. The same description appears in other Borough Council documents dated September and October 1971. The description appears more consistent with Route B than with Route A, and provides some support for the diversion of Route A, at least on the ground. However, the Council states that Batley Borough Council were not the highway authority.
27. The Appellant suggests that as enforcement action was taken elsewhere along Footpath 49, but not with regard to Route A which the evidence suggests was unavailable at this time, Route B was accepted as being the official route of Footpath 49. This remains possible, although as the Council points out, officers investigating an issue elsewhere on the Footpath may not have been aware of or identified a problem elsewhere along it.
28. A March 1972 Batley Corporation document describes Footpath 49 as running "from roughly the rear of 75 Hey Beck Lane" – this is somewhat ambiguous but could describe Route B rather than a route running through 75 Hey Beck Lane as it was at the time.
29. Kirklees Metropolitan Council's records of diversion orders made by the former highway authority appear to be incomplete⁵ so it cannot be established from these whether or not a relevant order was made and/or is missing.
30. Simon Bowett⁶ writing to Kirklees Metropolitan Council in 1988 referred to a Footpath sign being incorrectly placed near his property Heybeck Cottage, and

⁵ The available list comprises three pages, but a hand-written note indicates there should be five pages

⁶ A relative of Mr and Mrs Buckley

that it should be 25 yards nearer the main road. He corrected a Council map provided to him showing Route B by marking Route A as the line of Footpath 49. A handwritten note, presumably made by a Council officer, noted the sign was apparently on the definitive line and therefore no action was to be taken. This suggests the Council officer believed Route B to be the correct alignment in 1988.

1992 Diversion Order

31. In 1989 Mr Lilley purchased High Barn and shortly afterwards applied to have the path running across his land diverted. The order, made in 1992, named the path as Footpath 49 (part), showing it running from Footpath 55 at the south east corner of No. 75 Hey Beck Lane and crossing land at High Barn in a south westerly direction, to a new route (in part) adjacent to the southern boundaries of properties fronting Hey Beck Lane. Objections to the Order were made (including from the Appellant) and the matter was referred to the Secretary of State. A Public Inquiry followed. The appointed Inspector declined to confirm the Order⁷, so no legal change in the path's alignment was effected as a result.
32. The path proposed to be diverted followed an alignment similar to that of Route B, rather than Route A. None of those involved in this order and the subsequent Public Inquiry appeared to have noticed that the order route was not the definitive route recorded in the 1985 (and 1952) DMS.
33. Another diversion application concerning Route B, in 1997, did not proceed to the Council's Committee stage.
34. The Appellant also refers to an attempt by the Council to divert Footpath 49 in 1990. However, the diversion order provided by them concerns an entirely different route and has no bearing on this Appeal.

Ordnance Survey Maps

35. Extracts from a range of Ordnance Survey ("OS") maps have been provided. The earliest ones dating between 1893 and 1956 show a line consistent with Route A. A 1965 map shows a building at the location of the stables, but neither Route A or B is marked. Maps dating between 1970 and 1992 show a route similar to Route B, although it terminates slightly further south on Footpath 55. Some maps within this period and into the 2000s do not show either route. The Ordnance Survey Explorer map, on the other hand, which marks on it public rights of way, shows Route A.
36. OS maps provide good evidence of the physical features on the ground that the surveyors see, and those showing Route B post 1965 indicate the existence of a physical or worn feature on the ground at that time. The absence of Route A suggests there was no physical route on the ground to record. However, as the Explorer map shows the definitive line (Route A), this points to the OS having received no notification from the highway authority of any alteration to that alignment.

⁷ On 29 April 1994

Landowner statements

37. A Highway Authority footpath sign was placed at the south eastern corner of what is now 75A Hey Beck Lane, the commencement of Route B, at some point in the past. It is suggested this marked Route B, the alleged diversion route. In 1994, Kirklees Council advised the Appellant that it had been re-aligned to indicate the precise route of Footpath 49, the letter stating, "*The Footpaths Officer is of the opinion that the definitive route is clearly visible as a well-used line of tread across the grassed area*".
38. Margaret Hallas recalls that Mr and Mrs Buckley wished to re-route the footpath and existing footpath sign (Route A) in the late 1960s, placing this after the stables had been built. She believes this was completed officially in the early 1970s when footpath signs were put up showing the path running up the Farm lane (Footpath 55) and across the field behind the stables. Mr Lumb, a user, recalls being challenged by Mrs Buckley when walking Route A and told the path had been moved. However, he had no recollection of any formal notices referring to this. Simon Bowett also believes the path was diverted in the late 1960s, although this contradicts correspondence he had with the Council in 1988 (paragraph 30) that the correct route was Route A.

User evidence

39. As mentioned above, it is accepted by the parties that there has been no public use of Route A since around 1966 (paragraph 20). Correspondence from third parties Joan and Denis Lumb and Andrea Lumb refer to use over many years, although as regards Route A this could, on the evidence, only have been in recent years since that route was re-opened and made available to public use following enforcement action by the Council. It seems more likely to me that their use since around 1966 has been of Route B, although the frequency of such use is not clarified.
40. The Appellant asserts that Route B, shown as a physical feature on the 1970 OS map, gained public status over the following years, such that when Mr Lilley purchased High Barn, the level of use was sufficient enough for him to seek to divert the path (in 1992).
41. The Inspector's Decision Letter further to the Public Inquiry held into the 1992 diversion order (paragraph 31) described the path (then believed to be Footpath 49 (part)) and the proposed diversion along the back of the houses as "well worn". User evidence forms though have been completed by only a handful of users. Helen Morrissey claims use of Route B from 1957 to 1966, and Richard Child from 1960 to 1977. B Taylor used Route B from 1974 onwards, Stephen Brook from 1992, and Janet Blackledge from 2003. Third party correspondents Michael and Joanne Barker claim use for over 20 years.
42. There are references from others supporting the Appellants' view of use of Route B, at least by reputation, and of the existence of the footpath sign referred to above.
43. Use of Route B was prevented in August 2012 by Mr Lilley and this provides a bringing into question for the purposes of Section 31 of the 1980 Act, giving a 20 year period of 1992 to 2012. However, use of Route B was also prevented between August 1992 and March 1993 by Mr Lilley when the diversion order was under consideration. Accordingly, such interruption would not provide a

full 20 years of user to raise a presumption of dedication. Taking August 1992 as the date of bringing into question gives a 20 year period of 1972 to 1992. During this period there is claimed use by B Taylor and Richard Child, as well as by Joan and Denis Lumb and Andrea Lumb, although the frequency of their claimed use is not apparent from the papers, or for some the years they actually used it.

Conclusions from the evidence

44. It is the Appellant's contention that, on a balance of probability, Route A was diverted by lawful authority at some point between 1966 and 1971, and it is reasonable to allege that a footpath was established through express or presumed dedication along the alignment of Route B (later the subject of an unsuccessful diversion order). Further, that the proposed diversion and recording of Route B on the 1970 OS map support the Appellant's case.
45. The available evidence shows that Footpath 49 was recorded in both the 1952 and 1985 DMS on an alignment passing along the south eastern boundary of No. 75 Hey Beck Lane (Route A). The DMS is conclusive evidence as to the particulars it contains⁸, unless and until shown otherwise. No evidence has been adduced to show that Footpath 49 was incorrectly recorded on this alignment when first added to the DMS in 1952.
46. With the purchase of the adjoining triangle of land and its subsequent development following planning permission, the footpath fell within the property, the triangle subsequently becoming No. 75A Hey Beck Lane. Route A became unavailable for public use and/or stopped being used by the public in or soon after 1966. An alternative route became and/or was made available at or near the south eastern boundary of what became No. 75A (Route B). At some point an official fingerpost marked the route in use on the ground as a public footpath. Council records from the 1970s onwards (to 2003) show this route was regarded as the definitive line of Footpath 49, and in 1992 an order promoted to divert it to an alternative line was not confirmed, so had no legal effect on the alignment of either Route A or B.
47. There is some local witness evidence of a reputed diversion of Route A and some that no formal diversion took place. There is no documentary evidence from the investigations undertaken by either party of the consideration, making, confirmation or existence of a 'lost order' to either stop up or divert Route A, or which suggests that such an order was considered and/or made by the highway authority. I note the Appellant cites examples of what are said to be missing Council orders and legal events elsewhere. However, this is not in my view evidence that there is a missing order in this case.
48. Nothing within the planning permissions granted empowered the official diversion of Route A. Nothing within the land searches which answered the public right of way question had the legal effect of altering what was recorded on the DMS, the legal record of prows, either of 1952 or 1985.
49. As regards Route A, I find the available evidence neither of sufficient substance to displace the presumption the DMS is correct, or that it is cogent. Accordingly I conclude the available evidence falls short of what is necessary to trigger the making of an order to delete a public right of way.

⁸ Section 56 of the Wildlife and Countryside Act 1981

50. There has been use of Route B by the public, in all probability from c1966 onwards. For the purposes of Section 31 of the 1980 Act a twenty year period cannot be made out, in my view, prior to 2012 (when the path was closed) due to the acknowledged closure of the route to public use in 1992/3. Therefore it would be necessary to consider a 20 year period prior to August 1992, for which there is witness evidence of claimed use from 5 individuals, although the detail of such use is sketchy. There is support for the use of Route B having taken place including as evidenced by the diversion application, the order promoted by the highway authority, the comments in the Inspector's decision letter of 1994 and in OS mapping of a physical route on the ground from 1970 onwards. Taken together this is, in my view, sufficient to raise a reasonable allegation that a public right of way subsists over Route B, such that Test B (paragraph 12) has been met. I therefore conclude that an order should be made to add a public footpath to the DMS.

Conclusion

51. Having regard to these and all other matters raised in the written representations I conclude that the Appeal should be allowed in part.

Formal Decision

52. In accordance with paragraph 4(2) of Schedule 14 to the 1981 Act, Kirklees Council is directed to make an order under Section 53(2) and Schedule 15 of the Act to modify the West Yorkshire Metropolitan County Council Definitive Map and Statement for the Kirklees Metropolitan District Area to add a public footpath (from Footpath 55) as proposed in the application dated 4 July 2014. This decision is made without prejudice to any decisions that may be given by the Secretary of State in accordance with her powers under Schedule 15 of the 1981 Act.

S Doran

Inspector

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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 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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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Report of the Head of Development Management

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 06-Apr-2017

Subject: Planning Application 2017/90333 Erection of single storey side and rear extensions Copse House, 10, Blenheim Drive, Westborough, Dewsbury WF13 4NH

APPLICANT

Shabir Pandor

DATE VALID

10-Feb-2017

TARGET DATE

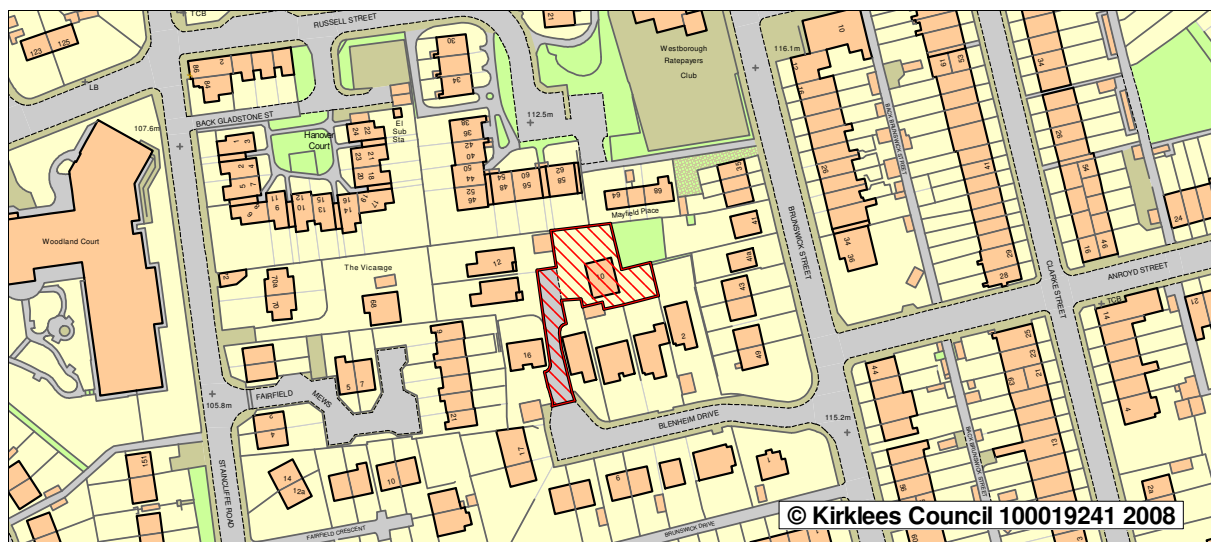
07-Apr-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury West

No

Ward Members consulted

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 (30 March 2017)

1.0 INTRODUCTION:

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee as the applicant is Councillor Shabir Pandor. This is in accordance with the Council's scheme of delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is Copse House, Blenheim Drive, Batley. The site comprises a modern detached two storey dwelling located within a cul-de-sac of similar properties, located off Brunswick Street. The property has an enclosed garden to the side and rear and detached garage to the front.

2.2 The dwelling is located within an established residential area of suburban character which has a mixture of house types and densities, and is located approximately 1km north west of Dewsbury Town Centre. The Northfields Conservation Area lies to the east.

3.0 PROPOSAL:

3.1 Permission is sought for the erection of single storey extensions to the side and rear of the dwelling. These would comprise of the following:

Dining Room Extension

3.2 This would be located to the northern elevation of the dwelling, 4.3m x 4.5m with a hipped roof and constructed of materials to match the existing dwelling.

Kitchen Extension

- 3.3 This would be located to the east and south elevations, with overall length of 8.0m and width of 7.4m, having a “wrap-a-round” nature, with hipped roof and constructed of materials to match the existing dwelling.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2001/93728 – Demolition of existing dwelling and erection of 8 dwellings with garages – approved 8 April 2002

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Through the course of the application, the agent was requested to submit a block plan demonstrating the proposals in relation to adjacent dwellings. This has now been submitted.

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 Lane
- **BE1** – General Design Principles
- **BE2** – Quality of Design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** - Extensions to dwellings (scale)

6.3 National Planning Guidance:

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 was publicised by site notice, neighbour notification letter and press advert. The final publicity period ends 30 March 2017. To date, one representation has been received. The concerns raised are summarised as follows:

- The scale of the development will be out of keeping with surrounding properties
- No.10 is already a large house and the proposed extensions would more than double the overall floor area with the rear extension very close to and along the boundary fence
- Proposal will have an unacceptable adverse impact on surrounding properties
- Proposal would result in overdevelopment of the site
- The proposal fills up the width and length of the garden and would be disproportionate and overbearing
- Proposed rear extension will dominate the aspect from the living room of No.4 Blenheim Close, resulting in an oppressive view
- Any future addition of a window facing No.4 would impact on the privacy of those neighbouring occupiers
- Location of extractor fan on side elevation of rear extension would impact on enjoyment of garden by occupiers of No.4 as a result of noise/odour nuisance
- Impact from past coal mining legacy – question the advisability of ground disturbance in these circumstances

7.2 Should any further representations be received, they shall be reported to Members in the update.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

None

8.2 **Non-statutory:**

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site has no specific allocation in the UDP. Policy D2 of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.

Urban Design issues

- 10.2 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.
- 10.3 Policies BE13 and BE14 of the UDP are specifically relevant to the extension of dwellings.
- 10.4 The extensions would be constructed of materials which are sympathetic in appearance to those of the host building and by virtue of their single storey scale, would appear subordinate in relation to the host dwelling. By virtue of their location, the proposed extensions would be only partially visible from within the street scene. Furthermore, the dwelling is located within a generous plot, and for this reason, it is the opinion of Officers that the proposals would not result in overdevelopment of the site.
- 10.5 The proposed extensions are considered to be acceptable from a visual amenity perspective and would comply with the aims of policies D2, BE1, BE2, BE13, and BE14 of the UDP as well as Chapter 7 of the NPPF.

Residential Amenity

- 10.6 The application site is surrounded by other residential properties and the proposals would bring development closer to the shared boundaries with these properties. The impact of the proposals with respect to residential amenity considerations is set out as follows:

Dining Room Extension

- 10.7 The proposed dining room extension would be located on the north elevation of the dwelling, and well screened due to the presence of existing boundary treatments. This aspect of the proposals would contain openings to the front, side and rear elevations, although an adequate distance would be retained to all boundaries which would ensure that no loss of privacy would result to adjoining occupiers.

- 10.8 Due to the single storey scale of the extension, its design with hipped roof, and adequate distance to shared boundaries as noted above, it is not envisaged that the proposal would have an overbearing impact upon adjoining occupiers, nor would it result in overshadowing to those adjacent properties.

Kitchen Extension

- 10.9 The proposed kitchen extension would bring development close to the boundary with nos.4 and 6 Blenheim Drive.

Impact on nos.4 and 6 Blenheim Drive

- 10.10 The proposed kitchen extension would bring development within close proximity of the shared boundary with these neighbouring properties. No openings are proposed within the south (side) elevation of the proposed kitchen extension, and it would be partially screened by the existing solid timber boundary fence. As such, Officers do not consider that a loss of privacy would arise from this element of the proposals.
- 10.11 In addition to the above, the proposal would be oriented to the north of nos. 4 and 6 Blenheim Drive, on relatively level land, and as a result of this orientation, and the single storey scale of the development, it is considered that there would be no significant detrimental overbearing impact, nor would the proposal result in a significant impact from overshadowing.
- 10.12 For the reasons set out above, the proposals would not impact unduly upon the residential amenity of adjacent occupants, and would accord with the aims of Policy D2 of the UDP.

Highway issues

- 10.13 The proposals would not impact upon the existing off street parking provision serving the site. Therefore, it is not considered to result in any adverse highway safety implications, in accordance with Policies D2 and T10 of the UDP.

Representations

- 10.14 One representation has been received. The concerns raised are addressed by officers as follows:
- 10.15 Scale of development is out of keeping with surrounding properties
Response: The application relates to a detached dwelling within a small development of similar properties. The proposals relate to the erection of single storey extensions which are considered to be subordinate in relation to the host dwelling.

- 10.16 No.10 is already a large house and the proposed extensions would more than double the overall floor area with the rear extension very close to and along the boundary fence
Response: This has been addressed in the visual and residential amenity sections above.
- 10.17 Proposal will have an unacceptable adverse impact on surrounding properties
Response: This is addressed in the residential amenity section of this report.
- 10.18 Proposal would result in overdevelopment of the site
Response: This has been addressed in the visual amenity section above.
- 10.19 The proposal fills up the width and length of the garden and would be disproportionate and overbearing
Response: The application relates to a detached dwelling within a small development of similar properties. The proposals relate to the erection of single storey extensions which are considered to be subordinate in relation to the host dwelling. It is considered by officers that a reasonable garden area would still be retained.
- 10.20 Proposed rear extension will dominate the aspect from the living room of no.4 Blenheim Close, resulting in an oppressive view
Response: The proposal would extend part way along the rear boundary of no.4. However, this would be single storey in scale and partly screened by the existing boundary fence.
- 10.21 Any future addition of a window facing no.4 would impact on the privacy of those neighbouring occupiers
Response: The proposed extension would be partly screened by the existing boundary fence, however it would be possible to impose a condition preventing the addition of further openings within the south elevation of the kitchen extension, if this was considered to be necessary.
- 10.22 Location of extractor fan on side elevation of rear extension would impact on enjoyment of garden by occupiers of no.4 as a result of noise/odour nuisance
Response: The application relates to a householder application, where the use of a domestic kitchen would be considered to be incidental to the enjoyment of the dwelling house. As such, it is considered that the level of use of the kitchen should not give rise to significant noise or odour nuisance.
- 10.23 Impact from past coal mining legacy – question the advisability of ground disturbance in these circumstances
Response: The site is located within a High Risk Area as defined by the Coal Authority. In most instances where development is proposed within a High Risk Area, the applicant is required to submit a coal mining risk assessment which demonstrates how the risk of past coal mining legacy will be mitigated. However, certain types of development, including householder proposals, are exempt from such a requirement. In these circumstances, the imposition of a footnote, reminding the applicant of their responsibilities with regard to past coal mining legacy, is proportionate to the scale of the development.

Other Matters

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

11.0 CONCLUSION

11.1 The proposals would have no detrimental impact on residential or visual amenity, highway safety or the character of the area. 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. 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 approved plans
3. Facing and roofing materials to match those on the host dwelling
4. Permitted Development Rights removed for additional openings

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90333>

Certificate of Ownership – Notice served on the occupants of nos. 8, 12, 14 and 16 Blenheim Drive.

Certificate B signed and dated 8 February 2017.



Originator: Louise Bearcroft

Tel: 01484 221000

Report of the Head of Development Management

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 06-Apr-2017

Subject: Planning Application 2015/90435 Erection of 14 dwellings with integral garages Former Parkham Foods Site, 395, Halifax Road, Liversedge, WF15 8DU

APPLICANT

Swift Property
Management &
Consultancy

DATE VALID

05-Nov-2015

TARGET DATE

04-Feb-2016

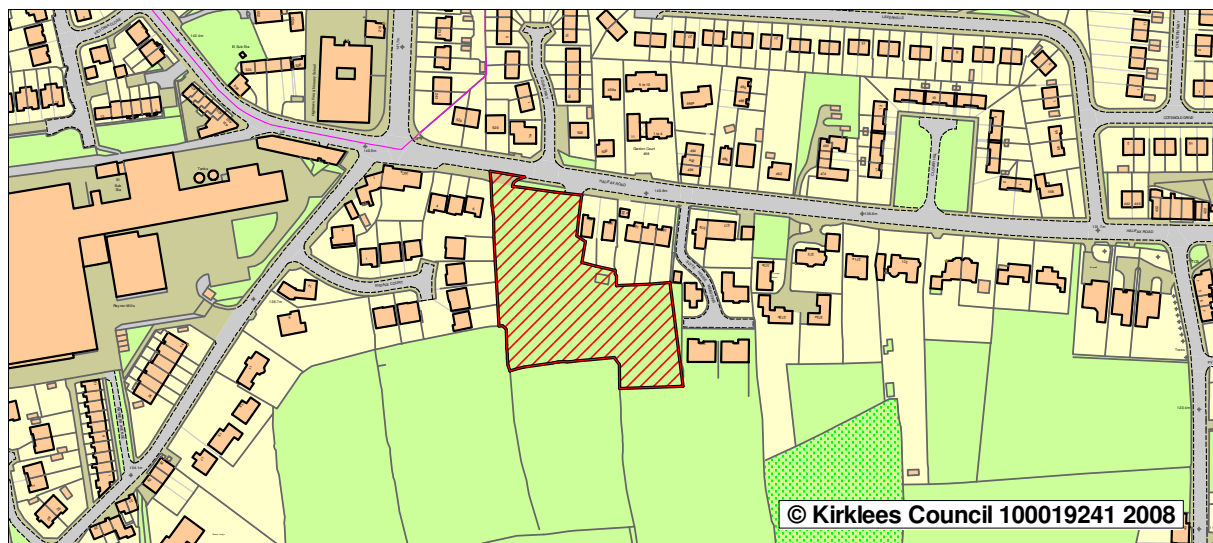
EXTENSION EXPIRY DATE

14-Apr-2017

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Liversedge and Gomersal

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

REFUSAL

1. The application has failed to demonstrate an adequate level of affordable housing provision, public open space to serve the development, and a contribution towards Metro Cards. As such to approve the application would be contrary to Policies H10 and H18 of the Kirklees Unitary Development Plan, the guidance within the Kirklees Interim Affordable Housing Policy, and chapter 4 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is referred to the Heavy Woollen Planning Sub-Committee because the proposal is for residential development on a site exceeding 0.5 hectares in area. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The principle of housing development is considered to represent sustainable development on this brownfield site. The proposal would not have a detrimental impact on highway safety or on residential amenity. Drainage and landscape matters can be satisfactorily addressed via condition.
- 1.3 The development triggers contributions towards public open space, affordable housing, and metro cards. The applicant has submitted a viability appraisal in support of the application which states that the development cannot sustain any Section 106 contributions. The appraisal has been independently assessed on behalf of the Council. The conclusion of the assessment is that the development can provide one affordable unit on site, (or a lump-sum contribution of £204,207), a Public Open Space Contribution of £32,000, and a Metro Card contribution of £6,660. The applicant has confirmed that they are unwilling to provide these contributions and on these grounds, the recommendation is for refusal.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises 0.675 ha of land located off Halifax Road at Liversedge. The site was previously occupied by Parkham Foods but has since been cleared. The site is currently accessed from Halifax Road, and comprises two hardstanding plateau areas connected by a surfaced track along the western boundary. The site is bounded by Halifax Road to the north, by neighbouring residential development to the east and west and by undeveloped Green Belt land to the south. The surrounding area is of mixed use and the site is unallocated on the Kirklees Unitary Development Plan Proposals Map.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the erection of fourteen detached dwellings. The proposed layout illustrates plot nos. 1-5 (house type B) would be located in the western portion of the site, plot nos. 6-12 (house types C, E and D) would be located in the southern portion of the site, and plot nos. 13 and 14 (house type A) would be located in the eastern portion of the site, and to the rear of properties off Halifax Road. The proposed dwellings would be two storey in height and would be constructed of regular coursed natural stone and artificial stone slate.
- 3.2 The development would be served by a single vehicular access off the A649 Halifax Road in the north eastern corner of the site. The scheme would provide an adoptable estate road, with off-street parking to serve each property.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2016/92092 – Change of use from food hygiene lab / offices to Day Care Nursery and After School – Conditional Full Permission
- 2007/90730 – Erection of 44 apartments (4 Blocks of 9 and 1 block of 8) – Withdrawn
- 2006/93201 – Old Packham Foods Site, Halifax Road, Liversedge – Invalid
- 2004/92837 – Outline application for erection of residential development – Conditional Outline Permission
- 2004/91665 – Erection of Bund, Shelter and Effluent Treatment System
- 97/92375 – Erection of extensions to factory and offices – Conditional Full Permission

5.0 HISTORY OF NEGOTIATIONS:

5.1 Officers negotiated with the applicant to secure:

- The submission of a viability appraisal
- The submission of a drainage scheme and updated plans to incorporate the new drainage easement

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** – Unallocated Land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **BE23** – Crime prevention
- **T10** – Highway Safety
- **H10** – Affordable housing
- **H12** – Arrangements for securing affordable housing
- **H18** – Provision of public open space
- **EP4** – Noise sensitive development
- **G6** – Land contamination
- **EP11** – Ecological landscaping

6.3 Supplementary Planning Guidance / Documents:

Affordable Housing SPD2
Kirklees Council Interim Affordable Housing Policy

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 Two representations have been received. A summary of the comments received is set out below:

- The proposal would make a nice community
- Residents should be informed of the right address

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

K.C Highways Development Management – The proposals are considered acceptable from a highways point of view, subject to minor changes. Conditions are recommended.

8.2 **Non-statutory:**

- **K.C Environmental Services** – Conditions relating to noise and contaminated land are suggested.
- **K.C Ecologist** – A condition relating to the submission of details for compensation and enhancement measures is suggested. A footnote relating to the timing of vegetation clearance is also recommended.
- **K.C Flood Management** – Conditions relating to the submission of drainage details and overland flood routing is suggested.
- **Yorkshire Water** – Confirmed no objection in principle to the proposed separate systems of drainage on site and off site, and to the proposed point of discharge of foul water to the respective public sewer.
- **The Coal Authority** – The Coal Authority concurs with the recommendations of the submitted Desk Study Report. There are no objections subject to the imposition of suggested conditions.
- **K.C. Regeneration** – No comments made.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is a brownfield site which has no specific allocation on the Unitary Development Plan Proposals Map. Policy D2 of the Unitary Development Plan (UDP) states “planning permission for the development (including change of use) of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. The relevant considerations are addressed later in this assessment. Subject to these not being prejudiced the proposal would be acceptable in principle in relation to policy D2. It is also necessary to assess the loss of the site for business use, in accordance with policy B4 of the UDP as well as chapter 1 of the NPPF.
- 10.2 The site was previously occupied by Parkham Foods but has been since cleared. The principle of residential development on this site was previously established in 2004, following the granting of planning application reference 2004/92837.
- 10.3 Furthermore, the Council cannot currently demonstrate five year supply of deliverable housing land. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. The NPPF states that the purpose of the planning system “is to contribute to the achievement of sustainable development” (para 6). NPPF notes that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples’ quality of life (para 9). NPPF identifies the dimensions of sustainable development as economic, social and environmental roles (para 7). It 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” (para 8). NPPF stresses the presumption in favour of sustainable development.
- 10.4 A proposal for fourteen dwellings provides economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be social gain

through the provision of new housing at a time of general shortage. National policy encourages the use of brownfield land for development and the site is located within a sustainable location in proximity to the local centre of Liversedge. The principle of housing development is considered to be acceptable, in accordance with the aims of the NPPF.

Urban Design issues

- 10.5 The nature of surrounding residential development (which is to the north, east and west of the site) is mixed in character, with some detached and semi-detached dwellings present.
- 10.6 Paragraph 58 of the NPPF states that planning policies and decisions should ensure developments, *“respond to local character and history, and reflect the identity of local surroundings and materials”*
- 10.7 The proposed development would comprise of 14 detached dwellings which would add to the existing mix of house types in the vicinity, which, as previously set out, includes terraced and detached dwellings. Furthermore, the design and appearance of the proposed dwellings would reflect the general character of the wider area.
- 10.8 The two storey scale of the houses proposed is considered acceptable in the context of surrounding development, which is largely two storey. The density of the development is considered to result in an acceptable layout from a visual perspective. Slight variations in the building line are provided within the layout, along with some dwellings being orientated at 90 degrees to the majority of others. This ensures that the proposal is not too linear as this can often lack visual interest. The site layout also ensures a good degree of natural surveillance throughout the site.
- 10.9 With respect to design, the proposed house types are all considered acceptable in respect of fenestration and proportions. The proposed materials for the dwellings are regular coursed natural stone and artificial stone slate which would be in keeping with neighbouring properties and preserve the visual amenity of the site.
- 10.10 To summarise, it is considered by officers that the proposed development is acceptable in relation to visual amenity and the proposals accord with Policies BE1, BE2 and D2 of the Kirklees UDP, as well as the aims of chapters 6 and 7 of the NPPF.

Residential Amenity

- 10.11 UDP policy BE12 recommends that new dwellings should be designed to provide privacy and open space for their future occupants and physical separation from adjacent property and land. UDP policy BE12 recommends minimum acceptable distances. The nearest neighbouring properties to the site are nos. 6-10 Rydale Court to the west, nos. 381 to 393 Halifax Road to the north, and nos. 377b and 377c Scite House Meadows to the east.

10.12 In respect of the impact on nos. 6-10 Rydale Court the following apply:

- A distance of 20 metres from the rear elevation of plots 1 and 2 to the blank gable of No.6 Rydale Court.
- A distance of over 21 metres from the rear of Plots 3-5 to nos.7-9 Rydale Court where there would be directly facing habitable room windows.
- A distance of 19 metres from the link building of Plot 6 to no.10 Rydale Court. There are habitable room windows proposed in the link building between the garage and the dwelling (the dwelling being set back from the rear of No.10). These are however at ground floor level and can be adequately screened by appropriate boundary treatment.

10.13 In respect of the impact on nos. 381 to 393 Halifax Road the following apply:

- A distance of between 14 and 16 metres from the blank side elevation of plot No.14 to nos. 391 and 393
- A distance of over 21 metres from Plot 13 to the rear of nos. 381-385 Halifax Road.

10.14 In respect of the impact on nos. 377b and 377c Scite House Meadows the following apply:

- A distance of 12 metres between the rear of plot 13 and the side elevation of no.377a.
- A distance of 1.5 metres from Plot 15 to the boundary and a distance of 4 metres to the side elevation of no.377b.

10.15 The proposal would generally achieve the recommended distances set out in Policy BE12 of the UDP. Where they fall short, it is the opinion of officers that the impact can be mitigated by adequate screening. It is considered there would not be a detrimental impact on the amenity of neighbouring occupants.

10.16 In respect of future occupiers of the site, K.C. Environmental Services note that plot 1 located adjacent to Halifax Road is likely to be affected by road traffic noise to bedrooms and gardens. This could be addressed by imposing a condition setting out that the developer submits either an appropriate noise survey or provides standard thermal double glazing and ventilation to the bedrooms of Plot 1. The inclusion of such a condition would ensure that the proposal would accord with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.

10.17 To summarise, it is the view of officers that, with the inclusion of appropriate conditions, the proposals would be acceptable from a residential amenity perspective, complying with the aims of policies D2, BE1, BE2, BE12, and EP4 of the UDP as well as chapters 7 and 11 of the NPPF.

Landscape issues

- 10.18 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The application is supported by a Bat Survey.
- 10.19 The Council's Ecologist notes the survey has established that none of the features on site is of significant ecological interest and the surrounding trees do not have any bat roost potential. It is advised that vegetation clearance be undertaken outside of the bird breeding season, and compensation measures be included. These are to include a landscaping scheme based upon the use of native tree and shrub species, an appropriate number of bat and bird boxes, and fencing to allow free movement of hedgehogs.
- 10.20 Subject to the inclusion of appropriate conditions, ecological issues are considered to be addressed and the proposal would accord with the aims of policy EP11 of the UDP as well as chapter 11 of the NPPF.

Highway issues

- 10.21 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. The development would be served by a single access point into the A649 Halifax Road on the opposite side of Halifax Road from Aquila Way which is a cul-de-sac serving 18 properties.
- 10.22 The A649 Halifax Road is a classified road and bus route with a 30 mph speed limit along this stretch which connects the A62 at Liversedge with Hipperholme. The junction with Hare Park Road and Hightown Road is located approximately 90 metres to the west of the proposed access. Hightown First and Junior School is located at the junction with Hightown Road where there are school "keep clear" markings and a pedestrian light control crossing. There is a speed camera located just past the western boundary of the application site.
- 10.23 Sight lines onto Halifax Road are good in both directions and the proposal provides sufficient off-street parking including visitor parking and internal refuse vehicle turning. Highways DM raise no objections, subject to the inclusion of appropriate conditions. These include a scheme for the proposed internal adoptable estate road and closure of the existing access. Two minor adjustments have been requested to the layout. Plot 12 is over 50 metres from the adoptable highway, and the length of the private driveway serving plots 9 to 13 should be reduced by extending the length of the proposed adoptable turning head. This would allow the layout to comply with Manual for Streets requirements for emergency vehicle access. A vehicle access for a pump appliance should be within 45 m of a single family house. Furthermore, bin collections points should be provided for all plots. The proposed driveway serving plots 9 to 13 results in waste carry distances over the maximum recommended within Manual for Streets of 30 metres and a communal bin collection point will be needed for these plots located close to the start of the private driveway. Amended Plans have been received and Highways Development Management has been re-consulted. Any further comments received shall be reported to Members in the update.

10.24 With the inclusion of appropriate conditions, the proposal would have no detrimental impact on highway safety and would accord with the aims of policies D2 and T10 of the UDP.

Drainage issues

10.25 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach.

10.26 A draft Drainage Strategy has been submitted. This shows the intention to drain surface water to Clough Beck, located approximately 130m to the south of the site. An existing drain from Scitehouse Meadows connects to Clough Beck and could be used as surface water outfall point. The developer will need to secure rights to construct surface water sewers to the outfall location by private agreement or Formal Sewer Requisition. It is proposed the foul water sewer would be adopted by Yorkshire Water.

10.27 Flood Management note the intention is to put the off-site existing sewers up for adoption and a letter has been provided showing that the owners do not object. Flood Management will not sanction a proposed 3 l/s constraint for the 1 in 30 year storm, rising to 5 l/s for the 1 in 100+ climate change, and as only crude sizing of the attenuation tank has been supplied, a condition is required for detailed design.

10.28 Indicative flood routing using a drainage easement has been shown, and a detailed design is required. It is advised that Permitted Development Rights are removed from properties to prevent building over or close to the estates drainage systems and preserve a safe overland route in extreme events or blockage scenarios. Flood Management raise no objections, subject to the inclusion of appropriate drainage conditions. These include a scheme detailing foul, surface water, and land drainage, and an assessment of the effects of a 1 in 100 year storm event.

10.29 Yorkshire Water has no objection in principle to the proposed separate systems of drainage on site and off site and the proposed point of discharge of foul water to the respective public sewer.

10.30 To summarise, subject to the inclusion of appropriate conditions, drainage issues are addressed and the proposal would accord with the aims of chapter 10 of the NPPF.

Representations

10.31 Two representations have been received. In so far as they have not been addressed above:

10.32 The proposal would make a nice community.

Response: The proposal is considered to represent a development which would be in a sustainable location, in close proximity to the centre of Liversedge.

10.33 Residents should be informed of the right address.

Response: The initial neighbour letters were sent out with the incorrect address. This was amended and the period of publicity was undertaken again. Officers are satisfied that no persons have been prejudiced by this error and that sufficient publicity has been carried out for this application.

Planning obligations

10.34 The development triggers the following contributions:

- Public open Space – In accordance with Policy H18 the development is required to provide public open space on site at a rate of 30 sq. metres per dwelling, in accordance with Policy H18 of the UDP. The policy compliant requirement would equate to 420 sq. metres on site, or a lump-sum off-site contribution of £37,950.
- Affordable Housing – In line with the Council's Interim Affordable Housing Policy, the application is required to provide a contribution of 20% of units. The policy compliant requirement would be three dwellings.
- Metro Cards – Metro recommend a Residential MetroCard Scheme A – Bus only. The cost is $14 \times £475.75 = £6,600.50$.

10.35 The applicant has submitted a viability appraisal in support of the application which states that the development cannot sustain any Section 106 contributions.

10.36 The appraisal has been independently assessed on behalf of the Council. The conclusion of the assessment is that the development can provide:-

- One affordable unit on site, or a lump-sum contribution of £204,207
- Public Open Space Contribution of £32,000
- Metro Card contribution of £6,660

10.37 The applicant has challenged the assessment and discussions have been ongoing for a number of months. No agreement has been reached, and it is concluded all matters and responses from the applicant have now been duly considered in detail.

10.38 It is the opinion of officers that, without the contributions set out in paragraph 10.36 above, the proposals cannot be supported and would be contrary to Policies H10 and H18 of the Kirklees Council Unitary Development Plan, the Kirklees Interim Affordable Housing Policy, and chapter 4 of the National Planning Policy Framework.

Other Matters

- 10.39 The site is identified as potentially contaminated due to its previous use as a petrol filling station and factory. A phase I Report has been submitted but this is 8 years old and does not take into consideration any recent changes in guidance or any changes at the development site between the date of the report and the present time. A suite of contamination conditions will therefore be required to be submitted through condition.
- 10.40 The site also falls within the defined development high risk area where there are coal mining features and hazards which need to be considered. The Coal Authority concurs with the recommendations of the Desk Study Report that intrusive site investigations should be undertaken prior to commencement of the development. There are no objections to development subject to the imposition of appropriate conditions.
- 10.41 Paragraph 35 of the national Planning Policy guidance states that “Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to.....incorporate facilities for charging plug-in and other ultra-low emission vehicles..” For this development it is appropriate to secure electric vehicle charge points within the curtilage of each dwelling to encourage the use of ultra-low emission vehicles. This can be addressed by condition.

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.
- 11.2 The proposal has the potential to constitute sustainable development. The applicant has submitted a viability appraisal which has been independently assessed. It is concluded that the scheme is capable of sustaining a level of contribution, which is less than what is required by planning policy. However, the applicant is unwilling to agree to make that contribution and for this reason the application is recommended for refusal.

12.0 Reason for Refusal

- 12.1 The application has failed to demonstrate an adequate level of affordable housing provision, public open space to serve the development, and a contribution towards Metro Cards. As such, to approve the application would be contrary to Policies H10 and H18 of the Kirklees Unitary Development Plan, the guidance contained within the Kirklees Interim Affordable Housing Policy, and chapter 4 of the National Planning Policy Framework.

Background Papers:

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f90435>

Certificate of Ownership –Certificate A signed and dated 13 February 2015

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KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE HEAVY WOOLLEN

6 APRIL 2017

Item 7 – Page 19

Direction from Secretary of State (DEFRA) to Make an Order to Add a Public Footpath at Hey Beck Lane to the Definitive Map and Statement of Public Rights of Way

The council received the direction recently. Since the officer report was drafted, the following written submission has been received from David Storrie of Enzygo, on behalf of Mr Lilley, the owner of land crossed by the proposed order route. Mr Lilley continues to oppose the recording of a further public footpath over his land.

“We write on behalf of our client Mr R. Lilley of High Barn, Hey Beck Lane. We have had sight of the decision letter from the Planning Inspectorate. Unfortunately, due to illness, Mr Lilley was unable to make representations on the recent appeal but his comments and concerns were registered when the Council made their decision.

He is obviously concerned by the conclusion of the Inspector and the direction that a public footpath is added to the definitive map as this route goes right through his garden area. What this effectively does is provide users with a choice when entering at point B on the plan produced by the Council. The current public footpath from point B runs at an angle to the north then runs between 75 and 75a Hey Beck Lane. Access between these two properties is currently restricted with an electronic gate at the Hey Beck Lane end. These physical obstacles not only present a barrier but significantly influence users choice as to where to go.

It is noted that the Inspector made the decision without the benefit of a site visit. Had they carried out a site visit they may have reached a different decision as it seems somewhat perverse to have two public footpaths in this location. As this is a direction by the Inspector the Council have no choice other than to follow procedure. Our client will then have a further opportunity to object.

All we ask at this stage in the process is that Mr Lilley’s comments and concerns are noted.”

Officers would note that members are being asked to give authority to make an order further to a direction from the Secretary of State. Formal objections may be made at the order notice stage and, as a landowner, Mr Lilley would receive a formal order notice.

Erection of single storey side and rear extensions

Copse House, 10, Blenheim Drive, Westborough, Dewsbury WF13 4NH

7.0 PUBLIC/LOCAL RESPONSE

The site publicity period has now expired and no further representations have been received.

Revised 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.

Erection of 14 dwellings with integral garages

Former Parkham Foods Site, 395, Halifax Road, Liversedge, WF15 8DU

Highway Safety

Two minor adjustments were requested to the layout with respect to requirements for emergency vehicle access, and the provision of bin stores. The revised layout plan does not adequately address these matters however they can be addressed by condition and an advisory footnote.

Suggested Condition:

Prior to the development being brought into use details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Suggested Footnote:

Emergency vehicle access and turning is not provided to all dwellings on this development and the applicants are advised to contact their building control provider regarding requirements for the provision of alternative measures to allow emergency fire service access to the proposed dwellings.

Viability Update:

The conclusion of the independent assessment of the viability appraisal was that the development can provide one affordable unit on site, (or a lump-sum contribution of £204,207), a Public Open Space Contribution of £32,000, and a Metro Card contribution of £6,660.50. The applicant has previously confirmed that they were unwilling to provide any contribution.

Since the publication of the committee report the applicant has revised their offer. Whilst they still challenge the conclusion of the independent appraisal, the offer is to enter into a S106 to cover:-

- £32,200 for an off-site Public Open Space contribution
- £6,600.50 for Metro Cards

The site is a brownfield site, and had the former buildings existed on site it is noted that the applicant would have benefited from vacant building credit to offset against the requirement for affordable housing. Vacant Building Credit is an incentive to developers of brownfield sites to help them bring forward and recycle land for housing led scheme. Although the conclusion of the independent assessment is that the site can also provide one affordable unit, it is considered that the benefits of housing provision on this previously developed site weigh heavily in favour of the proposal. The application will secure a contribution towards Public Open Space and Metro Cards, and it is considered on balance, that officers can now support the proposal.

Revised 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 update and the matters as set out below:-

- 1. The signing of a section 106 agreement securing a financial contribution of £32,200 for off-site Public Open Space and £6,600.50 for Metro Cards.**

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

1. Development to commence within three years
2. Development to be in accordance with the approved plans
3. Samples of all facing and roofing materials
4. Details of boundary treatment
5. A scheme detailing the proposed internal adoptable estate roads
6. Blocking up of the existing access
7. Full Drainage Scheme
8. Submission of a Preliminary Risk Assessment (Phase 1 Report) to address land contamination and Coal Mining Legacy
9. Submission of an Intrusive Site Investigation Report (Phase II Report) to address land contamination and Coal Mining Legacy
10. Submission of Remediation Strategy to address land contamination and Coal Mining Legacy
11. Implementation of the Remediation Strategy to address land contamination and Coal Mining Legacy
12. Submission of Validation Report to address land contamination and Coal Mining Legacy

13. Noise Report or the provision of standard thermal double glazing and ventilation to the bedrooms of Plot 1
 14. Landscaping Scheme based upon the use of native tree and shrub species
 15. Bat and Bird Boxes
 16. Electric Charge Points
 17. Removal of Permitted Development Rights for extensions and new openings
 18. Details of storage and access for collection of wastes
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