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**Assistant Director, Governance and
Monitoring**

Julie Muscroft

Governance and Democratic Services

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Wednesday 19 October 2016

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 27 October 2016**.

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

This meeting will be webcast live.

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

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

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

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

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

Member

Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Jean Calvert
Councillor Donald Firth
Councillor James Homewood
Councillor Christine Iredale
Councillor Manisha Roma Kaushik
Councillor Musarrat Khan
Councillor Bernard McGuin
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Rob Walker
Councillor Linda Wilkinson

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

Substitutes Panel

Conservative

B Armer
L Holmes
N Patrick

Green

K Allison
A Cooper

Independent

C Greaves

Labour

G Asif
F Fadia
E Firth
C Scott

Liberal Democrat

R Eastwood
J Lawson
A Marchington

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 4 August 2016.

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

4: Admission of the Public

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

5: Deputations/Petitions

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

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application 2015/93754

Erection of single storey cattery building adjacent to Stirley Hill, Almondbury, Huddersfield.

Estimated time of arrival at site – 10.15am

Contact – Nia Thomas, Planning Officer

Wards

Affected: Newsome

8: Site Visit - Application 2016/91729

Erection of side extension to form garage, demolition of existing porch at 3 Syke Bottom, Penistone Road, New Mill, Holmfirth.

Estimated time of arrival at site – 10.45am

Contact – Nick Hirst, Planning Officer

Wards

Affected: Holme Valley South

9: Site Visit - Application 2016/90245

Erection of one dwelling (within a Conservation Area) at land at, 1 Carr Top Lane, Golcar, Huddersfield.

Estimated time of arrival at site – 11.20am

Contact – Nick Hirst, Planning Officer

Wards

Affected: Golcar

10: Site Visit - Application 2016/92257

Erection of rear dormer window (within a Conservation Area) at 27 Rumbold Road, Edgerton, Huddersfield.

Estimated time of arrival at site – 11.40am

Contact – Ayesha Saleem, Planning Officer

Wards

Affected: Greenhead

11: Local Planning Authority Appeals

11 - 32

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

Contact: Teresa Harlow, Development Control

Wards

Affected: Almondbury; Greenhead; Holme Valley North; Holme Valley South

12: Planning Applications

33 - 120

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

Please note that any members of the public who wish to speak at the meeting must register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on 24 October 2016. To pre-register, please contact richard.dunne@kirklees.gov.uk or phone 01484 221000 and ask for Richard Dunne.

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 4th August 2016

Present: Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Jean Calvert
Councillor James Homewood
Councillor Christine Iredale
Councillor Musarrat Khan
Councillor Bernard McGuin
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Linda Wilkinson
Councillor Eric Firth
Councillor Cathy Scott

Apologies: Councillor Donald Firth
Councillor Manisha Roma Kaushik
Councillor Sheikh Ullah
Councillor Rob Walker

1 Membership of the Committee

Councillor Eric Firth substituted for Councillor Ullah

Councillor C Scott substituted for Councillor Walker

2 Minutes of previous meeting

The Committee was informed of the following correction to the minutes of the meeting held on 12 May 2016. The list of Councillors that were recorded as voting against application 2015/91832 should read Councillors Calvert, Lyons and Pattison.

That the Minutes of the meetings held on 12 May 2016 and 30 June 2016 be approved as a correct record.

3 Interests and Lobbying

In connection with item 10 planning application, members declared interests and identified planning applications on which they had been lobbied as follows:

Councillor Bellamy declared an other interest in applications 2016/90477 and 2016/91062 on the grounds that she is a member of the Holme Valley Parish Council.

Councillor Sims declared that he had been lobbied on application 2016/90477.

Councillors Homewood and Wilkinson declared they had been lobbied on application 2015/93861.

Councillor Lyons declared an other interest in application 2015/93861 on the grounds that he is a member of Meltham Town Council.

Councillor Lyons declared an other interest in application 2016/91730 on the grounds that his son was the applicant and left the meeting during the consideration of the application.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application 2015/93861

Site visit undertaken.

8 Site Visit - Application 2016/91730

Site visit undertaken.

9 Local Planning Authority Appeals

That the report be noted.

10 Planning Applications

The sub-committee considered the schedule of planning applications. Under the provisions of Council Procedure Rule 37, the Committee heard representations from members of the public in respect of the following applications:

- (a) Application 2015/93861 – erection of 28 dwellings and engineering operations at land off Millmore Road, Meltham, Holmfirth – Chris Hawksworth, Danny Ruttle and Paul Whittaker (objectors) and Andrew Keeling (agent).
- (b) Application 2016/90073 – outline application for erection of residential development at 98 Burn Road, Birchencliffe, Huddersfield – Nick Willock (agent)
- (c) Application 2016/91730 – erection of 2 storey rear extension at 55 Matthew Lane, Meltham, Holmfirth – Nick Willock (speaking on behalf of the applicant)

RESOLVED – that the applications under the Planning Acts included in the list submitted for consideration by the sub-committee be determined as now indicated and that the schedule of decisions be circulated to members.

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KIRKLEES COUNCIL
LIST OF PLANNING APPLICATIONS DECIDED BY
PLANNING SUB-COMMITTEE (HUDDERSFIELD)
04 AUGUST 2016

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/93861	<p>J Mayo, Heywood Homes, Erection of 28 dwellings and engineering operations, land off, Millmoor Road, Meltham, Holmfirth</p> <p>APPROVE SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:</p> <ol style="list-style-type: none"> 1. SECURE A BILATERAL S106 OBLIGATION FOR THE FUTURE MAINTENANCE OF THE PROPOSED SURFACE WATER DRAINAGE INFRASTRUCTURE 2. SECURE A BILATERAL UNDERTAKING (S106 OBLIGATION) FOR THE PROVISION OF AFFORDABLE HOUSING AND PUBLIC OPEN SPACE AS DETAILED IN THE REPORT 3. IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS THAT MAY INCLUDE SOME OR ALL OF THOSE MATTERS SET OUT IN THE REPORT, AND 4. SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGE THAT WOULD ALTER THE RECOMMENDATION, ISSUE THE DECISION NOTICE <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p>FOR: Councillors Calvert, E Firth, Iredale, Khan, Sarwar, Sokhal and Wilkinson (7 votes)</p> <p>AGAINST: Councillors Bellamy, Scott and Sims (3 votes)</p> <p>ABSTAINED: Councillors Homewood, Lyons and McGuin</p>
2016/90477	<p>D Trueman, Alterations to convert outbuilding to holiday accommodation, adj 1, Wheat Close, Holmbridge, Holmfirth</p> <p>DEFERRED (TO PROVIDE AN OPPORTUNITY FOR OFFICERS TO COMPLETE A REVIEW OF THE APPLICATION FOLLOWING COMPLAINTS BY A LOCAL RESIDENT AND WARD COUNCILLORS THAT INFORMATION RELEVANT TO THE DETERMINATION OF THE APPLICATION WAS NOT INCLUDED IN THE ORIGINAL COMMITTEE REPORT).</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p>FOR: Councillors Bellamy, Calvert, E Firth, Homewood, Iredale, Khan, Lyons, McGuin, Sarwar, Scot, Sims, Sokhal and Wilkinson (13 votes)</p> <p>AGAINST: no votes</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/90073	<p data-bbox="528 253 1302 360">GSK Developments, Outline application for erection of residential development, 98, Burn Road, Birchenccliffe, Huddersfield</p> <p data-bbox="528 398 1417 470">OUTLINE CONDITIONAL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO ENSURE:</p> <ul data-bbox="528 510 1439 808" style="list-style-type: none"> • THE SIGNING OF A SECTION 106 AGREEMENT TO SECURE A PAYMENT IN LIEU TOWARDS THE PROVISION OF PUBLIC OPEN SPACE IN THE AREA; • IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS; AND • SUBJECT TO THERE BEING NO MATERIAL CHANGE SINCE THE COMMITTEES RESOLUTION ISSUE THE DECISION NOTICE <p data-bbox="528 846 1409 918">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 958 1385 1030">FOR: Councillors Calvert, E Firth, Homewood, Khan, Lyons, Sarwar, Scott, Sokhal and Wilkinson (9 votes)</p> <p data-bbox="528 1070 1054 1104">AGAINST: Councillor Iredale (1 vote)</p> <p data-bbox="528 1144 1426 1178">ABSTAINED: Councillors Bellamy, McGuin and Sims (3 votes)</p>
2016/91062	<p data-bbox="528 1216 1289 1288">C Greaves, Erection of two storey side extension and alterations, 47, Meltham Road, Honley, Holmfirth</p> <p data-bbox="528 1326 1046 1359">CONDITIONAL FULL PERMISSION</p> <ol data-bbox="528 1361 1449 1836" style="list-style-type: none"> 1. The development hereby permitted shall be begun within three years of the date of this permission. 2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence. 3. The extensions and alterations hereby approved shall be completed in accordance with the materials outlined on drawing no. 2015/076/03 Rev B received by the Local Planning Authority on 27 June 2016. The render shall be silicone scraped textured polar white render as shown on the photos submitted to Local planning Authority on 20 July 2016.

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/91730	<p data-bbox="528 215 1410 288">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p data-bbox="528 327 1437 434">FOR: Councillors Bellamy, Calvert, E Firth, Homewood, Iredale, Khan, Lyons, McGuin, Sarwar, Scott, Sokhal and Wikinson (12 votes)</p> <p data-bbox="528 472 1034 510">AGAINST: Councillor Sims (1 Vote)</p> <p data-bbox="528 548 1382 622">N Lyons, Erection of two storey rear extension, 55, Matthew Lane, Meltham, Holmfirth</p> <p data-bbox="528 660 1430 952">CONDITIONAL FULL PERMISSION – CONTRARY TO OFFICER RECOMMENDATION (THE SUB COMMITTEE CONSIDERED THAT THE EXTENSION WAS ACCEPTABLE IN DESIGN AND APPEARANCE AND WOULD NOT BE OUT OF KEEPING WITH THE LOCAL STREET SCENE OR CHARACTER OF THE AREA: AND WOULD NOT HAVE A DETRIMENTAL IMPACT ON THE VISUAL AMENITY OF THE NEIGHBOURING PROPERTIES)</p> <p data-bbox="528 990 1402 1064">Councillor Sims was appointed by the sub-committee to chair the meeting for the duration of this application.</p> <p data-bbox="528 1102 1410 1176">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 1214 1366 1288">FOR: Councillors Calvert, E Firth, Khan, Sarwar, Scott and Sokhal (6 votes)</p> <p data-bbox="528 1326 1398 1400">AGAINST: Councillors Bellamy, Homewood, Iredale, McGuin and Wilkinson (5 votes)</p> <p data-bbox="528 1438 954 1476">ABSTAINED: Councillor Sims</p>

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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



Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)
Date: 27 OCTOBER 2016

Title of report: LOCAL PLANNING AUTHORITY APPEALS

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	18 October 2016 Jacqui Gedman
Is it signed off by the Director of Resources?	No financial implications
Is it signed off by the Acting Assistant Director - Legal & Governance?	No legal implications
Cabinet member portfolio	Economy, Skills, Transportation and Planning (Councillor McBride)

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

Public or private: Public

-
1. **Purpose of report**
For information
 2. **Key points**
 - 2.1 2015/62/93760/W - Erection of 2 dwellings and demolition of existing building adj 1, Highroyd, Lepton, Huddersfield, HD8 0EB. (Officer) (Dismissed)
 - 2.2 2016/62/90095/W - Erection of single storey rear extension (Listed Building) at 4, Clough Hall, Clough Hall Lane, Almondbury, Huddersfield, HD4 6TF. (Officer) (Dismissed)
 - 2.3 2016/65/90092/W - Listed Building Consent for erection of single storey rear extension at 4, Clough Hall, Clough Hall Lane, Almondbury, Huddersfield, HD4 6TF. (Officer) (Dismissed)

- 2.4 2015/62/91523/W - Engineering works to form public area at Woodhouse Farm, Woodhouse Lane, Holmbridge, Holmfirth, HD9 2QR. (Appeal against condition) (Sub-Committee in accordance with officer recommendation) (Allowed)
- 2.5 2016/70/90010/W - Variation condition 4 (opening hours) on previous permission 2009/93008 for change of use from bakery to pizza take-away (within a Conservation Area) at Master Pizza Bar, 75, Huddersfield Road, Holmfirth, HD9 3AS. (Sub-Committee contrary to officer recommendation) (Allowed)
- 2.6 2016/62/90975/W - Erection of first floor rear extension (within a Conservation Area) at 133, Helme Lane, Meltham, Holmfirth, HD9 5RL. (Officer) (Allowed)
- 2.7 2015/62/92881/W - Erection of 2 no. one bed flats at 79, Greenhead Road, Huddersfield, HD1 4EZ. (Officer) (Allowed)

3. Implications for the Council
Not applicable

4. Consultees and their opinions
Not applicable

5. Next steps
Not applicable

6. Officer recommendations and reasons
To note

7. Cabinet portfolio holder recommendation
Not applicable

8. Contact officer and relevant papers
Simon Taylor – Head of Development Management

9. Director responsible
Jacqui Gedman

Appeal Decision

Site visit made on 23 August 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 1st September 2016

Appeal Ref: APP/Z4718/W/16/3152990

Land adjacent No 1 Highroyd, Kirkburton, Huddersfield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Boyles against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93760/W, dated 23 November 2015, was refused by notice dated 20 January 2016.
 - The development is described as proposed dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - (a) The living conditions of neighbouring occupiers with regard to overshadowing, and loss of outlook and light;
 - (b) Highways safety, and;
 - (c) The character and appearance of the area.

Reasons

Living conditions

3. The proposed dwellings would be located between 2 rows of terraced properties. The side gables would be around 10 metres from the rear of the terrace fronting Highgate Lane, and around 12 metres from the terrace to the north east.
4. Policy BE12 of the Kirklees Unitary Development Plan requires that a distance of 12 metres should normally be retained between a habitable room window of a dwelling and a blank wall. In this case, the proposed south western gable would be around 10 metres from the rear windows of a property in the terrace fronting Highgate Lane. This would have an unacceptable impact on the outlook from these windows, and a significant overbearing impact on the rear garden areas.
5. With regards to the proposed north eastern gable wall, this would be around 12 metres from the front elevation of the properties on that side of the development. The distance to these properties would comply with Policy BE12.

However, these properties are located to the north east of the development and would therefore be subject to overshadowing from the high gable wall. This would particularly affect the garden areas to the front of these properties. Whilst the appellant has stated that they would be prepared to replace the proposed gables with a hipped roof design, no drawings have been submitted that illustrate this. I must therefore determine the appeal based on the submitted drawings.

6. I conclude that the development would unacceptably harm the living conditions of neighbouring occupiers with regard to overshadowing, and loss of outlook and light. It would therefore be contrary to the relevant sections of Policies D2, BE1 and BE12 of the Kirklees Unitary Development Plan (Saved in 2007). It would also be at odds with the National Planning Policy Framework (NPPF) which seeks to secure a good standard of amenity for existing occupants.

Highways Safety

7. Highroyd is a narrow road with no parking restrictions along it. The footway in this location is approximately 1 metre in width. The development proposes 2 parking spaces for each dwelling that would be accessible directly from Highroyd.
8. The visibility along the road to the north east would be limited by a large boundary hedge. This would severely restrict visibility for vehicles entering or leaving the parking spaces serving the northernmost dwelling. This would be an unsafe arrangement that could lead to collisions. Whilst there is an existing access that is used by commercial vehicles, this is more centrally located within the site frontage. It is not as close to the hedge as the proposed parking spaces.
9. I conclude that the development would unacceptably prejudice highway safety. It would therefore be contrary to Policy T10 of the Kirklees Unitary Development Plan (Saved in 2007). It would also be at odds with the NPPF which seeks to ensure that development is served by a safe and suitable access.

Character and appearance

10. The appeal site is a small plot of land that is currently used as a builders yard. It is located in an existing residential area and is surrounded by predominantly terraced properties with small gardens.
11. The proposed semi-detached dwellings would be of comparable size to the surrounding dwellings. They would have similar spacing to the front and sides of the properties, and the garden sizes would be typical of the surrounding area. The dwellings would not be unduly cramped in my view. In addition, whilst the frontage would mostly comprise parking/hardstanding, I noted on my site visit that other properties along Highroyd had a similar layout and design. This would therefore not be out of keeping with the area.
12. I conclude that the development would not unacceptably harm the character and appearance of the area. It would therefore be in accordance with the relevant sections of Policies D2 and BE1 of the Kirklees Unitary Development Plan (Saved in 2007).

Conclusion

13. For the reasons set out above, I conclude that the development would unacceptably harm the living conditions of neighbouring occupiers with regard to overshadowing, and loss of outlook and light, and would prejudice highway safety. Whilst there would be a positive benefit in terms of the provision of new housing and the re-use of a previously developed site, this does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

Appeal Decisions

Site visit made on 16 August 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 09 September 2016

Appeal A: APP/Z4718/W/16/3148995

Clough Hall, Clough Hall Lane, Almondbury, Huddersfield HD4 6TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Russell against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2016/62/90095/W, dated 31 December 2015, was refused by notice dated 22 March 2016.
 - The development proposed is a single storey extension to rear.
-

Appeal B: APP/Z4718/Y/16/3149009

Clough Hall, Clough Hall Lane, Almondbury, Huddersfield HD4 6TF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Simon Russell against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2016/65/90092/W, dated 31 December 2015, was refused by notice dated 22 March 2016.
 - The works proposed are a single storey extension to rear.
-

Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and listed building consent is refused for a single storey extension to rear.

Preliminary Matters

3. As the proposal affects a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The appellant has drawn my attention to an unspecified decision made by a planning inspector with regard to a previous application. As I have no details of this appeal or the full facts of that case before me I give this little weight in the balance of this appeal.

Main Issues

5. As the appeal site is within the Green Belt and the building is listed the main issues are:
- whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework 2012 (the Framework);
 - the effect of the proposal on the openness of the Green Belt;
 - whether the proposal would preserve a Grade II listed building, Clough Hall, and any of the features of special architectural or historic interest that it possesses; and
 - if the proposal is inappropriate development, whether the harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate

6. Paragraphs 89-90 of the Framework set out those categories of development which may be regarded as not inappropriate, subject to certain conditions. One of the exceptions is the extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building. An original building is defined in Annex 2 of the Framework as a building as it existed on 1 July 1948 or as it was originally constructed if it was built after this date. Consequently, when the relative size of a proposed extension is considered its mass is compared to the original extent of the building in combination with any later additions.
7. Whether the entire listed building is considered or the individual dwelling, it is clear that the combined massing, irrespective of the prominence and subservient nature of the proposed extension, would still be disproportionate. Furthermore, it is an undisputed fact that an extension on the side elevation of the dwelling has nearly doubled its original footprint and resulted in an increase in volume of at least 75%. The appellant is of the opinion that case law¹ has established that the extension would not be disproportionate or lead to encroachment. However, the cited judgement relates to the interpretation of a planning policy guidance document² which has since been superseded by the Framework and is therefore of little relevance within the current policy context.
8. As the development would not conform to any of the specified exceptions, I can find no support for the proposal in paragraph 89 of the Framework. Given that it is not one of the other forms of development specified in paragraph 90, I find that the proposal would amount to inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances.

¹ R (Heath & Hampstead Society) v. Camden LBC & Vlachos [2008] 3 All E.R. 80 (CA), [2007] 2 P. & C.R. 19 (High Ct).

² Planning Policy Statement 2: Green Belts (24 January 1995)

Openness

9. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. It follows that openness is defined by an absence of buildings or other forms of development. As openness of aspect is a characteristic quality of the countryside, a lack of visual prominence does not mitigate a loss of openness. In this instance the increased extent of building in combination with its later additions would cause significant harm to the Green Belt through the resulting loss of openness. The Framework advises that substantial weight should be attached to any harm to the Green Belt. I have attached such weight in this instance because of the harm that would be caused to the Green Belt by reason of the inappropriateness of the proposal and the loss of openness.

Listed building

10. Clough Hall was listed in 1978 and dates from the late 18th to early 19th century. The main elevation is constructed from red brick with stone quoins and flanked by two hammer-dressed stone façades that are set back from the central section. Flat-faced, two-bay mullioned windows characterise the first floor fenestration whilst three-bay windows characterise the ground floor. Notwithstanding the front porches and modern casement windows, this elevation remains more or less intact.
11. The rear elevation has been subject to more extensive, post construction modification in the form of ad hoc single storey and two storey extensions. Consequently, the only fabric that is visible, which indicates the original line of the rear façade, is associated with the appeal property and the upper section of the rear wall of the adjoining property. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the legibility of the original building line and the associated fabric.
12. The appeal property is one of four terraced dwellings situated in open countryside to the south of Huddersfield. An un-adopted track, Clough Hall Lane, runs immediately to the northwest parallel to the rear elevation of the terrace. The track is located on higher ground as a result of the terrace having been constructed within a cutting of a slope. The proposal comprises a ground floor, lean-to extension that would terminate just below the first floor window cills. The extension would be of limited depth and would not project beyond the rear wall of the adjacent property or the side extension of the appeal property.
13. I note from the plans and my site visit that it would lead to the loss of a window opening on the ground floor and obscure a significant proportion of what little remains of the original fabric of the rear elevation. This would reduce the legibility of this elevation and obscure a significant extent of its original fabric. I accept that the original line of the listed building would remain visible on the first floor. However, I find that the additional complexity resulting from a further ad hoc extension to the rear elevation would further erode the special interest and this would not be mitigated by the use of matching materials or its diminutive nature. Given the above, I find that the proposal would fail to preserve the special interest of the listed building and I consequently give this harm considerable importance and weight in the planning balance of this appeal.

14. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the extent of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
15. The appellant is of the opinion that the proposal would be beneficial because it would make the property more marketable through the introduction of additional facilities, i.e. a WC and a utility room. Whilst I accept that this would lead to a more modern layout, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence. The appellant has also suggested that wider economic benefits would accrue from a 'more vendible' property and the employment of local building contractors. However, these alleged economic benefits are based upon speculative assumptions that are not supported by the facts before me.
16. Given the above and in the absence of any substantiated public benefit, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 134 of the Framework and conflict with saved policy BE13 of the Kirklees Unitary Development Plan that seeks, among other things, to ensure that extensions retain the intrinsic value of listed buildings. As a result the proposal would not be in accordance with the development plan.

Other consideration

17. The Council is of the opinion that the majority of the proposed structure could be built under permitted development rights. However, I am not satisfied that this would constitute a viable fall-back position. This is because any implementation would be unlikely due to a requirement for listed building consent, as noted by the Council. Consequently, any such fall-back carries little weight in favour of the development because it does not represent an alternative that has a realistic chance of implementation.

Overall balance

18. The Framework states that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Substantial weight must be given to the harm to the Green Belt due to the inappropriate nature of the proposed development and the harm that it would cause to openness. Considerable weight must also be given to the harm that would be caused to the special interest of the listed building. As there are no substantiated benefits that would arise from the proposal I consider that, on balance, there are no factors that would outweigh the harm that would be caused to the Green Belt and the listed building.

Conclusion

19. Having considered all the matters in support of the proposal, I conclude that, collectively, they do not clearly outweigh the totality of harm and consequently very special circumstances do not exist to justify the development. Accordingly, the proposal would be inconsistent with the advice in the Framework. For the above reasons and having regard to all other matters raised, I therefore conclude that the appeals should be dismissed.

Roger Catchpole

INSPECTOR

Appeal Decision

Site visit made on 17 May 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 3rd August 2016

Appeal Ref: APP/Z4718/W/16/3145867

Holmfirth Vineyard, Woodhouse Farm, Woodhouse Lane, Holmbridge, Holmfirth, HD9 2QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Holmfirth Vineyard Ltd against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/91523/W, dated 18 May 2015, was approved on 7 September 2015 and planning permission was granted subject to conditions.
 - The development permitted is engineering works to form public area.
 - The condition in dispute is No.2 which states that: *"Notwithstanding the provisions of Schedule 2, Part 4 Classes A and B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) the public area outlined in red on the location plan shall not be used for any temporary material change of use and no building shall be erected upon it."*
 - The reasons given for the condition are: *"In the interest of visual amenity and to protect the openness of the green belt in accordance with Policies BE1 & BE2 of the Council's Unitary Development Plan and Chapters 7 & 9 of the National Planning Policy Framework."*
-

Decision

1. The appeal is allowed and the planning permission Ref 2015/62/91523/W for engineering works to form public area at Holmfirth Vineyard, Woodhouse Farm, Woodhouse Lane, Holmbridge, Holmfirth, HD9 2QR, granted on 7 September 2015 by Kirklees Metropolitan Borough Council is varied by deleting condition no.2.

Background and Main Issue

2. The appeal relates to an existing vineyard and winery located on the side of a valley above Holmbridge. In 2015 planning permission was granted for engineering works to create a broadly circular, flat area of land roughly in the middle of the vineyard (Ref 2015/62/91523/W). Despite being initially created to accommodate a marquee for the 2014 Tour de France, it now provides a flat area for visitors to use as part of organised tours of the site.
3. In granting planning permission the Council identified that the site occupies a prominent position and can be viewed from a number of vantage points. As such, and taking into account the appearance of a dome shaped marquee previously erected on the site, it was considered that a temporary structure would harm the character of the area which also falls within the Green Belt.

4. Condition no.2 therefore removes the appellant's rights under Schedule 2, Part 4, Classes A and B of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO).
5. In response the appellant states that the condition is unnecessary as the engineering works have already formed a public area that people can use, and that the GPDO only permits temporary buildings and moveable structures which have a limited visual impact. It is also argued that the erection of a marquee would require the submission of a planning application every time the appellant had an event, which unreasonably and unfairly restricts operation of the vineyard compared to other businesses nearby benefitting from such rights.
6. Taking this into account, the main issue is;
 - Whether or not condition no.2 is reasonable and necessary in the interests of the character and appearance of the area and the openness of the Green Belt.

Reasons

7. Schedule 2, Part 4, Class A of the GPDO relates to the provision of buildings or moveable structures required temporarily in connection with, and for the duration of, operations being carried out on, in, under or over the land. However, in this case the engineering operations required to construct the 'public area' have already been completed. The removal of Schedule 2, Part 4, Class A rights is therefore unnecessary, and this part of the condition fails to meet the relevant tests set out in the National Planning Policy Framework ('the Framework').
8. Schedule 2, Part 4, Class B allows any use of the land for not more than 28 days in any calendar year along with the provision of a moveable structure for the purposes of the permitted use. Essentially, condition no.2 prohibits the appellant from erecting a moveable structure such as a marquee for a wedding or function, for example.
9. During my site visit I saw that the circular grass mound at the vineyard is clearly visible from several public vantage points throughout Holmbridge. Views of the site are also possible from parts of Field End Lane and Roods Lane on the opposite side of the valley close to the boundary with the Peak District National Park. I therefore appreciate the concerns raised by the Council and local residents regarding the visual impact of a temporary structure such as a marquee.
10. However, advice contained in the National Planning Practice Guidance¹ states that conditions restricting the future use of permitted development rights or changes of use will "*rarely pass the test of necessity and should only be used in exceptional circumstances*". Although a marquee would be clearly visible on the appeal site, this would be the case for any number of fields along the Holme Valley, including elsewhere at the vineyard which is not bound by condition no.2. Moreover, by reason of its temporary nature, restricted to just 28 days in any one calendar year, the visual harm of a transient moveable structure would be limited.

¹ Paragraph: 017Reference ID: 21a-017-20140306

11. Based on the evidence provided and observations at my visit I am therefore not persuaded that the prominence of the site, or its designation as Green Belt land, amounts to the 'exceptional circumstances' necessary to justify the removal of permitted development rights as set out in the National Planning Practice Guidance. Consequently, the condition fails the test of necessity.
12. Furthermore, the vineyard is an existing, established business and clearly provides public tours and tasting alongside wine production. At present the appellant would have to prepare, submit and await the determination of a planning application each and every time they had a requirement to use the mound temporarily for another purpose. In the absence of any evidence to indicate that other businesses in the area have had permitted development rights removed for similar reasons, I consider that this places an unreasonable and disproportionate burden on the vineyard. The condition therefore fails the test of reasonableness.
13. It is also pertinent to consider that the GPDO does not permit the erection of substantial buildings with an element of permanence for prolonged periods of time. Thus, whilst I note local residents' apprehension about the appellant's intentions and reference to a large 'dome' on the site in the past, allowing the appeal would not permit the erection of a marquee with foundations, electrical connections and drainage for the duration of the summer months. Essentially, if a structure falls outside the scope of the GPDO, it would be enforceable by the Council. Schedule 2, Part 4, Class B also relates to the use of land for no more than "*28 days in total*", rather than necessarily consecutive days. Should the appellant wish to erect a structure for longer, or outside of the scope of the GPDO, it would require planning permission and would be subject to a planning application process.
14. That being the case, I have taken into account concerns that previous events at the vineyard resulted in noise nuisance due to the open nature of the site and congestion on local roads. Nonetheless, the Council has not raised any objections with regard to the living conditions of neighbouring residents or highway safety. There is also no information which points to any complaints being made to Environmental Health or the Highways Authority regarding noise nuisance or hazardous parking and/or congestion nearby. In the absence of any robust evidence to substantiate these concerns, they do not justify dismissing this appeal.
15. Finally, several representations submitted by local residents refer to the history of the site and assert that the appellant has continuously disregarded planning laws. However, issues relating to the use of buildings on the wider site or other developments, such as eco cottages and wind turbines, are not matters for me. Similarly, it is not necessary to determine whether or not the 'dome' like structure referred to by the parties, for which no plans have been provided, constitutes permitted development. Instead, I am required to consider the appeal on its specific merits, having due regard to relevant policy and guidance. Any issues relating to other forms of development or alternative uses would be for the Council to consider as required outside the scope of this appeal.

16. I therefore conclude that condition no.2 is neither necessary nor reasonable in the interests of the character and appearance of the area or the openness of the Green Belt. As a result, the removal of condition no.2 would not conflict with Policies BE1 or BE2 of the *Kirklees Unitary Development Plan* which, amongst other things, seek to ensure that all development is of good quality design, creates or retains a sense of local identity, is visually attractive, is in-keeping with surrounding development, takes into account topography and incorporates existing and proposed landscape features. For the same reasons there is also no conflict with the Framework in this regard.

Conclusion and Conditions

17. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed and condition no.2 deleted.
18. At the appeal stage the Council has requested that an additional condition is imposed specifying that the landscaping scheme (submitted to discharge condition no.1) is implemented within 1 month of the date of this decision. However, the condition already has an implementation clause requiring the works to be carried out within 1 month of their approval by the Council. It is therefore unnecessary to replicate this, which remains enforceable under planning permission Ref 015/62/91523/W.

Matthew Birkinshaw

INSPECTOR

Appeal Decision

Site visit made on 28 June 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 5 August 2016

Appeal Ref: APP/Z4718/W/16/3148639

**Master Pizza Bar, 75 Huddersfield Road, Holmfirth, West Yorkshire
HD9 3AS**

- 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 Abdul Latif against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/70/90010/W, dated 21 December 2015, was refused by notice dated 5 April 2016.
 - The application sought planning permission for change of use from bakery to pizza take-away (within a Conservation Area) without complying with a condition attached to planning permission Ref 2009/62/93008/W1 dated 13 May 2010.
 - The condition in dispute is No 4 which states that: the premises shall not be open to customers except between the hours of 1600 to 2300 on any day.
 - The reason given for the condition is: in the interests of preventing loss of amenity to residential properties in the vicinity of the site arising from noise, and in the interests of highway and pedestrian safety, and to accord with the aims of Policies S14, EP4 and T10 of the Unitary Development Plan and advice in PPG24-Planning and Noise.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from bakery to pizza take-away (within a Conservation Area) at Master Pizza Bar, 75 Huddersfield Road, Holmfirth, West Yorkshire HD9 3AS in accordance with the application Ref 2016/70/90010/W dated 21 December 2015, without compliance with condition number No 4 previously imposed on planning permission Ref 2009/62/93008/W1 dated 13 May 2010 but subject to the following conditions:
 - 1) The premises shall not be open to customers except between the following hours: -
 - a) 1600 to 2300 Sundays – Thursdays; and
 - b) 1600 to midnight Fridays and Saturdays
 - 2) The kitchen extraction and ventilation system shall be installed in total accordance with plan ref. FT2758/04 before the use as a hot food takeaway is commenced, and shall thereafter be operated in accordance with the manufacturer's instructions whenever the takeaway is in use and maintained in accordance with the operator's instructions.

Procedural Matters

2. Condition No 4 attached to the original planning permission, Ref 2009/62/93008/W1 restricted the opening hours of the appeal premises to between 1800 and 2300 on any day. That condition was substituted at appeal, Ref APP/Z4718/A/10/2133514, for another which extended the opening hours to between 1600 and 2300 on any day. In this case the appellant is seeking a further extension of the opening hours to between 1600 and midnight on Fridays and Saturdays. No change to the permitted hours of opening on Sundays –Thursdays is proposed.

Main Issue

3. The main issue in this case is whether condition No 4 is reasonable and necessary having regard to the effect of the proposed extended opening hours on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

4. The appeal premises are located on the A6024 on the fringe of the main shopping area of Holmfirth and within a short row of three-storey commercial units, some of which have living accommodation above. There are residential properties nearby, both opposite the site, on neighbouring Beech Street and Huddersfield Road to the northeast. At the time of my visit none of the neighbouring commercial units were in use as food or drink establishments, nor did they appear to open late into the evening.
5. The premises are currently able to open until 2300 hours on any day. The Planning Practice Guide advises that a temporary permission may be appropriate where a trial run is needed to assess the effect of the development on the area. For a six month period during 2015, the Council granted a temporary consent to allow opening between 1600 and midnight on Fridays and Saturdays. These are the hours the appellant is seeking to establish permanently in this case.
6. I have had regard to the most recent appeal decision relating to the appeal premises,¹ where the Inspector dismissed an appeal to vary the opening times on Fridays and Saturdays to between 1600 and 0100 hours on the following day. However, the appeal proposal is for more restrictive opening hours than those considered by the Inspector in that appeal. Moreover, the hours proposed in this case have been previously trialled for a six month period through the implementation of the temporary consent described above. The Council Officer's report states that during the six month period of later opening, no complaints relating to the use of the appeal premises were received by Environmental Services, Licensing Services or West Yorkshire Police.
7. I accept that the nature of a hot foot takeaway is that many customers will come by car and wish to park as close as possible to the premises. I also recognise that there is no parking restriction outside the neighbouring residential properties during the evening period, and therefore some additional noise may be generated by visitors or delivery vehicles parking close to the premises during the late evening hours proposed. However, the site is in a sustainable location, close to the commercial centre and there is a public car

¹ APP/Z4718/A/13/2190469

park only a couple of minutes walking distance away. Furthermore, evidence provided by the appellant suggests that during the trial period, business generated during the extra hour was predominantly through delivery orders rather than passing trade.

8. I accept that increased opening hours would have some impact on the living conditions of nearby residents with regard to noise and disturbance. However, noise levels on a Friday and Saturday evening in this location are already likely to be above those that could be expected on a weekday evening. In view of the evidence provided by the 6 month trial run, and for the reasons given above, I am not persuaded that any additional noise and other disturbance would be to an unacceptable level.
9. I conclude that the proposed extension of opening hours would not cause significant or demonstrable harm to the living conditions of nearby residents, with particular regard to noise and disturbance. I therefore find neither conflict with Policies EP4 and S14 of the Kirklees Unitary Development Plan which seek to protect the amenities of residential properties, nor conflict with one of the core planning principles of the National Planning Policy Framework to provide a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

10. There is no substantive evidence before me to indicate that the proposal would give rise to an increase in anti-social behaviour in the area, and problems of illegal parking on this section of Huddersfield Road should be addressed through the appropriate enforcing authority.
11. The appeal proposals are located within the Holmfirth Conservation Area. However the Council has not raised any issues with regard to the effect of the proposal on the conservation area. I find no reason to disagree, and I am satisfied that the character and appearance would be preserved.

Conclusion

12. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed. The planning permission I have granted allows the appeal premises to open between 1600 and 2300 Sundays to Thursdays and between 1600 and midnight on Fridays and Saturdays. A condition limiting opening hours is necessary to prevent activity late at night to protect the living conditions of neighbouring residents. The condition previously imposed relating to odour control is also required to protect the living conditions of neighbouring residents. Given that the change of use has already taken place, there is no need for a commencement condition.

Elizabeth Pleasant

INSPECTOR

Appeal Decision

Site visit made on 5 September 2016

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 08 September 2016

Appeal Ref: APP/Z4718/D/16/3154064

133 Helme Lane, Meltham, Holmfirth HD9 5RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Wood against the decision of Kirklees Council.
 - The application Ref 2016/62/90975/W, dated 22 March 2016, was refused by notice dated 3 June 2016.
 - The development proposed is a first floor rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension at 133 Helme Lane, Meltham, Holmfirth HD9 5RL in accordance with the terms of the application, Ref 2016/62/90975/W, dated 22 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15/352/02, 06 and 07.
 - 3) The materials used in the construction of the external surfaces of the extension hereby permitted shall match those of the existing dwelling.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; and whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The proposal would result in a modest 1.9 metres deep first floor extension to the rear of the property. Policy D11 of the Kirklees Unitary Development Plan 1999 requires that when assessing extensions to properties in the Green Belt consideration should be had for the impact on openness and the character of the Green Belt; the size of the extension in relation to the original building which should remain dominant; and the effect on the character of the building.
-

4. The *National Planning Policy Framework* advises that new buildings should be regarded as inappropriate unless they fall within an exception set out in paragraph 89. This allows for extensions providing they do not result in disproportionate additions over and above the size of the original building. Generally, the Council's policy is consistent with the Green Belt and design requirements of the *Framework* and it can be afforded significant weight.
5. The planning history indicates that a two storey extension, a porch and a single storey rear extension have been added to the dwelling. A garage has also been permitted and erected. The Council consider that the garage represents an extension to the dwelling. The appellant has provided figures that indicate that the proposal, together with the existing works, would represent a 37% increase in volume compared to the original dwelling. These figures do not appear to include the front porch or the garage. The appellant does not consider that the garage should be considered as an extension.
6. The garage is physically and visually distinct from the dwelling. It is separated from it by the driveway and its forecourt. Although it remains ancillary to the use of the dwelling and within its curtilage, it represents a building in its own right rather than an extension to the house. The front porch is of modest proportions and would not add significantly to the calculations provided by the appellant. No calculations have been presented by the Council and they have not had an opportunity to dispute the figures provided. However, I have no reason to doubt their accuracy.
7. An increase in the volume of the house by just over a third would not cumulatively, in my view, represent disproportionate additions over and above the size of the original dwelling. The works would not have a significant impact on the openness of the Green Belt. I am satisfied that the proposal would fall within the exceptions set out in paragraph 89 of the *Framework* and would not represent inappropriate development within the Green Belt. Very special circumstances are not therefore necessary to justify the proposal.
8. Cumulatively, the works would not significantly alter the character or appearance of the property. The new extension would be of a satisfactory design and of matching materials. It would not therefore conflict with Policy D11 or the additional design requirements of Policies BE1 and BE2. Overall, I do not find that there are any matters that weigh against the proposal. I therefore allow the appeal.
9. I have imposed conditions relating to the commencement of development and the details of the approved plans for the avoidance of doubt and in the interests of proper planning. I have required that the materials match to ensure that the development would have a satisfactory appearance.

Peter Eggleton

INSPECTOR

Appeal Decision

Site visit made on 23 August 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 15th September 2016

Appeal Ref: APP/Z4718/W/16/3152204

79 Greenhead Road, Huddersfield, Kirklees, HD1 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Akram against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/92881/W, dated 9 September 2015, was refused by notice dated 26 April 2016.
 - The development proposed is the erection of two one bed flats.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of two one bed flats at 79 Greenhead Road, Huddersfield, Kirklees, HD1 4EZ in accordance with the terms of the application, Ref 2015/62/92881/W, dated 9 September 2015, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1156.2; 1156.3; 1542.1; 1542.2; 1542.3A; 1542.4; 1542.5B; Section; Second Floor.
 - 2) No dwelling shall be occupied until the first floor window in the side elevation has been obscurely glazed. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the obscure glazing shall thereafter be retained.
 - 3) Notwithstanding condition 1) no dwelling shall be occupied until revised details of the car parking arrangements have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No dwelling shall be occupied until the parking arrangements have been laid out in accordance with the approved details, and thereafter shall be kept available at all times for those purposes.

Main Issues

2. The main issues are the effect of the development on, firstly, the character and appearance of the host building and the surrounding area and, secondly, the living conditions of future occupiers with regard to access to amenity space and adequate parking provision.

Reasons

Character and appearance

3. The appeal building has already been constructed, and most of its external design was approved by the local authority under application ref 2011/93075. The additional door and windows that are proposed have already been installed. The building is located on a corner plot, opposite the Greenhead Park Conservation Area.
4. The exterior of the building, aside from the proposed door and fenestration details, has already been approved by the Council. The appearance of the development has therefore already been largely accepted. In this context, I do not consider that the proposal constitutes an overdevelopment of the site or an incongruous feature within the street. Whilst the door and fenestration details differ slightly from the original semi-detached properties, this difference is not significant, and does not unacceptably harm the appearance of the building.
5. The rear car parking area has also been previously approved by the Council. Having viewed the parking area on my site visit, I am satisfied that this does not unacceptably harm the appearance of the area.
6. The contrast between the new brickwork and the original brickwork in the front elevation is not significant, and is likely to be due to accumulated soot and weathering of the older bricks. This difference will lessen over time as the newer bricks age. The contrast is more pronounced on the rear elevation, which may be due to the use of stock rather than facing bricks on the rear of the original properties. However, this elevation is less prominent and does not face the Conservation Area. Again, this contrast will lessen over time.
7. For these reasons, I conclude that the development would not unacceptably harm the character and appearance of either the host building or the surrounding area. It would therefore be in accordance with Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan. It would also accord with the National Planning Policy Framework which seeks to secure good design.

Living conditions

8. The proposed apartments would not have access to private amenity space, other than that located to the front of the building. In addition, the existing parking area to the rear would be subdivided between the proposed and existing apartments.
9. The proposed apartments are one bedroom units and therefore do not comprise family accommodation. As I observed on my site visit, they are also only a short distance from Greenhead Park. In these circumstances, I do not consider that the lack of private amenity space would be unacceptably harmful.
10. Turning to parking provision, the Council have expressed concern regarding the ability to safely manoeuvre in and out of the four proposed spaces. However, the Council's Highways Officer has suggested that a solution would be to widen each of the existing spaces to three metres in width. This could be achieved by using the land on either side of the proposed spaces (as I observed on my site visit). This land already comprises hardstanding and other hard landscaping, and the wider spaces could therefore be accommodated without any unacceptable harm to the character and appearance of the area. Accordingly, I

am satisfied that this area is capable of accommodating the wider parking spaces that are required. Revised parking arrangements to reflect this could be secured through a suitably worded condition.

11. I conclude that the development would not unacceptably harm the living conditions of future occupiers with regard to access to amenity space and adequate parking provision. It would therefore be in accordance with Policies D2, BE1, BE2, T10, and T19 of the Kirklees Unitary Development Plan. It would also accord with the National Planning Policy Framework which seeks to ensure a good standard of amenity for future residents.

Other Matters

12. The first floor window in the side elevation of the building would overlook the front garden and habitable room windows of the property on the opposite side of Springwood Hall Gardens. However, this matter could be resolved by a condition requiring this window to be obscurely glazed.
13. The Council has not objected to the development on the grounds of highways safety, and I see no reason to take a different view in this case.

Conditions

14. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. I have imposed a condition that requires the development to accord with the approved plans. This is for the avoidance of doubt and in the interest of proper planning. I have also imposed a condition that requires obscure glazing to be used in the first floor window in the side elevation of the building. This is necessary in order to protect the privacy of neighbouring properties.
15. I have imposed a condition that requires the submission of revised parking arrangements to be submitted to and approved in writing by the local planning authority. This is necessary to ensure that parking spaces of sufficient width are provided that allow for safe and convenient manoeuvring. In addition, I have imposed a condition that requires the revised parking arrangements to be laid out before the development is occupied. This is necessary to ensure that future occupants of the development have access to these facilities.
16. Separately, a condition requiring the brickwork to be altered to match that of No 79 is not necessary, for the reasons set out above.

Conclusion

17. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

KIRKLEES COUNCIL
PLANNING SERVICE
LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
PLANNING SUB COMMITTEE (HUDDERSFIELD AREA)

27-Oct-2016

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS

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

Simon Taylor – 01484 221000

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

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

PLANNING POLICY

The statutory development plan comprises the 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 will be 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.

Content

Application No: 2016/90477	9
Type of application: 62 - FULL APPLICATION	
Proposal: Alterations to convert outbuilding to holiday accommodation	
Location: adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL	
Ward: Holme Valley South Ward	
Applicant: D Trueman	
Agent: Andy Rushby, Assent Planning Consultancy Ltd	
Target Date: 14-Apr-2016	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	
Application No: 2015/93754	34
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of single storey cattery building	
Location: adj 49, Stirley Hill, Almondbury, Huddersfield, HD4 6TX	
Ward: Newsome Ward	
Applicant: A Murray	
Agent: Chris Gentle, Northlight Architecture Ltd	
Target Date: 22-Jan-2016	
Recommendation: RF1 - REFUSAL	
Application No: 2016/91729	44
Type of application: 62HH - FULL APPLICATION	
Proposal: Erection of side extension to form garage, demolition of existing porch	
Location: 3, Syke Bottom, Penistone Road, New Mill, Holmfirth, HD9 7DQ	
Ward: Holme Valley South Ward	
Applicant: I Ewart	
Agent: Dan Hockey, Hockey Architectural Limited	
Target Date: 19-Jul-2016	
Recommendation: RF1 - REFUSAL	
Application No: 2016/90245	53
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of one dwelling (within a Conservation Area)	
Location: Land at, 1, Carr Top Lane, Golcar, Huddersfield, HD7 4JB	
Ward: Golcar Ward	
Applicant: T Smith	
Agent: Michael Townsend, Townsend Planning Consultants	
Target Date: 22-Mar-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2016/92257	65
Type of application: 62HH - FULL APPLICATION	
Proposal: Erection of rear dormer window (within a Conservation Area)	
Location: 27, Rumbold Road, Edgerton, Huddersfield, HD3 3DB	
Ward: Greenhead Ward	
Applicant: T Ahern	
Agent: Michael Walker, Brunswick Architectural	
Target Date: 05-Sep-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2016/91431	72
Type of application: 65 - LISTED BUILDING	
Proposal: Listed Building Consent for installation of replacement shopfront, signage and internal alterations (within a Conservation Area)	
Location: 7-9, Cross Church Street, Huddersfield, HD1 2PY	
Ward: Newsome Ward	
Applicant: G Bateha	
Agent: Ruzha Sirmanova, Acumen Designers & Architects Ltd	
Target Date: 28-Jun-2016	
Recommendation: CR1 - REFUSAL OF CONSENT	
Application No: 2016/92739	80
Type of application: 62HH - FULL APPLICATION	
Proposal: Erection of single storey rear extension	
Location: 40, Briarlyn Avenue, Lindley, Huddersfield, HD3 3NN	
Ward: Lindley Ward	
Applicant: M Whitehead	
Agent:	
Target Date: 25-Oct-2016	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	

Application No: 2016/90477

Type of application: 62 - FULL APPLICATION

Proposal: Alterations to convert outbuilding to holiday accommodation

Location: adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL

Grid Ref: 411535.0 406485.0

Ward: Holme Valley South Ward

Applicant: D Trueman

Agent: Andy Rushby, Assent Planning Consultancy Ltd

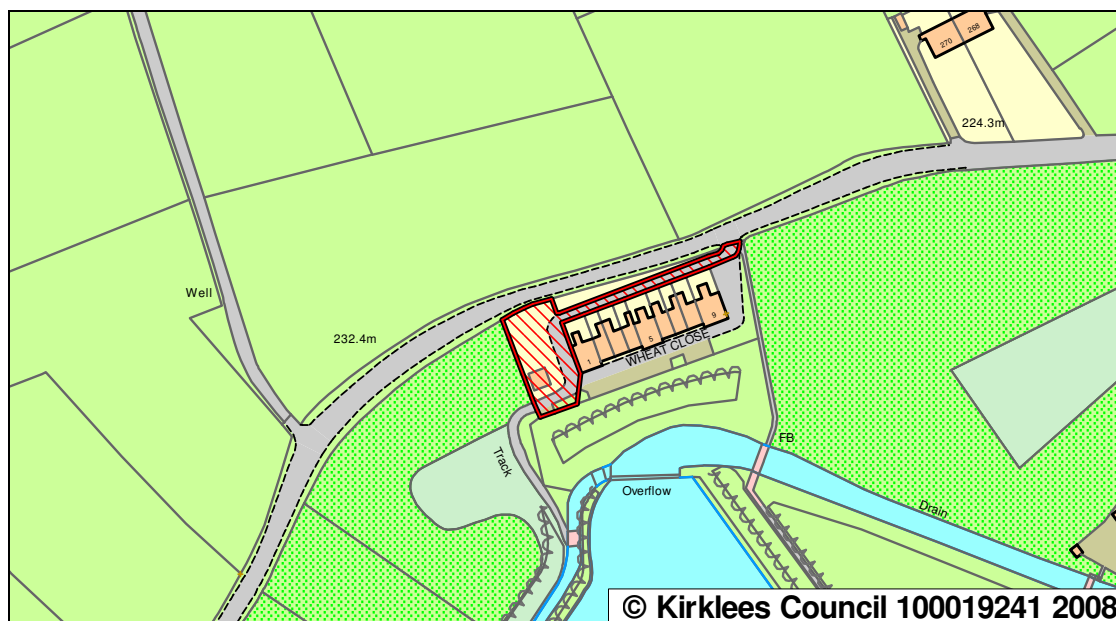
Target Date: 14-Apr-2016

Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF THE APPLICATION

The application seeks planning permission to convert an existing outbuilding in the green belt into holiday accommodation. The proposal, taking into account the additional information reported to Members, is still considered not to adversely impact the character of the area, the openness or character of green belt, highway safety or residential amenity.

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- 2. Impose all necessary and reasonable conditions; and**
- 3. Subject to there being no material change in circumstances, issue the decision.**

2. INFORMATION

The application was previously reported to the Huddersfield Sub-Committee on the 30th June 2016 under the Delegation Agreement at the request of Councillor Donald Firth for the following reasons:-

- Change of use from garage to living accommodation no planning permission
- Using it as Holiday accommodation
- Lack of parking already parking at a premium, plus sight lines into Woodhead Rd very poor
- Site visit required and committee decision

- Another retrospective plan

Members resolved to approve the application in line with the officer recommendation stated below:-

“To grant full planning permission subject to delegation of authority to Officers to:

1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;
2. Impose all necessary and reasonable conditions; and
3. Subject to there being no material change in circumstances, issue the decision”.

Following the meeting on 30th of June, complaints were made by a local resident and ward councillors that information relevant to the determination of the application was not included in the committee report and that the discussion at the meeting did not clearly identify the enforcement planning

history. Officers considered that the issues raised warranted returning this application to the sub-committee to ensure that the decision made by the sub-committee is robust and based upon knowledge of all relevant planning matters. Due to the complaints made, the application has also been under review by the Director of Place. Members will recall that the application was scheduled to be reported to sub-committee on the 4th of August 2016 but was deferred, at the request of officers, to allow the review to be completed. This review, concluding that the application should be reported back to planning committee, has now been completed.

The application is thus reported back to committee with the agreement of the Chair.

This is for Members to reconsider the application taking into account the enforcement history of the site and a more detailed account of a letter of neighbour representation which was not fully summarised within the previously submitted report (this includes a number of photographs submitted with the representation) and other letters of neighbour representations received since the sub-committee meeting on 30th June.

Enforcement History

In October 2001, a complaint was logged to planning enforcement for this site regarding the alleged erection of a garage and change of use of land to garden, both elements which are subject to this application. The complaint was investigated and closed with no further action taken on the matter for the following reasons:-

1. During that time, it appeared that the land in question may have been used for residential purposes for a period of more than 10 years preceding 2001; as such, permitted development rights would apply; and
2. Given the established residential use of the land, planning permission was not required for the construction of the detached double garage as it complied with the guidelines for permitted development set out in the Town and Country Planning (General Development) Order 1995 (as amended) at that time.

The investigation concluded that there was no breach of planning control subject to the height of the garage not exceeding 4 metres in height. On this basis it was considered to be 'permitted development'. As such, there were no grounds for enforcement action to be taken during the time the enforcement issue was raised to the Local Planning Authority.

The complainant was informed in writing on 06 November 2001 that the investigation was being closed and the reasons for this (stated above).

It is noted that this view differs from that set out in the Committee Report of the 30th June which considered the building in question would probably not be considered a curtilage building but was immune from Enforcement Action by reason of time. Members are advised that the earlier assessment from 2001,

that the construction of the building under Permitted Development Rights was lawful, should be used as the starting point in the determination of this application.

In 2009, a noise complaint was logged to Environmental Services which included a query with regards to the lawfulness of the garage building. The complainant stated that the building had been fitted out as a bar, pool room and dog shelter. It was stated that the structure did not have planning permission. This query was forwarded on to Planning Enforcement and no action was taken as the building did not require planning permission and it remained ancillary in terms of use to the host property at no. 1 Wheat Close. In addition Ward Members have previously stated that further complaints have been raised to planning enforcement with regards to the lawfulness of the building and its use.

As a response to these issues it is important to make reference to The Town and Country Planning General Permitted Development Order 2015 (as amended). This allows, in Schedule 2, Part 1, Class E for the provision and alteration of any building for a purpose 'incidental' to the enjoyment of the dwellinghouse.

In this case it is alleged that the building is occupied by the son of the occupiers of the host property – 1 Wheat Close. In these circumstances the judgment in *Uttlesford District Council v Secretary of State for the Environment and White [1991]* is relevant. This case and later case law has established that planning permission is not required to convert a garage in a residential curtilage to an annexe capable of independent accommodation, provided both it and the existing dwelling remain in the same planning unit. As there has been no information submitted alluding to the use of the building as a separate planning unit, the occupation of the garage in this manner would not require planning permission.

For clarity Section 171b of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control consisting in the carrying out without planning permission of building operations, no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. In the case of any other breach of planning control, which in this case would be the material change of use of land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

In this case the garage was completed around the end of 2001 and the enforcement officer who investigated the complaint in 2001 considered that the 'garden' area associated with no. 1 Wheat Close may have already been used for residential purposes for 10 years and the building comprises permitted development at the time. On this basis, the building operations were considered to be carried out under Permitted Development Rights and any material change of use of land to create the garden area would have been

immune from enforcement action. The use as of the garage as an annex incidental to the principal dwelling would also not require planning permission.

Representations

In the previous report submitted to sub-committee on this application one letter of neighbour representation was not fully summarised within the "Representations" section of the report. As such, the representation is set out in more detail for members' information:-

There is a history going back to 2000 (reference 92801) when outline planning permission was refused for the building of a dwelling house. Both the Holme Valley Parish Council and Kirklees Council were in agreement.

Response: The planning application history of the site has previously been acknowledged within the report submitted to members (please refer to full report below for details). However it is recognised that the Enforcement History of the site was not fully set out in the 30th June 2016 report.

The small stretch of land to the side of no 1 had previously been an access road for Yorkshire Water's reservoir keeper. This was included in the sale to the current former Yorkshire Water owners of no1.

Response: The location of the proposed parking area for the holiday let was amended to ensure that the development would not obstruct this access road (please refer to full report for further information).

Over the years they made every effort to achieve their initial desire to have a home there for their adult son. After the refusal of the outline planning they built two garages on the plot, which quickly became a large well fitted interior when they removed the garage doors and installed a bar, and wood burning stove. In the last 5 years or so, they installed a toilet and shower. The son regularly stays in this annex. As he has been resident there for some years they then applied for a new " underground" double garage at the side of the existing pair of garages (currently garden) in 2012 ref 91536 and this too was rejected. Separately two years ago the family applied for an extension at the side of their house for the kitchen, and no objections were made on this occasion from any of us in the row and this was granted.

Response: It is recognised that the concerns of local residents and ward councillors as to the creation of a dwelling in this location has been tried previously but in this instance as the original outbuilding is lawful, and the internal fit out of the building is not within the control of the planning system, the assessment of the application has to be based upon this starting point. The planning history and enforcement history of the site has been considered; however, the application has been determined on its own merits and if it is approved measures would be taken via a legal obligation to ensure that the unit is not used a residential dwelling (please refer to full report for details).

All the residents in the row felt from the outset that another house at the end of the row was inappropriate in an already congested, privately owned close, where parking is at a premium, and where development so close to the Peak Park, and an area of High Landscape value, would not be in keeping or desirable. But to now want to convert the double garage into a holiday let seems even more unacceptable. There simply is nowhere for visitors to park that would not further inconvenience residents and their own visitors. But more important still is the idea that by stealth, the garages have become the dwelling house that was refused in 2000

Response: The matters relating to impact of the proposal on the character of the area, parking and highway safety has been assessed within the full report previously submitted to committee (please refer to full report for further information). Given the size and sitting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed holiday let which has its own parking space would, even with it receiving visitors, be significant or cause demonstrable harm that would warrant a reason for refusal.

I currently reside next door at 2 Wheat Close, and own 3 Wheat Close, where my mother lived until her death three years ago, and we jointly own no 8 Wheat Close. Marcus Kilpin at no 4 is also angered at this new application. As we are all responsible for paying a share of the Tarmac drive round the terrace, and would all experience the inconvenience of having more cars coming around the private row of properties all the residents should have been consulted by No 1 prior to the application being submitted. No such moves were made to discuss these plans with me or Mr Kilpin as the closest neighbours to the garages, as a matter of courtesy.

Response: Pre-application consultations are not a requirement to validate planning applications and as such this is not a material planning consideration to the determination of this application. Given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

I hope that the Committee is in agreement again, in wanting to stop this undesirable and impractical application that is done by stealth and without regard to previous decisions made and resident's concerns. I am attaching photos showing the congestion currently with residents' cars and the access road to the wooden gate that YW requires at all times, meaning this gravel drive should not be used for parking for any visitors. The photos also show how the garage doors have been removed, with Windows now installed at the left for the toilet and shower, in front of the Windows is a fishpond and to the right-hand side, where there was the other garage door, is a now a dog kennel.

Response: The photographs will be shown to members for consideration.

The complainant also raised further issues in their correspondence with Officers post 30th June sub-committee which is outlined below.

1. Why the reasons cited in the refusal of the 2000 outline application for a detached dwelling would not still apply to the current application for the use of the building as a holiday let.

Response: The 2000 outline application, which predated the construction of the garage/outbuilding, was for a new build dwelling in the Green Belt with a new vehicular access. The construction of new buildings in the Green Belt is deemed inappropriate development save for limited exceptions as set out in Chapter 9 of the NPPF. The construction of ancillary residential outbuildings is one such form of development that can be accepted in the Green Belt, as it can constitute 'permitted development' within Part 1 of the General Permitted Development Order 2015, and the 1995 Order this replaced. The re-use of an existing building of permanent and substantial construction in the Green Belt to alternative uses is also an acceptable form of development in the Green Belt. As the current application seeks to re-use an existing building and utilise the existing driveway, rather than construct a new access, the 2 main reasons cited in the 2000 reason for refusal would not still be relevant to the current application. The third reason for refusal relating to sustainability considerations (i.e. access to public transport and local amenity facilities) is still relevant but the nature of the holiday let would likely result in users visiting the facility by car and therefore having access to local amenities and services. The 30th June Committee Report included a proposed condition to require an electric vehicle charging point to be installed to off-set the impacts on the environment from the reliance by private car for occupiers of the holiday let.

2. There is a long strip of land to the front of the whole row of houses in Wheat Close currently in use for parking is currently rented by the occupants of the terrace except 9 Wheat Close, under contract (contract signed in 2015) from Yorkshire. It allows two parking spaces for each house, or to extend the garden where there is only one parking space needed. However, under the terms of the contract Yorkshire Water can require them, with only three months' notice to demolish the walls, remove the backfill and vacant the land, at their own cost. This is to ensure that if they require access for works on the spillway or reservoir, they have not lost the right to bring heavy plant machinery on site. This was the case four years ago. Should YW require us to remove the wall and infill, several of the houses would lose their second car parking space and they, along with any visitors, would be forced to park on Woodhead Road, which is a 60mile an hour speed limit highway, and which has no pavement to either side of the road. A row of parked cars on the Woodhead Road would pose an immediate hazard to cars travelling at high speed, and would seriously restrict vision for residents seeking to enter the Woodhead Road. It would be an accident waiting to happen. If the holiday let is approved and in the future YW demands the demolition of our extra parking and gardens, then congestion and hazards would be even worse than now for residents.

Response: Officers do agree that such a scenario as described by the complainant would reduce the amount of available parking spaces serving the dwellings along Wheat Close and potentially give rise to highway safety issues. However, the existing outbuilding is not located within the strip of land identified and does not currently provide any parking provision for the host property at no 1 Wheat Close. As previously stated in the report submitted to committee on the 30th of June, the outbuilding has been domesticated and the hardstanding area to the front of building has been occupied by the timber store and dog pen along with a wooden hot tub. As such, its use as a holiday home would not affect existing parking arrangements. In terms of the parking for the proposed holiday let, the application proposes to remove the wooden tub, timber store and dog pen to accommodate one parking space for the holiday let. This as mentioned with the original report submitted to committee is sufficient for the development proposed. As such, in the event of the scenario mentioned above, sufficient parking would be retained for the proposed development. Furthermore, as previously stated within this report given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

3. The complainant wrote to the Jason McCartney MP stating the following

" I am writing now with some urgency, as I understand Planning have completed their investigation re the application to convert a double garage at 1 Wheat close into a holiday let (a house by any other name) Below is the decision the Councillors made in 2000 rejecting their earlier application for a house on that site. A house would " injuriously affect the rural character of this area of high landscape value". Clearly nothing has changed since then. All the reasons given for refusal in 2000, should apply now in 2016, so it beggars belief that Kirklees have to date, recommended approval. Also below is the decision notice refusing an application at 1 Wheat Close for a further double garage on that site (meaning there would have been 4 garages for one house at this side of green belt) and again all those reasons should still apply now. Also I have informed Planning that the land to the front is already congested, and if we loose the rented strip of land from Yorkshire Water, we would be forced to park additional cars on the busy narrow Woodhead Road. There are so many good reasons to refuse this application, particularly to prevent a precedent being set ... In that if someone applies for a house on their land and it is refused, all they need do is build a double garage, then convert it later into a holiday let, QED. "

The MP sought confirmation that correct procedures are being followed and was informed of the handling of the application as detailed earlier within this report.

As for the matters raised relating to the planning history of the site in terms of the 2000 application for a dwelling and the impact of the proposal on the character of the area, these have been addressed within the report previously submitted to committee and also within this report. The other application

referred to was submitted in 2012 under application ref: 2012/91536 seeking planning permission for the erection of single storey extension and double 'underground' garage with garden terrace above in front of the dwelling at no. 1 Wheat Close. This was refused on the grounds that:-

"The engineering operations required to accommodate the underground garage, do not take account of the topography of the site or the adjacent land/area and would detract from the natural environment and visual amenity of the area. Furthermore the proposed underground garage, due to its size, scale and siting would adversely affect the openness of the Green Belt. As such the proposed development would be contrary to the National Planning Policy Framework and Policy BE2 of the Unitary Development Plan."

The reason for this refusal cannot be applied to this application as it relates to the re- use of an existing building and would not comprise any engineering operations. The re-use of an existing building in the Green Belt to alternative uses can form an acceptable form of development in the Green Belt.

A petition with four signatures was also received following the 30th of June committee raising objections to the application for the following reasons:-

Proposal would add to our already congested parking problems

Response: The matter relating to impact of the proposal parking and highway safety has been assessed within the full report previously submitted to committee and also within this report. It is considered that the development proposed is unlikely to affect the existing parking arrangements.

Spoil enjoyment of our homes

Response: The matters relating to impact of the proposal on residential amenity has been assessed within the full report previously submitted to committee (please refer to full report for details).

The garage should never have been allowed

Response: The planning and enforcement history relating to the erection of the garage has been addressed within this report (please refer to enforcement history section). When the garage was erected, it was considered, in accordance with planning regulations at the time that it comprised development that did not require planning permission.

The garage is surrounded by land owned by Yorkshire water

Response: This is acknowledged but is not considered to prejudice the application.

Site has planning refused for a house, nothing has changed since then to merit approval now

Response: The planning history of this site was considered in the report previously submitted to committee along with this report (please refer to both of these reports for details).

Is it next to green belt and a row of quiet residential homes

Response: The application has been considered against green belt policies, and impact of the development on the surrounding residential properties has also considered, please see 30th June Committee Report for further information.

The parish council rejected the application and the council should do too

Response: The parish council objected on the basis that the proposal has insufficient parking. It is considered that adequate parking is provided for the development proposed and given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

The Parish Council also stated that garage was unsuitable for residential use or holiday accommodation. If this proposal is approved, measures would be taken via a legal obligation to ensure that the unit is not used a residential dwelling. As for its use as holiday accommodation as this would be for temporary periods officers consider the development to be suitable (please refer to full report for details). As for its residential use ancillary to the existing dwelling at no. 1 Wheat Close, this would not comprise development that requires planning permission.

Unilateral Obligation

Due to the size of the building, as previously reported to committee on 30th June 2016, it would not offer a good standard of amenity for future occupants were it to be permanently occupied as a residential dwelling, however is considered acceptable for temporary occupancy as a holiday let. In addition, the use of the building for permanent residence could lead to pressure for it to be extended which would adversely affect the openness of the green belt. Thus it is considered necessary to secure a legal obligation, in the form of a Unilateral Undertaking, to limit the occupation to holiday accommodation. The precise terms of the Undertaking have yet to be agreed but in general the local planning authority would be seeking to secure the following:-

1. The outbuilding to be in use as a holiday let for a period of no more than 9 months in any given year excluding certain times of the year i.e. the November, December and January;
2. Limiting the occupancy of the outbuilding as a holiday let for up to a maximum of 28 days at a time to individual residents with a requirement to have a minimum of 14 days no return between bookings; and
3. Requiring the applicant to maintain a register of occupation which can be requested by the local planning authority at any given time.

Conclusion:

The additional information outlined within this report, provides clarity on the enforcement history of the site which had not been provided within the initial report submitted to committee. The concerns stated within the letter of neighbour representation can be considered fully by Members and are now addressed within the report. Other issues raised in further representations received are also stated and addressed within this report.

The proposal, taking into account the additional information reported to Members together with the original report, is still considered not to have a materially adversely impact on the character of the area, the openness or character of green belt, highway safety or residential amenity. Accordingly, as per the previous recommendations, officers recommend approval of the scheme.

3. RECOMMENDATION

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- **Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- **Impose all necessary and reasonable conditions, which may include those set out below; and**
- **Subject to there being no material change in circumstances, issue the decision**

1. The development hereby permitted shall be begun within three years of the date of this permission.

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

3. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and retained as such thereafter.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no extensions or outbuildings included within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

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

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

Plan Type	Reference	Version	Date Received
Location Plan	Tru.15/01		22/02/2016
Existing Topographical Plan	Tru.15/03		22/02/2016
Existing Elevations	Tru.15/05		22/02/2016
Existing Floor Plans	Tru.15/04		22/02/2016
Proposed Topographical Plan	Tru.15/08c		21/04/2016
Proposed Floor Plan	Tru.15/06b		21/04/2016
Proposed Elevations	Tru.15/07b		21/04/2016
Planning Statement			11/02/2016

REPORT FROM HUDDERSFIELD SUB-COMMITTEE 30 JUNE 2016

1. SUMMARY OF THE APPLICATION

The application seeks planning permission to convert an existing outbuilding in the green belt into holiday accommodation. The proposal would not adversely impact upon the character of the area, the openness or character of green belt, highway safety or residential amenity.

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- 2. Impose all necessary and reasonable conditions; and**
- 3. Subject to there being no material change in circumstances, issue the decision.**

2. INFORMATION

The application is reported to the Huddersfield Sub-Committee under the Delegation Agreement at the request of Councillor Donald Firth for the following reasons:-

- Change of use from garage to living accommodation no planning permission
- Using it as Holiday accommodation
- Lack of parking already parking at a premium, plus site lines into Woodhead Rd very poor
- Site visit required and committee decision
- Another retrospective plan

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

3. PROPOSAL/SITE DESCRIPTION

Site Description

The application site measures approximately 0.05 hectares and currently comprises a single storey detached outbuilding that is constructed in stone and designed with a gable roof that is finished in grey slate. It features a timber store and dog pen to the front elevation. There also appears to be a wooden hot tub to the front of the building. The building is located to the south of the site and to the north is some timber decking and sheds.

The site is currently in use in association with the dwelling at no. 1 Wheat Close. It is surrounded by a small woodland to the west, open undeveloped fields to the north, a row of nine terraced properties to the east and Brownhill Reservoir to the south. The terrace, along with the outbuilding, share a common access point via Wheat Close which is taken off Woodhead Road. A public footpath (Hol/88/10) runs off Woodhead Road from the access point to the far east of the site. It is separated from the site by the existing terraced dwellings and access road. The surrounding area is of rural character and it is allocated as Green Belt land within the UDP.

Description of Proposal

The application seeks planning permission for alterations to convert the existing outbuilding into holiday accommodation.

It was originally proposed that the existing store and dog pen structure to the front of the building is replaced by an extension to facilitate the conversion. However, during the course of the application amended plans were sought to remove the proposed extension so that the proposal would not result in greater impact on the openness of the green belt in comparison to existing development on site.

The proposal now seeks to remove the existing store and dog pen to the front of the building and convert the resultant outbuilding into holiday accommodation. No additional extensions are proposed to the building and the only external alterations would be the addition of new windows and doors.

The unit would contain a single bedroom, living space, kitchen and shower room. The unit would provide internal floor space of approximately 28.9 square metres.

Access to the holiday accommodation would remain as existing, via a common access point off Woodhead Road, and one parking space would be provided to serve the accommodation in front of the building. The siting of the parking space was modified during the course of the application to address concerns raised by K.C. Highways Development Management that its previous location would obstruct what appeared to be an access track to the adjacent reservoir, south west of the site, and beyond.

4. BACKGROUND AND HISTORY

In 2000 an outline application reference 2000/92801 was submitted for the erection of 1 detached dwelling on this site which was refused on the following grounds:-

1. The site lies within an area which has received approval as Green Belt within which it is intended that new development be severely restricted. The proposal would be unrelated to any existing settlement and extend an existing isolated group of dwellings and injuriously affect the rural character of this area of high landscape value and would therefore be

contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan, such development is neither appropriate to the Green Belt nor are there any special reasons why it should be permitted in this case.

2. The formation of a new vehicular access, together with the associated removal of stone walling, formation of adequate visibility splays and loss of existing landscaping would be detrimental to the appearance and openness of the Green Belt and an Area of High Landscape Value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan.
3. The site lies in an isolated rural location outside walking distance of a regular bus service and the proposal is therefore considered unsustainable taking into account the advice contained in PPG13 Transport Para 3.2 relating to the avoidance of sporadic housing development in the countryside.

This application related to green field land within the green belt that had not been previously development. In addition, planning policy has changed since then, in particular the introduction of the NPPF, and the context and character of the site has also changed since. As such, this decision holds very limited weight in the determination of this application.

Following on from this refusal, historic maps indicate that a building was erected on this site in the period between 2000 and 2002. It is unlikely that this land would have been considered to be curtilage land for the dwelling at no. 1 Wheat Close and therefore the building would have required planning permission; however, there is no planning history relating to it. According to Section 171b of the Town and Country Planning Act 1990 (as amended) where there has been a breach of planning control consisting in the carrying out without planning permission of building, no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. Given the time that has lapsed since the building was erected, it is now immune from planning enforcement as the building operation was undertaken more than 4 years ago.

For members' information, within the letters of neighbour representation received, it has been stated that the outbuilding has been used as ancillary accommodation for approximately five years.

5. PLANNING POLICY

Kirklees Unitary Development Plan

BE1: Design Principles

BE2: Quality of Design

EP6: Development and Noise

D12A: Re-use of Buildings in the Green Belt

T10: Highway Safety

National Planning Policy Framework

Core planning principles

Part 1: Building a strong, competitive economy

Part 3: Supporting a prosperous rural economy

Part 6: Delivering a wide choice of quality homes

Part 7: Requiring good design

Part 9: Protecting green belt land

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment

6. CONSULTATIONS

K.C. Highways Development Management - No objections subject to conditions on the amended scheme.

7. REPRESENTATIONS

The original submitted scheme (comprising a front extension) was publicised by a press and a site notice and neighbours were notified; three letters of neighbour representations were received raising, in summary, the following matters:-

- Proposal would spoil rural area
- Access would be via a shared drive and proposal may increase the cost of repairs of the drive
- Property already has four cars parking and only pay one ninth of the upkeep of the drive
- Proposal would increase traffic and noise and encourage trespassing

When amendments were made to the scheme; a further two letters of neighbour representation were received raising, in summary, the following matters:-

- The application is on land that has already been refused several times before
- The garage was initially built without planning permission in the first instance
- Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house
- Proposal would give rise to highway safety issues
- An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason

Holme Valley Parish Council object to the application, on the grounds that this is inappropriate development and has insufficient parking. The Parish Council agreed that the garage was unsuitable for residential purposes/holiday accommodation and, therefore, the unauthorised work already carried out to combine the garages and install windows and door was a 'planning enforcement' issue. The Clerk was authorised to report the issue to the Kirklees Enforcement Officer accordingly.

8. ASSESSMENT

General Principle / Policy:

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

In part 9, the NPPF identifies protecting green belt land as one of the elements which contribute towards sustainable development. It states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; as such, it regards the construction of new buildings and other forms of development in the green belt as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90.

Paragraph 90 of the NPPF permits the re-use of buildings provided that the buildings are of permanent and substantial construction, subject to the development not prejudicing the openness of the green belt or the purposes of including land within it. Following a site inspection, the existing outbuilding appears to be in good condition and of substantial and permanent construction capable of conversion. The building is constructed in stone and designed with a slate gable roof. The alterations proposed would not prejudice its structural integrity and the elements which were not of substantial construction (timber store and dog pen) would not form part of this proposal. The development proposed would result in the reduction in scale of the existing building due to the proposed removal of the existing dog pen and store to the front elevation, reducing the impact on openness of the green belt when compared to the existing development on site. The alterations proposed to the building would not increase its size. The whole application site appears to have been in use in association with and as part of the curtilage of land serving the dwelling at no. 1 Wheat Close for a period of over ten years. The land to the north of the outbuilding comprises timber decking and sheds. Given the domesticated nature of the site, it is not considered that the proposed use, despite being commercial in nature, would result in greater impact upon the openness of the green belt. Given these considerations, it is opined that this proposal constitute appropriate development within the green belt in accordance with paragraph 90 of the NPPF.

In a recent Court of Appeal judgement, *Lee Valley Regional Park Authority v Epping Forest DC* 22 April 2016, the Judge outlined that “development that is not, in principle, “inappropriate” in the Green Belt is...development “appropriate to the Green Belt”. The judge commented that, on a sensible contextual reading of paragraphs 79 to 92 of the National Planning Policy Framework, appropriate development is not regarded as inimical to the fundamental aims or purposes of green belt designation. On that basis, he noted, appropriate development does not have to be justified by very special circumstances. In light of this, it is considered that by reason of its appropriateness in line with Paragraph 90 of the NPPF, the development proposed is not contrary to the aims and function of the green belt.

The NPPF also encourages the planning system to support sustainable economic growth in general and in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This proposal would result in an income generating venture which, albeit on a minor scale, would contribute to the local economy. The venture would have limited impact on the character of the countryside given the domesticated nature of the existing site and the removal of the dog pen and store to the front would reduce the visual impact of building when considered from the wider open undeveloped land to the south of the site. The site is located in very close proximity to the Brownhill Reservoir thus can also support tourism in this location.

The proposal comprises development that is appropriate within the green belt and would encourage sustainable economic growth. Its location in the rural area means the proposal would support rural economy; however, the application site is relatively isolated from established residential areas and has no service provision. It is likely that the occupiers of the holiday accommodation would rely on the surrounding urban areas for provision of goods and services and therefore would be reliant on motor vehicles which would mean that the development would not contribute to mitigating climate change. However, consideration has to be given to the fact that the proposal would result in the creation of a small one bedroomed holiday accommodation, thus the number of people and vehicles likely to use the accommodation would be low. Its use as a holiday accommodation, located adjacent to the reservoir is also likely that people would be travelling from various areas to access the facility. Furthermore the structure is existing and the reuse of a substantially complete building is sustainable.

Objections have been raised that the proposal is paramount to a new dwelling within the green belt. This matter has been carefully considered given that accepting the principle of holiday accommodation in this location would mean accepting a C3 (dwelling house) use. The level of accommodation provided is small but acceptable for holiday accommodation as it would not be permanent home of the occupants and they would occupy the unit for a short period of time. However, as permanent accommodation the unit would offer a poor standard of amenity.

While the council does not have space standards, in 2015 the government provided a document titled “Technical housing standards – nationally described space standard” which set out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy. It states that a one bedroomed property serving one person should at least have the floor space of at least 37 square metres and a one bedroomed property serving two persons should at least have the floor space of at least 50 square metres.

The proposed unit would have internal floor space of approximately 28.9 square metres. While space standards are purely guidance, they provide a good indication that the unit would not provide a good standard of amenity for permanent occupants. Part of the core planning principles outlined within the NPPF is the requirement for planning to always seek a good standard of amenity for all existing and future occupants of land and buildings. In addition, the use of the building for permanent residence could lead to pressure for the building to be extended which would affect the openness of the green belt. On this basis, the applicant (through the agent) has agreed to a legal agreement which will ensure that the building will stay in use solely as holiday accommodation and thus would not be used as a dwelling. The legal agreement would limit the periods of occupation for the building and excluding certain months of the year. The applicant (through) the agent has also agreed to keep occupation records of the units.

The introduction of the NPPF however does not change the statutory status of the development plan as the starting point for decision making. The application seeks planning permission for the change of use of an existing outbuilding within the green belt to a holiday accommodation.

Policy D12A of the UDP states that when planning permission is granted for the re-use of buildings in the green belt conditions will be imposed removing permitted development rights from specified areas within the associated land holding where the erection of structures permitted under the general permitted development order would prejudice the openness and established character of the green belt.

The UDP thus does not restrict the re-use of buildings provided that permitted development rights are removed where necessary and wherever possible to preserve the openness of the green belt. This application seeks change the use of an existing outbuilding into a holiday accommodation. Holiday accommodation is within the same use class C3 as residential dwellings. While a legal obligation can secure the use of the property as holiday accommodation and is not permanently occupied and used a dwellinghouse, it does not restrict permitted development rights afforded to building by virtue of its C3 use. As such, it is considered to be reasonable and necessary to restrict erection of further extensions on this site in order preserve the openness of the green belt and ensure that the development would not result in greater impact upon the openness of the green belt.

It is acknowledged that the proposal would give rise to unsustainable travel patterns for the resultant occupiers of the proposed holiday accommodation.

However, subject to controlling occupation to this use, the proposal would result in the reuse of an existing building, the provision holiday accommodation, would promote economic growth and a prosperous rural economy on a small scale, and comprises development that is acceptable within the green belt and would not compromise the existing character of the countryside. On balance, the scheme comprises of development that is not contrary to the overarching intentions of the NPPF as a whole and the benefits to be had from this proposal and its appropriateness is considered to significantly and demonstrably outweigh the harm which would result from unsustainable travel patterns. Accordingly, subject to appropriately addressing other planning matters, this proposal is acceptable in principle.

Impact on Amenity:

Apart from removing the existing timber store and dog pen to the front of the existing building, the proposal would not result in any significant alterations to the building that would alter its existing character. The elements to be removed would improve the visual amenity of the building and reduce its scale and prominence within its countryside setting. It is therefore not considered that this proposal would harm the openness or character of the green belt or the rural character of the area.

Given the above considerations the proposal is considered to be compliant with Policies BE1 and BE2 of the Kirklees Unitary Development Plan and the guidance contained within Chapter 7 and 9 of the NPPF.

Impact upon Residential Amenity:

The nearest dwelling to the proposed holiday accommodation is the host property at no. 1 Wheat Close located approximately 10.5 metres to the east of the site. The proposed holiday accommodation would directly face a section of the side gable of this property which does not include any habitable room windows. The north facing windows on the holiday accommodation would also not comprise habitable room windows as the kitchen is separated from the living space. As such, there will be no adverse overlooking or overbearing impacts to the occupiers of the existing dwelling or future occupiers of the proposed holiday accommodation.

The holiday accommodation would include a habitable room window to the rear which would retain a separation distance of approximately 1.5 metres to the boundary shared with the undeveloped adjacent land to the west. This is acceptable in the case as the land comprises a woodland and is within the green belt; thus, the likelihood of it becoming built upon are relatively slim. It is therefore considered that on balance, in this case, the reduced distances are acceptable.

As previously outlined within the “General Principle / Policy” section of this report, the existing building is small in scale and would provide very limited internal space for the occupants. However, on the basis that the proposal is for holiday accommodation and would not be a permanent home for the

occupants, the size of the accommodation proposed is considered to be acceptable. As previously discussed, a legal agreement will secure the use of the building solely as holiday accommodation.

Concerns have been raised within the letters of neighbour representation that the proposal would give rise to noise levels in the area. When considering the scale of the development proposed, it is likely that only a small number of people would be accommodated in the holiday home at any given time. As such, the proposal is unlikely to give rise to significant material increase in noise levels that would unreasonably harm the living conditions currently enjoyed by the occupiers of neighbouring properties.

Given the above considerations, this proposal would not adversely affect the amenities of the occupiers of existing properties within the vicinity and the level of amenity provided for the use proposed is acceptable subject to a legal obligation securing its use. The proposal thus complies with Policy EP4 of the UDP and the guidance contained within paragraph 17 of the NPPF.

Highway Issues:

The proposed holiday accommodation will be access off a private road which serves all the existing dwellings located along Wheat Close. One parking space is proposed to serve the development.

Objections have been received on the basis that the proposal would give rise to highway safety issues. K.C. Highways development management have considered the scheme and noted that Wheat Close not an adopted highway but it is well surfaced and maintained and there are no underlying road safety issues at the junction of Wheat Close and Woodhead Road. Accordingly, the access is acceptable. The single parking space proposed is also acceptable as it is proportionate to the development proposed. In addition, the amended location of the parking is away from the existing unadopted highway; thus, it would have no impact on existing parking provision or access. On this basis they do not have any objections to the scheme subject to a condition requiring the proposed parking to be adequately drained and surfaced; a condition which is reasonable and necessary in the interest of sustainable drainage and highway safety.

Subject to conditions, the proposal would not give rise to any highway safety issues and would comply with Policy T10 of the Kirklees Unitary Development Plan.

Other matters:

Footpath

There is a public footpath within the vicinity of the site to the east. Due to the nature of development proposed and the distance it retains (approximately 71 metres) to this footpath, this proposal is not considered to affect this footpath.

Air Quality

NPPF Paragraph 109 states that “ the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.....” The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point which can be accessed by the occupiers of the holiday accommodation. This in turn can impact on air quality in the longer term.

Representations:

The matters raised within the letters of neighbour representations have been carefully considered and are addressed below:-

Original scheme

Proposal would spoil rural area

Response: The assessment of the development proposed within the “principle of development” and “impact on amenity” section of the report concludes that the amended proposal would not adversely affect the character of the rural area.

Access would be via a shared drive and proposal may increase in the cost of repairs of the drive

Response: This is a private matter that is not material to the determination of this application.

Property already has four cars parking and only pay one ninth of the upkeep of the drive

Response: This is a private matter that is not material to the determination of this application.

Proposal would increase traffic, noise and trespassing

Response: The assessment of the development proposed within the “highway issues” and “impact upon residential amenity” section of the report concludes that the proposal would not give rise to highway safety issues no adversely affect the amenities currently enjoyed by the occupiers of neighbouring properties. With regards to trespassing it is a private matter that is not material to the determination of this application.

Amended scheme

When amendments were made to the scheme; a further two letters of neighbour representation were received raising, in summary, the following matters:-

The application is on land that has already being refused several times before.

Response: History of the application is considered however each application determined on its own merits

The garage was initially built without planning permission in the first instance.

Response: Given the time that has lapsed since the garage was erected it would now be immune from enforcement action.

Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house

Response: This matter has been addressed within the "background and history".

Proposal would give rise to highway safety issues

Response: The assessment of the development proposed within the "highway issues" section of the report concludes that the proposal would not give rise to highway safety issues.

An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason

Response: This matter has been addressed within the "general principle / policy" section of this report.

Conclusion:

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

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

9. RECOMMENDATION

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- 2. Impose all necessary and reasonable conditions, which may include those set out below; and**
- 3. Subject to there being no material change in circumstances, issue the decision**

1. The development hereby permitted shall be begun within three years of the date of this permission.

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

3. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and retained as such thereafter.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no extensions or outbuildings included within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

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

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

Plan Type	Reference	Version	Date Received
Location Plan	Tru.15/01		22/02/2016
Existing Topographical Plan	Tru.15/03		22/02/2016
Existing Elevations	Tru.15/05		22/02/2016
Existing Floor Plans	Tru.15/04		22/02/2016
Proposed Topographical Plan	Tru.15/08c		21/04/2016
Proposed Floor Plan	Tru.15/06b		21/04/2016
Proposed Elevations	Tru.15/07b		21/04/2016
Planning Statement			11/02/2016

Application No: 2015/93754

Type of application: 62 - FULL APPLICATION

Proposal: Erection of single storey cattery building

Location: adj 49, Stirley Hill, Almondbury, Huddersfield, HD4 6TX

Grid Ref: 414695.0 413364.0

Ward: Newsome Ward

Applicant: A Murray

Agent: Chris Gentle, Northlight Architecture Ltd

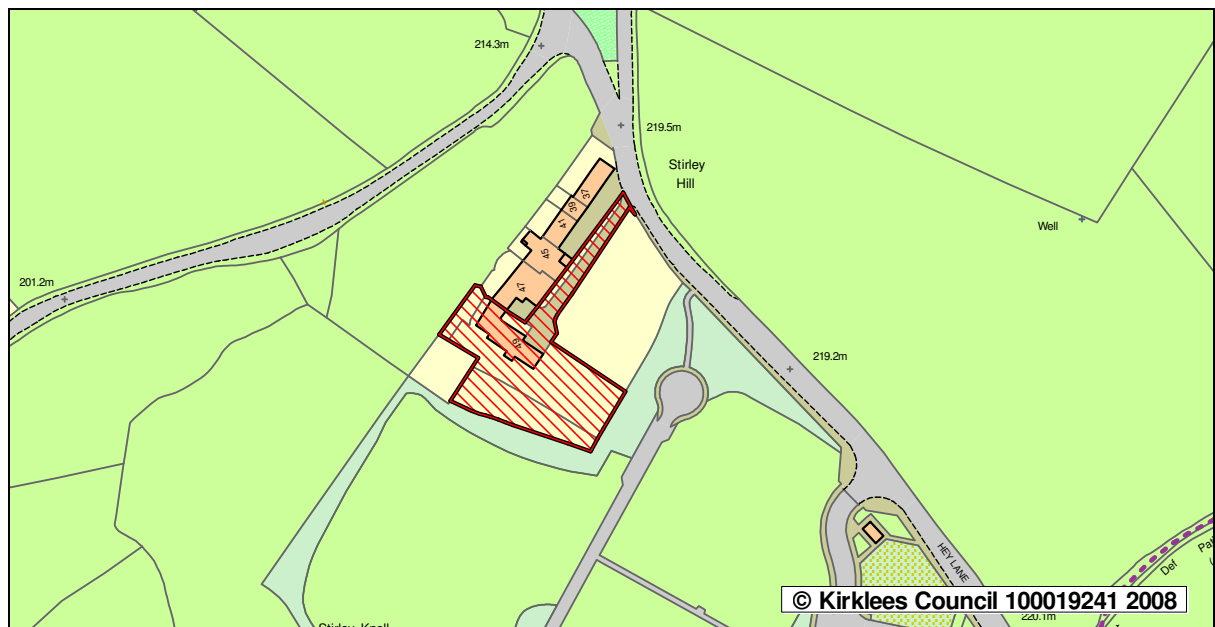
Target Date: 22-Jan-2016

Recommendation: RF1 - REFUSAL

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY

The erection of a building to accommodate a cattery is, by definition, inappropriate development in the Green Belt as set out in Chapter 9 of the National Planning Policy Framework (NPPF). Officers consider that the very special circumstances set out by the applicant do not clearly outweigh the harm to the openness of the green belt by reason of inappropriateness and other harm.

Recommendation: Refuse

2. INFORMATION

The application is brought to Huddersfield Sub Committee at the request of Councillor Andrew Cooper who states:

“My understanding is that you are recommending refusal on the basis that it is inappropriate development in the Green Belt. I've visited the site and it is sheltered by hedges and the single storey holding would be largely unseen from most vantage points. As a non-residential building for housing animals it is little different from many agricultural buildings that are allowed in the Green belt.

There are no objections from neighbours or other interested bodies to my knowledge?”

The chair of sub-committee has confirmed that Councillor Cooper's reasons for making the request are valid having regard to the Councillor's protocol for Planning Committees.

3. SITE DESCRIPTION

No. 49 Stirley Hill is a stone end terraced dwelling. It benefits from a small rear extension (2002/90751). The site includes a grassed area to the southeast and southwest of the dwelling which is considered to be curtilage for the dwelling. The applicant currently runs 'Petwatch' (dog and small animal boarding service) from the dwelling and the business provides part time employment for two residents of the property.

There is an area of hardstanding at the front of the application site (at the head of the driveway) which provides parking for at least two vehicles.

Surrounding the site is open land to the northwest and south. To the south east and south west of the site is a cemetery (approved under 2012/91726) and to the north, there are 5no. two-storey dwellings which are all accessed from a shared driveway with no. 49 Stirley Hill off Hey Lane. Approximately 1 mile to the northeast of the site is Castle Hill (comprising the Grade II listed Victoria tower and scheduled monument).

The site is allocated as Green Belt in the UDP.

4. DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a single storey cattery building. The cattery would be located to the southwest of the dwelling approximately 10 metres from the main building. The cattery would be constructed in a U shape with the following dimensions:

Height – 2.15 metres in overall height, 2 metres to the eaves

Length – 10.95 metres (southern elevation), 8.95 metres (northern elevation)

Overall width – 10 metres (north western elevation)

The building will be externally faced in timber cladding for the external walls, felt for the flat roof and timber for the openings. A safety porch will be constructed from galvanised metal mesh screening.

The cattery will provide 13 pens, an isolation area, a preparation area and a reception area.

Information submitted with the application states that pick up and drop off would be arranged by appointment. The hours of opening are as follows:

8am – 12pm, 2pm – 7pm (Monday to Friday)

10am – 12pm, 2pm – 4pm (Saturday and Sunday)

Vehicular access to the application site would be from Stirley Hill via the existing driveway and 3 customer parking spaces and 2 private spaces will be accommodated. There would be no vehicular access to the cattery itself.

5. RELEVANT PLANNING HISTORY

2012/91726 – Change of use of agricultural land to form a new cemetery and associated works APPROVED

2005/94086 – Change of use and landscaping works to extend garden REFUSED

2006/91659 – Physical alterations to allow for environmental improvement scheme APPROVED (land to the rear no. 45 Stirley Hill)

2002/90751 – Erection of conservatory APPROVED (no. 49)

6. REPRESENTATIONS

The application has been publicised by neighbour letter and site notice (erected on 9th December). The initial publicity expired on 30th December 2015. No neighbour representations were received.

The amended highways site plan (including alteration to the red line boundary) was re advertised by neighbour letter. Final publicity expired on 14th October 2016. No neighbour representations have been received.

As seen in Section 2 of this report, Councillor Cooper has requested that the planning application is determined by at sub-committee for the reasons in section 2. Councillor Cooper's points will be addressed in section 9 of the assessment of this report.

7. CONSULTATION RESPONSES

K.C. Highways – Following the receipt of amended plans, Highways Development Management have no objections to the proposal (informal confirmation). The proposed sight lines are adequate and the passing place ensures that there is sufficient space to allow two vehicles to pass at the end of the driveway.

K.C. Environmental Services – no objections provided the use is solely for a cattery.

K.C. Business and Economy/ Regeneration – “supports the application due to the fact that the cattery would sustain jobs”.

K.C. Arboricultural Officer – no objections (informal consultation).

K.C. Conservation and Design – no objection with regards to the impact on the setting of Castle Hill (informal consultation).

8. POLICY

The site is allocated as green belt on the UDP Proposals Map

Kirklees Unitary Development Plan:

- **BE1** – Design principles
- **BE2** – Quality of design
- **T10** – Highways Safety
- **T19** – Parking Provision
- **EP4** - Noise and Development
- **NE9** – Retention of mature trees
- **B5** – Extension of business premises

National Planning Policy Framework (NPPF)

- **Chapter 3** – Supporting a prosperous rural economy
- **Chapter 7** – Requiring good design
- **Chapter 9** – Protecting the Green Belt
- **Chapter 12** – Conserving and enhancing the historic environment

Other documents:

- Castle Hill Setting Study (August 2016). This document has been produced by Atkins (commissioned by Kirklees Council) to assess the impact of development on the setting of Castle Hill. The document has been accepted by Kirklees Council and Historic England and is used as an evidence base for the local plan. The document is considered to be a material consideration in determining planning applications (the weight given to this is assessed on a case by case basis).

9. ASSESSMENT

The following matters are considered in the assessment below –

- 1) Principle of development: green belt issues
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters (ownership, trees and impact on Castle Hill)
- 5) Representations
- 6) Conclusion

1. Principle of development:

Chapter 9 of the National Planning Policy Framework states that the Government consider that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essence of characteristics of the Green Belt being their openness and permanence.

The framework states that the construction of new buildings is inappropriate development in the green belt unless they fall within an exception set out in paragraph 89. The provision of a cattery does not fall within any of the purposes listed within the above paragraph and therefore represents inappropriate development in principle. In such circumstances the NPPF clarifies that 'substantial weight should be given to any harm to the Green Belt'.

Impact on the openness and harm to the green belt

Openness is an essential characteristic of the green belt and could be defined as the absence of buildings or other forms of development. The proposal of a new build cattery on land that is currently undeveloped would be harmful to the green belt's permanence and openness. The erection of the building would also be contrary to one of the 5 purposes of the green belt which is to protect the countryside from encroachment as the cattery would extend the built form of the terraced row into an open grassed area.

It acknowledged, in terms of visual amenity and considering the development against Policies BE1 and BE2 of the UDP, that there would be no harm on the wider street scene, that the built form would not harm the character of the area (given its varied nature) and the materials, design and scale of the

cattery are acceptable. However, this is given very limited weight when assessed against the harm to the green belt by reason of inappropriateness.

Where development is considered to be inappropriate in the green belt planning permission should not be granted except in “very special circumstance”. The NPPF clarifies that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Very special circumstances

The applicant has provided a planning statement highlighting the very special circumstances that they believe mitigate the impact of a new building on open land to clearly outweigh harm to the green belt.

1. Extension of existing ‘Petwatch’ business. It would provide full time employment for 2 people (rather than part time for 2 people). Proposed employment which supports a rural business is a clear benefit.
2. The cattery is proposed within the curtilage garden of no. 49 Stirley Hill, not the open countryside. There is nowhere within the existing dwelling to accommodate the required space.
3. The building would be single storey, flat roofed and constructed of timber. Design similar to that of a domestic outbuilding.
4. Would be permitted development if its use was for keeping livestock and pets. The fact that this is for a rural business and not domestic use is not a reason to justify refusal.
5. Existing hedging and trees surround the site. Little/ no visual impact when viewed from outside the site.
6. No extension to existing hard surfacing is required.
7. Cemetery next door has visual impact on openness

Whilst the applicant states that the above very special circumstances clearly outweigh the harm on the openness of the green belt and that the proposal does not conflict with the 5 purposes for including land within it, in the opinion of officers this is not the case. The below paragraph is a response to each of the applicant’s very special circumstances.

The LPA’s response to very special circumstances

1. The Council’s Business and Economy/Regeneration team support the proposal on the basis that it will sustain two jobs. This follows the guidance in Chapter 3 of the NPPF regarding economic growth in rural areas. Policy B5 of the UDP is also supportive of extensions to business subject to a number of criteria. However, whilst the cattery would provide new full time employment for occupiers of the dwelling (the equivalent of one new full time job) this is not considered to be a significant expansion of a rural business that would increase prosperity of the local area to such an extent that it would clearly outweigh established green belt policy.

2. The garden of no. 49 Stirley Hill is in the green belt and therefore the erection of the building to accommodate a separate planning unit (the cattery business) is inappropriate in principle, and therefore, by definition, harmful to the green belt. Chapter 9 of the NPPF is relevant whether the land is located in the curtilage of a dwelling or the open countryside.
3. Although the building is of an acceptable design and palette of materials and is not visible from most vantage points, this does not clearly outweigh the harm by reason of inappropriateness, harm to openness of the green belt or the encroachment of development into the countryside.
4. The building's scale and design is reflected in its proposed use as a cattery and therefore a comparison with a domestic outbuilding for purposes incidental to the enjoyment of the dwelling is not realistic. This is not a viable fall-back position.
5. It is acknowledged that the cattery would not be very visible. However, a lack of visual prominence does not mitigate the harm on the openness of the green belt. The cattery would be erected on currently undeveloped land which would inevitably harm openness.
6. The proposal of the cattery itself is not in accordance with NPPF Chapter 9 with regards to being inappropriate development in the green belt. The lack of additional hardstanding does not mitigate this.
7. The agent has commented that the cemetery in close proximity of the site was allowed despite its harm on the openness of the green belt. However, facilities for cemeteries can be considered to constitute appropriate development in the Green Belt provided it preserves its openness (and does not conflict with the purposes of including land in it). In this case, from reading the officer report (approval 2012/91726), the cemetery would not harm the openness for a number of reasons. The two applications cannot be compared.

In this case, the very special circumstances do not provide significant benefits that would be considered to clearly outweigh the harm to the green belt and the proposal does not accord with Chapter 9 of the NPPF.

2. Impact on residential amenity:

The siting of the proposed cattery building itself is a significant distance from the neighbouring dwellings, and would be obscured by the host dwelling. In these circumstances the building would not have a material impact on the occupiers of neighbouring dwellings.

Whilst the nature of the development may lead to some noise/disturbance to the residential dwellings in close proximity to the site from the comings and goings associated with the business, the Council's environmental health team has raised no objection to the proposal provided this is retained solely as a cattery. This would minimise noise and, if combined with a further condition limiting the opening hours the cattery is open for animals to be dropped off and picked up, would ensure the business is not too restrictive for the applicant whilst safeguarding the amenity of surrounding occupants.

In conclusion, it is considered that the proposal would be acceptable in terms of residential amenity. The application would be compliant with policy BE1 of the UDP and core planning principles of the NPPF.

3. Impact on highway safety:

Due to the nature of the development, the cattery will lead to an intensification of the site (despite not being a significant traffic generator). For this reason, highways safety is an important consideration.

Initially, Highways Development Management raised concerns relating to substandard sight lines and insufficient access width. The sight lines to the right were substandard and the access would not allow two vehicles to pass.

Following the receipt of amended plans, the impact on highways safety is acceptable and the proposal is in accordance with UDP policy T10. Following an informal consultation with Highways Development Management, the sight lines are adequate in both directions and a widened passing place ensures two vehicles can pass each other. Vehicular access to the proposed cattery is not proposed.

Additionally, the applicant has shown parking spaces for 3 customers and two private parking spaces. Given the relatively small scale of the cattery, in which up to 13 cats can be accommodated, this parking provision is acceptable. The proposal is also in accordance with UDP policy T19.

4. Other matters:

Ownership – The amended plans show a red line around the area for the proposed sight lines. This has been amended during the course of the planning application to overcome highways concerns. The agent on behalf of the applicant has confirmed that all the land within the new red line is within the ownership of the applicant. The revised red line has been re-advertised for 14 days and as stated above, no neighbour representations have been received.

Trees – There is a large Sycamore tree located in the southwest corner of the site and therefore Policy NE9 regarding the retention of mature trees would normally be relevant. However, the case officer has had an informal consultation with the Arboricultural officer and there is no objection to the

development. The tree is not protected and does not provide a significant amount of amenity value to the surrounding area. For this reason, there would be no need for a condition to ensure its protection should planning permission be granted.

Setting of Castle Hill (*Grade II listed building and scheduled ancient monument*) -

The Castle Hill Setting Study shows that the application site is located within the “critical zone” of proximity to Castle Hill. For this reason, a heritage impact assessment would normally be required if the development was deemed to impact on its setting.

Whilst paragraph 128 of the NPPF states that the significance of heritage assets and their setting should be assessed when determining planning applications, in this case the Conservation and Design officer considers that this is not required.

The cattery is relatively small in scale and given the fact that the cattery is proposed proximate to existing built form (the row of dwellings to the northwest of the site) as well as not being directly adjacent to Castle Hill, the proposal will not have an impact on the setting of Castle Hill. Additionally, these are the reasons why the application has not been advertised as affecting the setting of Castle Hill.

5. Representations:

No representations have been received from neighbours following a consultation of the original and amended plans.

Councillor Cooper’s representation requesting the application is heard at sub-committee relates to the following issues:

- Cattery sheltered by hedges/ would be largely unseen from most vantage points
- As a non-residential building for animals, it is not different from many agricultural buildings allowed in GB
- No neighbour objections have been received

The paragraph below is the officer response to Councillor Cooper’s comments:

- Whilst it is acknowledged that the cattery would not be visible in the streetscene or from land surrounding the site, a lack of visual prominence does not mitigate the harm to the Green Belt by reason of inappropriateness or other harm.
- A cattery does not fall within the definition of agriculture (section 336 of the TCPA) which is an exception to the normal presumption against the erection of new buildings in the green belt (para. 89). Agricultural uses are of a ‘rural’ nature which may be considered as compatible with the

openness of the green belt. It is a business being run from a domestic property.

- It is noted that there have been no objections from neighbours. The reason for refusal is not related to residential amenity.

6. Conclusion:

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which set out that the development should be restricted.

10. RECOMMENDATION

REFUSE

1. The proposed cattery would constitute inappropriate development in the green belt which would adversely impact the openness of the green belt and result in encroachment of development into the countryside. No very special circumstances have been demonstrated that clearly outweigh the harm to the Green Belt by reason of inappropriateness or other harm. The erection of the cattery would therefore fail to comply with Chapter 9 of the National Planning Policy Framework.

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

Plan Type	Reference	Version	Date Received
Design and access statement	15-0849/D&A Statement	-	24.11.2015
Proposed site block and location plan	(AL) 02	A	29.9.2016
Revised elevations	(AL) 01	B	07.10.2016
Supplementary statement with specific reference to green belt policy	Malcolm Sizer Planning Ltd.	-	13.4.2016
Planning statement	15-0849/planning statement	-	11.2.2016

Application No: 2016/91729

Type of application: 62HH - FULL APPLICATION

Proposal: Erection of side extension to form garage, demolition of existing porch

Location: 3, Syke Bottom, Penistone Road, New Mill, Holmfirth, HD9 7DQ

Grid Ref: 418030.0 408583.0

Ward: Holme Valley South Ward

Applicant: I Ewart

Agent: Dan Hockey, Hockey Architectural Limited

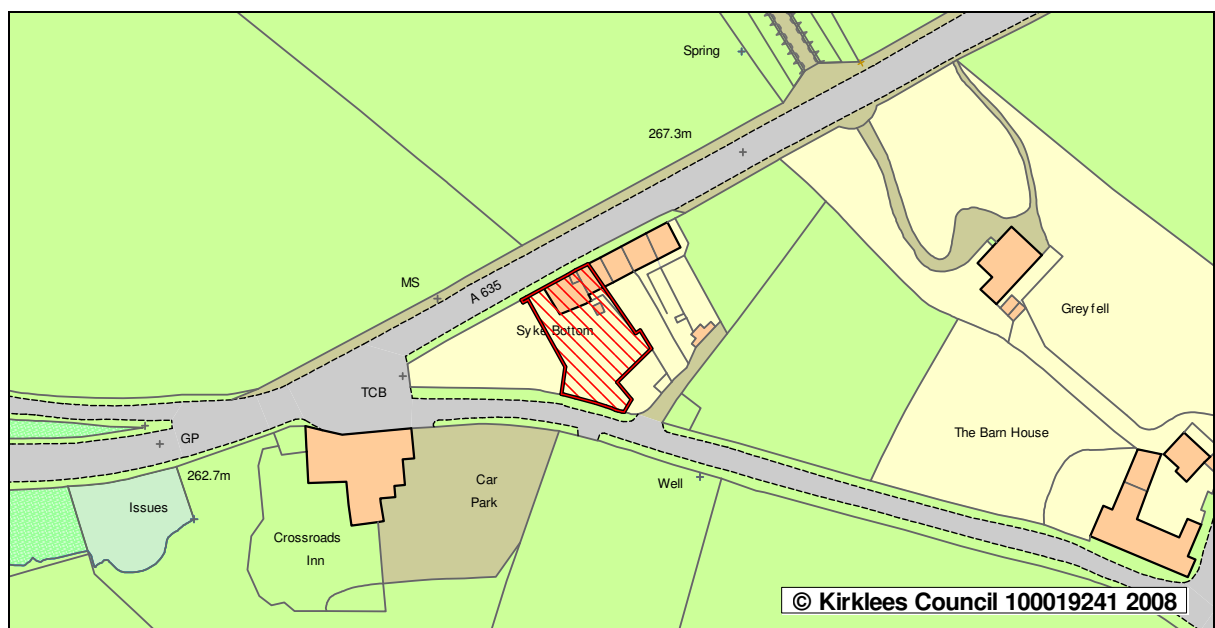
Target Date: 19-Jul-2016

Recommendation: RF1 - REFUSAL

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The application seeks permission for a garage extension to an existing dwelling in the Green Belt. The scale of the extension, considered cumulatively with existing extensions, would be a disproportionate addition to the original building. This would constitute inappropriate development within the Green Belt. The extension would therefore fail to comply with Policy D11 of the Kirklees Unitary Development Plan and Chapter 9 of the National Planning Policy Framework. No very special circumstances have been demonstrated that clearly outweigh the harm caused to the Green Belt by reason of inappropriateness and other harm.

Officers recommend refusal of the scheme.

RECOMMENDATION: REFUSE

2. INFORMATION

The application is brought to Sub-Committee at the request of Councillor Nigel Patrick. The request is on the basis that:

‘...it is important to show committee members that this proposal will not have an impact on the green belt setting’

During subsequent correspondence Councillor Patrick has requested that members undertake a site visit.

The Chair of sub-committee has confirmed that this reason is valid taking into account the councillors’ protocol for planning committees.

3. SITE / PROPOSAL DESCRIPTION

Site Description

The property is a two storey end terrace dwelling faced in stone with slates on the gabled roof. It has an existing two storey extension and porch to the south west elevation. Due to topography changes across the site the south elevation includes under-build which has been utilised as a basement. The south elevation is considered the principal elevation. The north facing rear elevation faces directly onto Penistone Road.

The area surrounding the application site consists of small pockets of sporadic development in an otherwise open landscape washed over by Green Belt designation. There are open fields to the north and south east of the application site. To the north east of the dwelling is the remainder of the terrace of ‘Syke Bottom’ and to the south west is the property now known as 1 Syke Bottom.

Description of Proposal

The garage extension is to project 5.05m from the south west elevation of the dwelling and would be 6.7m wide. It is shown flush to the rear Penistone Road elevation and set in from the front by 0.2m. It is to be single storey faced in stone with a gabled stone slate roof with a maximum height of 5.3m. Due to the split ground level the maximum height when viewed from Penistone Road will be 4.0m.

The only opening is a vehicle door on the front elevation. All materials are to match those of the host building.

4. BACKGROUND AND HISTORY

No.3

85/908: Extensions to form porch, hall, lounge and bedrooms – Conditional Full Permission (Implemented)

2002/91055: Erection of detached garage – Conditional Full Permission (Implemented)

2008/92134: Erection of conservatory and boundary wall – Refused

Reason for refusal:

1. The proposed extension by reason of its size, scale and location and taking into account existing earlier extensions to the building would constitute disproportionate additions to the original dwelling, resulting in a detrimental impact on the openness and character of the Green Belt and would therefore be contrary to policy D11 of the Kirklees Unitary Development Plan and advice contained within government guidance PPG2 - Greenbelts.

2012/92451: Alterations and extensions to existing garage to form dwelling – Conditional Full Permission (Implemented). The dwelling formed by virtue of this planning permission is now no.1, Syke Bottom, Penistone Road, HD9 7DQ. As such it is no longer associated with 'planning unit' of no. 3 Syke Bottom.

5. PLANNING POLICY

Kirklees Unitary Development Plan

The site is allocated Green Belt on the UDP Proposals Map.

- **D11** – The extension of buildings in the Green Belt
- **BE1** – Design principles
- **BE2** – Quality of design

- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)

National Policies and Guidance

- **Chapter 7** – Requiring good design
- **Chapter 9** – Protecting Green Belt land

6. CONSULTATIONS

No consultations were required.

7. REPRESENTATIONS

The site has been publicised by neighbour notification and site notice. The period of publicity expired 14th July 2016. No public representations were received.

Holme Valley Parish Council: Supports the application.

During correspondence with the case officer Councillor Patrick has raised the following considerations:

- The garage is to replace an existing wall, which was built as part of the application for the previous garage (now no.1 Syke Bottom), and therefore the proposed single storey garage will make no difference over the existing situation.
- There are no existing vistas due to the wall. Given the layout of the site Councillor Patrick is of the opinion that there will be no loss to openness via the proposal.
- A final consideration raised by Councillor Patrick is in regards to what constitutes an original building. This is pertinent when considering whether an extension is disproportionate. Councillor Patrick states that the terrace row should be considered as the original building, as opposed to no.3 as a single plot. On this basis the extension would be considered small in scale.

8. ASSESSMENT

Principle of development:

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90 of the NPPF.

Extensions to existing buildings can be considered acceptable within the Green Belt under policy D11 of the UDP and Paragraph 89 of the NPPF, subject to the extension not being disproportionate in size to the original building or dominant in appearance.

Whether the proposal is inappropriate development in the Green Belt

The original building has been previously extended, via a large two storey extension on the south-west elevation. This extension represents an approximate 135% increase in the size of the dwelling as it existed pre-1985. The proposed garage, considered cumulatively with this two storey side extension, would represent an increase of approximately 200% the volume of the original building. Officers considered that the cumulative impact of the existing and proposed extensions would be disproportionate to the original building.

A further consideration is whether the original building would remain the dominant feature on the site. This extension is single storey and set back from the front wall by 0.2m, but when assessed with the previous additions would emphasise the increased scale and mass of the whole development. This would be in stark contrast to the character of the original building which was a small terraced dwelling. The ensuing result is that the extensions would dominate the original building which is considered contrary to Policy D11 of the UDP.

The proposed development is considered to be both disproportionate and dominant to the original dwelling. The development is contrary to Chapter 9 of the NPPF and Policy D11 of the UDP. Therefore the proposal represents inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Whether there would be any other harm to the Green Belt, including visual amenity

The general design of the extension and materials of construction would harmonise with the principal dwelling in accordance with Policies BE1 BE2 and BE13 of the UDP. However, this does not weigh in favour of the proposal but rather has a neutral effect on the overall balance when taking Green Belt issues into account.

NPPF paragraph 79 says that 'the essential characteristics of Green Belts are their openness and their permanence'. This area contains sporadic residential development set in an open rural landscape. To the rear and front of this property there are open fields. While the extension would be seen in the context of the host dwelling, other properties in the terraced row and 1 Syke Bottom it would be built upon land that is currently open. Consequently, the extension would result in a reduction in openness here. It is noted this harm would be modest in relation to a loss of openness.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

Consideration needs to be given to whether there are any 'very special circumstances' to clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. A statement written in support of the application has set out the following points.

- **Dispute as to what constitutes a disproportionate addition.**

The agent argues that policy D11 makes no reference to cumulative impact, and the proposed development should be assessed against the original building only. When considered against the original building the proposed extension, considered in isolation, is argued not to be disproportionate.

Policy D11 makes clear that proposals to extend buildings that have already been extended the proposal should have regard to the scale and character of the original part of the building. The definition of 'original building' in the NPPF is 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was originally built'. Taking both these into account it is clear that the current proposal has to be considered cumulatively with earlier extension to the original building. Taking this into account the current application would constitute a disproportionate addition to the original dwelling.

- **The building is a replacement building, therefore is appropriate development**

The proposed garage is argued to replace the previous garage, approved under 2002/91055 and converted to a dwelling via 2012/92451. Paragraph 89 includes the provision of replacement buildings, subject to being in the same use and not materially larger, as being appropriate in the Green Belt. The agent argues that the proposed development falls within this provision, and is therefore not inappropriate development in the Green Belt.

Officers dispute the agent's interpretation. The policy is taken to support the physical replacement of buildings. The proposal represents additional development within the Green Belt, which is not in accordance with the aims and guidance of Chapter 9 taken as a whole.

Conclusion

The proposal would be inappropriate development in the Green Belt and reduce openness to a modest degree. Substantial weight is given to harm to the Green Belt. It is not considered that there are any very special circumstances which clearly outweigh the harm to the Green Belt. The proposal is in breach of policy D11 and Chapter 9 of the NPPF, and the principle of development is considered unacceptable.

Impact on residential amenity:

The extension will project towards the shared boundary with no.1 which has a single window on the facing elevation. The window serves a bathroom, a non-habitable room. The extension will be approximately 1.0m from the window and it is acknowledged that there would be a material impact on it in terms of overshadowing. However as it is obscurely glazed and serves a non-habitable room, the level of harm caused to the amenity of the occupiers is not deemed undue. The 1m gap would still allow the window to be opened for ventilation.

The extension would not materially affect any other neighbouring properties and the proposal is deemed to comply with Policy BE14 of the UDP and Paragraph 17 of the NPPF.

Impact on highway safety:

The garage will be built over an existing parking space. Despite this the site would retain a sufficient level of off-road parking for the scale of the building. The proposal will not affect how vehicles currently access the site.

While close to Penistone Road, it will not project beyond the existing building line established by nos.3-9 Syke Bottom and will not impede visibility.

The proposal is not considered to prejudice the safe or efficient operation of the highway network, in accordance with Policy T10 of the UDP.

Other matters:

There are considered no other relevant planning matters.

Representations:

No public representations were received. Holme Valley Parish Council supports the proposed development.

The following considerations were raised by Councillor Patrick.

- The garage is to replace an existing wall, which was built as part of the application for the previous garage (now no.1), and therefore the proposed single storey garage will make no difference over the existing situation.
- There are no existing vistas due to the wall. Given the layout of the site Councillor Patrick is of the opinion that there will be no loss to openness via the proposal.

Response: The presence of the existing boundary wall is noted. However officers considered there to be a notable difference in impact through the boundary wall, which is approx. 2.0m in height, to the proposed garage. The

proposed garage will be notably taller than this, being 4.0m when viewed from Penistone Road or 5.3m when viewed from the front.

- A final consideration raised by Councillor Patrick is in regards to what constitutes an original building. This is pertinent when considering whether an extension is deprotonate. Councillor Patrick states that the terrace row should be considered, as opposed to no.3 as a single plot. On this basis the extension would be considered small in scale.

Response: The building is taken to be that which is the subject of the planning application. While it is acknowledged that compared to the terrace row as a whole the garage would be small, the terrace row is not the planning unit to which this application relates.

Conclusion:

Taking into account all of the considerations set out above, the concern is with regard to the impact the development would have upon the Green Belt since it would result in disproportionate additions to the original host dwelling, which has already been significantly extended. This would constitute inappropriate development within the Green Belt. The extension would therefore fail to comply with Policy D11 of the Kirklees Unitary Development Plan and Chapter 9 of the National Planning Policy Framework. No very special circumstances have been demonstrated that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm.

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposed does not accord with the development plan. Green Belt specific policies in the NPPF indicate development should be restricted.

9. RECOMMENDATION

REFUSE

1. The proposed extension, by reason of its design and scale when considered cumulatively with the existing two storey side extension and porch would represent a disproportionate addition to the original building and fail to retain the original dwelling as the dominant element. This would constitute inappropriate development in the Green Belt which is harmful to the Green Belt by definition. No very special circumstances have been demonstrated that clearly outweigh the harm to the Green Belt by reason of inappropriateness or other harm. The extension would therefore fail to comply with Policy D11 of the Kirklees Unitary Development Plan and Chapter 9 of the National Planning Policy Framework.

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

Plan Type	Reference	Version	Date Received
Supplementary Information	Supporting Statement		05.10.2016
Existing Grouped Plans and Elevations	076 – 01		24.05.2016
Proposed Grouped Plans and Elevations	076 – 02	Rev.2	30.07.2016
Proposed Block Plan	076 – 03	Rev.2	10.08.2016
Location Plan	076 – 04		24.05.2016

Application No: 2016/90245

Type of application: 62 - FULL APPLICATION

Proposal: Erection of one dwelling (within a Conservation Area)

Location: Land at, 1, Carr Top Lane, Golcar, Huddersfield, HD7 4JB

Grid Ref: 409768.0 415577.0

Ward: Golcar Ward

Applicant: T Smith

Agent: Michael Townsend, Townsend Planning Consultants

Target Date: 22-Mar-2016

Recommendation: FC - CONDITIONAL FULL PERMISSION

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The application seeks planning permission to erect a single dwelling on Provisional Open Land (POL), within the Golcar Conservation Area. Whilst the proposal represents a departure from the provisions of the development plan it would not prejudice the amenity of neighbouring residents or highway safety and would harmonise with the surrounding development having a neutral impact on the heritage value of the Conservation Area. Weight has been afforded to the fact that the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites. These material considerations indicate that the application be approved despite the POL allocation in the UDP.

RECOMMENDATION: CONDITONAL FULL PERMISSION

2. INFORMATION

The application is brought to Sub-Committee as the application represents a departure from Policy D5 of the Kirklees Unitary Development Plan, seeking residential development for less than 60 dwellings. This is in accordance with the delegation agreement.

3. SITE / PROPOSAL DESCRIPTION

Site Description

The site is currently a vacant plot of land, split into a rough surfaced area informally used for parking, and an area of grass. The topography of the site, and that of the wider area, slopes upwards from south to north. The site has a stone wall approx. 1.0m in height along the boundary of the site with Carr Top Lane and Brook Lane.

The site is within the Golcar Conservation Area. To the south of the site is a terrace row and to the west is a pair of large detached dwellings. To the east are various traditional terraced dwellings.

The site is designated Provisional Open Land.

Description of Proposal

The application seeks full planning consent for the erection of 1no. three bedroom detached dwelling with associated parking. The dwelling would primarily be sited upon the hard surfaced area, however will also partly build upon the current grassed area towards Carr Top Lane.

The dwelling would have an L shaped footprint, being 11.7m in width and 10.0m long. Due to the layout and topography of the site the dwelling incorporates a varied roof form and has a maximum height of 7.4m.

Openings are proposed on each elevation. Materials are indicated to be stone and slate. Parking will be provided for two vehicles. The hard surfaced area to the rear of the dwelling is shown to be laid to grass and would be used in addition to the remainder of the site as garden space.

Access to the dwelling is to be via an existing private road, from Carr Top Lane, serving no.1 and 1a Carr Top Lane and no.8 Brook Lane. The plans indicate that a turning head can be provided in conjunction with the dwelling's driveway. No alteration works are proposed to the existing access or private road.

4. BACKGROUND AND HISTORY

Nos.1 and 1a Carr Top Lane

2003/90487: Outline application for erection of 2 dwellings, for off-street parking, closing existing vehicular access and formation of new access – Conditional Outline Permission

2003/95282: Erection of detached dwelling with integral garage – Approval of Reserved Matters (Implemented)

2008/93725: Reserved Matters application for erection of 1 dwelling with attached garage – Approval of Reserved Matters (Implemented)

Land off, Carr Top Lane

2015/90507: Outline application for residential development (within a Conservation Area) – Conditional Outline Permission

5. PLANNING POLICY

Kirklees Unitary Development Plan

- **D5** – Provisional Open Land
- **BE1** – Design principles
- **BE2** – Design of new development
- **BE5** – Conservation areas.
- **BE6** – infill plots in conservation area
- **BE12** – Space about buildings standards
- **T10** – Highway safety considerations
- **T19** – Parking standards

National Policies and Guidance

- **Paragraph 17** – Core Planning Principles
- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring good design
- **Chapter 8** – Promoting healthy communities

- **Chapter 12** – Conserving and enhancing the historic environment
- **Paragraph 215** – Local policies and consistency with the framework

Other

- Golcar Conservation Area Appraisal

6. CONSULTATIONS

K.C. Strategic Drainage: No objection.

K.C. Highways: Initially objected to the proposal due to a lack of on-site turning facilities for larger vehicles. Following this amended plans were received which included a larger turning area, while retaining sufficient parking for the proposed dwelling. No objection subject to conditions.

K.C. Conservation and Design: Initially raised concerns over the scale of the dwelling, and the harm caused to the heritage value of the Golcar Conservation Area through the loss of open space. Following this discussions were held between the case officer and the agent, and an amended scheme was submitted. Conservation and Design have no objection to the amended scheme.

7. REPRESENTATIONS

The application was initially advertised via site notices, press notice and neighbour notification letters.

Following the submission of amended plans additional neighbour notification letters were sent. The final publicity date expired on the 18th of October 2016.

One representation was received, in objection to the proposal. The following issues were raised:

- The application states that there are currently no vehicles parked on the land, which is incorrect. The applicant lets neighbouring residents use it.
- The applicant runs a hairdressing business from home (1 Carr Top) on Fridays and Saturdays. The land in question is used for customer parking and any other visitor to no.1 (series of photographs submitted showing different vehicles parked on the land)
- Outline permission has been granted for residential development in the field to the rear. Therefore the current on-street parking on Carr Top Lane will be taken up by the site entrance.
- The proposal will remove all visitors' parking from no.1.

- No.1 is a six bedroom house with 1 parking space. This is inadequate. The proposal seeks a smaller house with more parking.
- Concerns are also raised over the manoeuvrability of vehicles on the private road post development.
- The water and electricity supply of no.1a run under the proposed new dwelling. They have a clause stating they are liable for any reparation work that may be required following repair/maintenance to the utilities. The siting of the housing would cause this to be expensive.

8. ASSESSMENT

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

Principle of development:

The application site is allocated as Provisional Open Land (POL) on the Unitary Development Plan. As such the proposal is considered against Policy D5. Policy D5 states that:

“Planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”

The weight that can be given to Policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 49 and 215. These indicate that policies regarding housing should not be considered up to date unless the authority can demonstrate a five year supply of housing. The Council is currently unable to demonstrate a five year supply of deliverable housing sites.

Paragraph 14 states that there is a presumption in favour of sustainable development. For ‘decision taking’ this paragraph goes on to state that this means where relevant policies are out-of-date, planning permission should be granted *“unless any adverse impacts ... would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”*.

Therefore consideration must be given as to whether the proposal is sustainable development. The NPPF identifies the dimensions of sustainable development as economic, social and environmental (Para.7). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8). The proposal has been assessed against each role as follows:

Economically, the scheme would contribute both directly and indirectly through the creation of jobs, the purchasing of materials and through the sale or rent of the end product. Socially, the scheme would boost the supply of housing in Kirklees which would enhance the quality, vibrancy and health of the local albeit on a small scale. Environmentally, the development will be constructed to the latest building regulations standards so the end scheme will be energy efficient and environmentally sustainable in this respect. The impact upon the built environment will be considered below.

As such, in the absence of both a five year housing supply and any significant adverse impacts which outweigh the benefits, the principle of developing is considered to be acceptable in this instance. Consideration must be given to the proposal's local impact, to be assessed below.

Impact on visual amenity, including the Golcar Conservation Area:

General design principles are outlined in Policy BE1 and BE2 of the UDP and Chapter 7 of the NPPF. Furthermore the site is located within the Golcar Conservation Area. Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of conservation areas. Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Additionally Policy BE5 and NPPF Chapter 12 outline the principle of development and restrictions for development in Conservation Areas.

Paragraph 129 of the NPPF requires identification of a heritage asset's significance. The Golcar Conservation Area Appraisal identifies Golcar as an organically evolved traditional Pennine village, with major characteristics including topography and views. These features constitute its heritage value.

The proposed dwelling is considered to have an architectural design, layout and appearance which will harmonise with that of the surrounding development. The urban grain of the area is varied, with terrace rows and larger detached dwellings: nevertheless they conform to a generally linear layout. The proposed dwelling, while L shaped, is deemed to conform to the layout of surrounding dwellings. It would share a 'building line' with properties to the south along Brook Lane and is designed in an L-form so as to provide interest to the frontage facing Carr Top Lane.

Regarding materials for construction, the plans indicate that natural stone and slates are to be used. The specifics of the slates to be used are not provided. This is considered acceptable in principle, however if minded to approve samples of the proposed materials can be secured by condition. To ensure

the fenestration details harmonise with the neighbouring buildings they be conditioned to be timber framed and set in 75mm from the front face of the building.

The proposal will reduce the openness of the area by introducing built development on the Brook Lane/Carr Top Lane junction. This area will also be used as a domestic garden, as opposed to open land. This encroachment of built form was reduced through the submission of amended plans. The dwelling is now smaller with the majority of it sited on the existing rough surfaced area. This has addressed Conservation and Design's initial concerns referring to the loss of vistas within the Conservation Area and the massing of the development. The 1.0m high stone boundary wall is to be retained as is. Further development, extensions and outbuildings could result in harm to the significance of the Conservation Area through the loss of vistas and openness: therefore it is deemed necessary to remove some permitted development rights to prevent the erection of such structures without planning permission.

It is noted that the east boundary (rear garden) is indicated to include planting. If minded to approve a landscape scheme can be conditioned to ensure that suitable vegetation, and boundary treatment, is used so that this preserves the character and appearance of the conservation area and the general visual amenity of the area. Primarily the site's boundary will be retained as is, retaining the existing stone wall with no additional screening. Given the proximity to the highway, a fence on the boundary exceeding 1.0m in height could not be erected under Permitted Development.

The proposed design is considered acceptable and, as amended, will not appear incongruous within the local area. The design will harmonise with the surrounding development. Although it would result in less than substantial harm to the significance of the conservation area, through the erection of a dwelling on presently open land, it is considered the public benefit of a new residential unit, at a time of shortage clearly outweighs this harm. Overall it is considered the scheme will have a neutral impact upon the Conservation Area's heritage value and would provide a suitable infill plot. The proposed development is deemed to comply with Policies BE1, BE2, BE5, BE6 and BE12 of the UDP and Chapters 7 and 12 of the NPPF.

Impact on residential amenity:

The impact of the development on residential amenity needs to be considered against Policies BE1 and BE12 of the Unitary Development Plan and Guidance within the National Planning Policy Framework. The proposed dwelling will be sited close to three dwellings; no.8 Brook Lane to the south, no.4 Brook lane to the east and no.1 Carr Top Lane to the west.

No.1 and the proposed dwelling would be 15.0m apart. However at this distance only no.1 has a habitable room window. Elevations with facing habitable room windows will be 21.0m apart. Given these separation

distances it is considered that the proposed dwelling would not prejudice the amenity of no.1's residents.

No.8 is on a lower level than the proposed dwelling, with three windows facing the dwelling. The two ground floor windows are considered to be non-habitable (secondary windows), with the first floor window being a habitable room. The proposed dwelling will have three windows facing no.8, at a distance of 13.9m. Whilst these windows serve habitable rooms they are considered to be secondary: as the rooms have other, larger windows sited on the north elevation. The smaller windows, facing no.8, are considered to primarily provide light and ventilation. For the purposes of BE12 secondary windows are considered to be non-habitable windows. Therefore the proposal is deemed to comply with Policy BE12(ii). Therefore it is considered the proposed dwelling will not materially harm the amenities of no.8's occupiers.

No.4 is on a high level to the proposed dwelling. A habitable room window, located in the first floor side elevation, will face the proposed dwelling's north elevation at a distance of 15.7m. Because of the orientation and position of the dwellings there will be no view from window to window, preventing direct overlooking and no material harm caused through a loss of privacy. It is noted that no.4's window will overlook the garden of the proposed dwelling. Given the location of the garden a level of overlooking, from this and other properties, is inevitable. Because of the separation distance between the dwellings and no.8's elevated position an overbearing and overshadowing impact upon no.8's residents is not anticipated.

Consideration is also given to dwelling's future occupants. Residents are not anticipated to suffer from overbearing, overshadowing or overlooking from the surrounding dwellings. The scale of the building is considered suitable, and provides all necessary amenities. As addressed above the garden will provide limited privacy. Given the location of the site this is, to a degree, inevitable. Potential methods to address this, such as high boundary fences, would cause harm through other means. On balance it is not considered that the openness of the garden, and its lack of privacy, causes material harm to the amenity of future residents.

The proposed development is not anticipated to prejudice the amenity of neighbouring residents, nor the amenity of future occupiers. The proposal is deemed to comply with Policies BE1 and BE12 of the UDP and Paragraph 17 of the NPPF in terms of residential amenity.

Impact on highway safety:

The impact of the proposed dwelling on highway safety is an important consideration and the application has been assessed by the Highways Team. Policy T10 of the UDP requires development to not prejudice the safe and efficient use of the highway.

The proposed dwelling would be accessed via a private road connecting to Carr Top Lane. The private road and access are established, and no works

are proposed to either. The proposal will increase the number of dwellings served by the private road from 3 to 4, which is acceptable. The site will retain the capability for a service vehicle to turn, with details of on-site turning for larger vehicles provided. If minded to approve the implementation and retention of the turning area can be conditioned.

The proposal includes two off-road parking spaces which is sufficient for the scale of the dwelling proposed. The site is currently used informally for parking, which will be lost, however the proposal will not impact on the provision for off-road parking of the surrounding dwellings.

The site is adjacent to a junction between Carr Top Lane and Brook Lane. It is not considered that the development as proposed will interfere with driver sightlines. However further development, such as outbuildings and extensions, could potentially be sited so as to cause interference with road users. It is therefore considered necessary to remove Permitted Development rights; in the interest of maintaining a safe and efficient highway network. Highways agree with the above assessment; however a condition was also requested that the parking arrangements are implemented as proposed prior to the development being occupied. This is a reasonable requirement given the application site currently forms part of the turning provision for the drive.

Subject to the outlined conditions the proposal is not anticipated to impact upon the safe and efficient use of the highway, and is deemed to comply with Policy T10 of the UDP.

Other matters:

Air Quality

In accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 10 of the NPPF, it is considered reasonable and necessary to condition the proposed dwelling has an electric vehicle charging point. The purpose of this is to promote modes of transport with low impact on air quality.

Representations:

- The application states that there are currently no vehicles parked on the land, which is incorrect. The applicant lets neighbouring residents use it.
- The applicant runs a hairdressing business from home (1 Carr Top). The land in question is used for customer parking and any other visitor to no.1.
- Outline permission has been granted for residential development in the field to the rear. Therefore the current on-street parking on Carr Topp Lane will be taken up by the site entrance.

- The proposal will remove all visitors' parking from no.1.
- No.1 is a six bedroom house with 1 parking space. This is inadequate. The proposal seeks a smaller house with more parking.

Response: The land is only informally used for parking, and was not allocated for parking when no.1 and 1a were built. No.1 and 1a each have their own on-site parking. The agent has provided details that two parking spaces can be accommodated on no.1's driveway, which will not be impacted upon via the proposal. While 2 parking spaces are substandard for a 6 bedroom dwelling, the change of the garage to a habitable room did not require planning permission.

On this basis, and that the area is detached from no.1, it is not considered justifiable reason to warrant the refusal of the application.

The ancillary use of a room within the dwelling to provide hairdressing would not necessarily require planning permission. If there has been a breach in planning control it would not form a material consideration for the proposed development.

- Concerns are also raised over the manoeuvrability of vehicles on the private road post development.

Response: The plans are considered to satisfactorily demonstrate that larger service vehicles will still be able to turn within the site. Therefore the proposal will allow turning for the vehicles proposed and existing dwellings.

- The water and electricity supply of no.1a run under the proposed new dwelling. They have a clause stating they are liable for any reparation work that may be required following repair/maintenance to the utilities. The siting of the housing would cause this to be expensive.

Response: This is a private legal matter between the applicant and the objector, relating to rights of access. It is not considered to be a material planning consideration.

Conclusion:

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

This application has been assessed against relevant Local and National Planning Policies and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Before works to construct the superstructure of the dwelling are commenced, details of the all external facing and roofing materials shall be left on site for the inspection and approval in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved materials.
4. The hereby approved dwelling shall not be brought into use until sight lines of 2.4m x 43m at the site frontage have been cleared of all obstructions to visibility exceeding 1m in height. Thereafter no obstructions which exceed 1.0m in height above the adjacent highway shall be planted or erected within the sight lines along the site frontage.
5. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained.
6. The turning area, as shown on plan '0159_15 Rev.D', shall be provided in complete accordance with the approved details, prior to the hereby approved dwelling being brought into use. Thereafter it shall remain free of obstructions and be kept available for vehicle turning purposes only and retained throughout the lifetime of the development.
7. Prior to occupation of the dwelling, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle recharging point shall thereafter be retained.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

9. Notwithstanding the hereby approved development, all new windows shall be timber framed and shall be recessed by a minimum distance of 75mm from the face of the building. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the window shall thereafter be retained as such.

10. Development shall not commence on the roof structure of the dwelling until a scheme detailing landscaping for the site including boundary treatment and tree/shrub planting, has been submitted to and approved in writing by the Local Planning Authority. The development and the works comprising the approved scheme shall be implemented within the first planting season following commencement of development and boundary treatment shall be installed before first occupation of the dwelling. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. The boundary treatment shall be retained throughout the life of the development.

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

Plan Type	Reference	Version	Date Received
Location Plan			26.01.2016
Existing Grouped Plans and Elevations			26.01.2016
Supplementary Information	Statement of Significance		26.01.2016
Supplementary Information	Planning Statement		26.01.2016
Supplementary Information	Design and Access Statement		26.01.2016
Proposed Grouped Plans and Elevations	0159_15	Rev.D	23.08.2016

Application No: 2016/92257

Type of application: 62HH - FULL APPLICATION

Proposal: Erection of rear dormer window (within a Conservation Area)

Location: 27, Rumbold Road, Edgerton, Huddersfield, HD3 3DB

Grid Ref: 412680.0 417420.0

Ward: Greenhead Ward

Applicant: T Ahern

Agent: Michael Walker, Brunswick Architectural

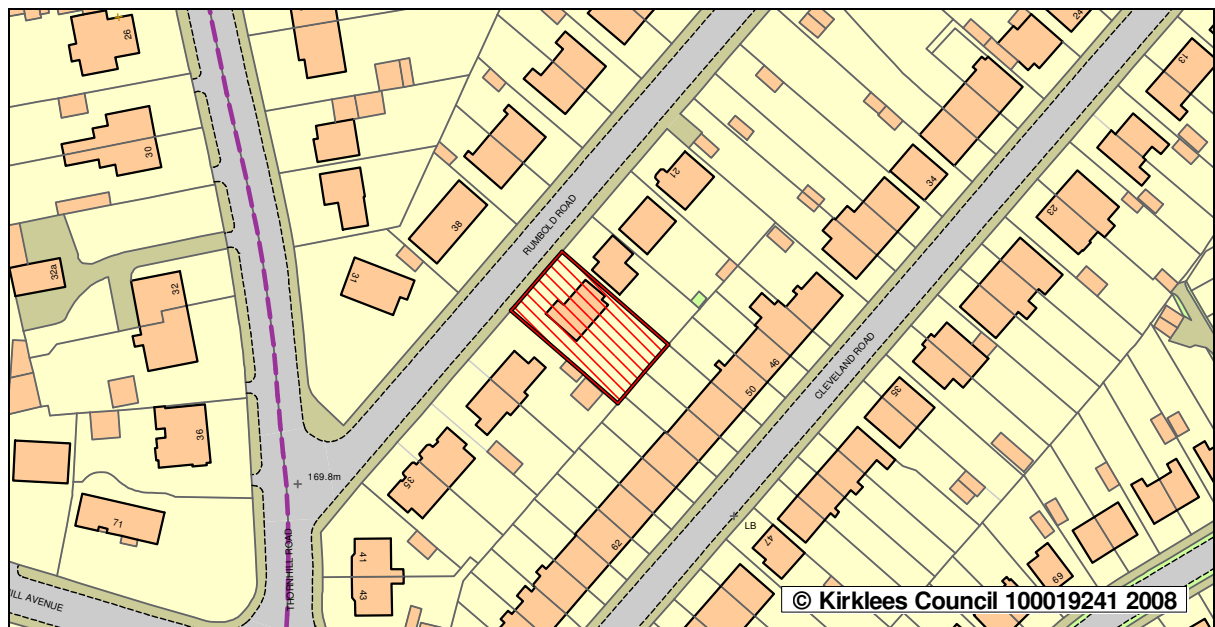
Target Date: 05-Sep-2016

Recommendation: FC - CONDITIONAL FULL PERMISSION

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The application is for the erection of a dormer to the rear of a dwelling within the Edgerton Conservation Area.

The plans, as amended, are considered to preserve the character of the Edgerton Conservation Area and the appearance of the host dwelling without material harm to the amenities of surrounding residents.

Recommendation: Conditional Full Permission

2. INFORMATION

The application was initially brought to Sub-Committee at the request of Ward Councillor Mohan Sokhal for the following reason:

For Members to consider the scale and appearance of the dormer and the impact this could have on the Edgerton Conservation Area. Furthermore to consider impact it could have on the amenities of nearby residents, in particular loss of privacy.

To assess this Cllr Sokhal has requested a site visit be undertaken.

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

3. PROPOSAL/ SITE DESCRIPTION

Site Description

No 27 Rumbold Road is a two storey detached property in Edgerton, Huddersfield. The property is designed in stone and pebble dash walls, concrete flat profile tiles and UPVC windows and doors. The main garden amenity space is to the rear surrounded by boundary fencing and shrubs.

The property has been previously extended and further development is currently under construction. This is a scheme approved under application no. 2015/90449 for the demolition of detached garage and conservatory and erection of extensions.

The area surrounding the application site is wholly residential with a mixture of property styles; terraced, semi-detached and detached. The buildings along Rumbold Road were constructed in the early twentieth century and have a different palette of materials to older parts of the conservation area including render, often with half-timber details and red clay roof tiles. The dwellings to the south east of the site, along Cleveland Road, are two-storey terraced properties constructed of stone with blue slate roofs.

Proposal

The application seeks permission for the formation of a dormer extension to the rear of the dwelling.

The dormer window would be placed to the rear; south east. It would extend in width 3.4m and, as shown on the amended plans, it would have a flat roof design set 0.8m above the eaves and 0.9m below the ridge of the roof. The dormer would be externally faced in dark grey UPVC cladding to the front and sides. The dormer incorporates a window opening, shown to be reduced to 2m in width, on the amended plans. This would serve a bedroom.

4. BACKGROUND AND HISTORY

1991/02373 Erection of two storey extension, conservatory and car port
Conditional Full Permission

2000/91119 Erection of detached garage (within a Conservation Area)
Conditional Full Permission

2007/91267 Erection of Conservatory (within a Conservation Area)
Conditional Full Permission

2010/93318 Erection of two storey extension and alterations to flat roof to form hip (within a Conservation Area)
Withdrawn

2015/90449 Demolition of detached garage and conservatory and erection of extensions (within a Conservation Area)
Conditional Full Permission

Enforcement History:

COMP/16/0172- A complaint was received regarding the construction of a dormer without planning permission. This was investigated by a Enforcement Officer and resulted in the submission of this planning application.

5. PLANNING POLICY

Kirklees Unitary Development Plan

D2 – Unallocated Land

BE1 – Design principles

BE2 – Quality of design

BE5 – Preservation/enhancement of conservation areas

BE13 – Extensions to dwellings (design principles)

Edgerton Conservation Area Appraisal

National Planning Policy Framework

Chapter 7 – Requiring good design

Chapter 12 – Preserving and enhancing the historic environment

6. CONSULTATIONS

KC Conservation & Design - No Objections

7. REPRESENTATIONS

The initial plans were publicised by site notice, press notice and neighbour notification letter, which ended 19th August. The amended plans were re-publicised via neighbour notification letters for a further 14 days ending 23rd September. As a result of site publicity, three letters of representation have been received from a single address. The planning objections raised can be summarised as follows:

- Adverse impact on the conservation area/visual amenity by reason of design and appearance
- Detrimental impact on residential amenity by reason of overlooking and loss of privacy to house and rear garden from a second floor window.

Non material planning objection

- The dormer will devalue the objector's property

8. ASSESSMENT

General Principle:

The NPPF provides a presumption in favour of sustainable development.

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) 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.

The site is within the Edgerton Conservation Area. Section 72 of the (Listed Buildings and Conservation Areas) Act (1990) ‘the Act’ requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Policy BE5 of the Unitary Development Plan together with guidance in Chapters 7 and 12 of the National Planning Policy Framework.

Impact on Visual Amenity including Edgerton Conservation Area:

Rumbold Road is a residential street characterised by a mixture of detached and semi-detached properties. The dwellings are diverse in style and age. The Edgerton Conservation Area Appraisal states: 'The buildings along Rumbold Road were constructed in the early twentieth century and therefore have a different palette of materials (to other parts of the conservation area) including render, often with half-timber details and red clay roof tiles.' It is considered that most of the buildings along Rumbold Road have a neutral factor within the conservation area, as they are of similar massing to other buildings but are constructed with a different palette of materials compared to the rest of the conservation area. Dormer windows are not a traditional feature of this part of the Conservation Area.

The originally submitted design included a pitched roof and white cladding, resulting in an over prominent feature out of keeping the host dwelling, incongruous in the wider area and causing harm to the character and appearance of the conservation area. The amendments submitted have sought to overcome this harm by reducing its size and external appearance.

The appearance of the dormer has been significantly improved by the revised flat roof design, changing the colour of the cladding to harmonise with the main roof and reducing the size of the window aperture. The visual scale of the dormer has been reduced and it is now set down from the ridge. It is now considered to sit comfortably in the rear roof slope and, when considered in a wider context, have a neutral impact on the conservation area.

Conservation and Design officers also assessed the amended plans to be acceptable following an informal discussion. As such the development is considered to be acceptable in terms of visual amenity preserving the character and appearance of the Conservation Area, complying with policies BE1, BE2, BE5 and BE13 of the Unitary Development Plan, Chapters 7 and 12 of the NPPF and Section 72 of the Act.

Impact on Residential Amenity:

The dormer, given its siting and scale, would not overbear or otherwise affect the amenity of the neighbouring properties No 25 Rumbold Road and No 29 Rumbold Road.

The dormer would however direct address the rear of properties on Cleveland Road to the south east of the application site. There would be a distance of approximately 27.0 metres between the dormer and principal rear elevations of nos 52 and 54 Cleveland Road. The dormer would create new habitable bedroom accommodation within the second floor of the dwelling with the window looking towards nos. 52 and 54 Cleveland Road. There are no other similar dormer windows or second floor accommodation in nearby dwellings. Although the new window would allow sight of the rear garden and rear windows of properties on Cleveland Road these are already overlooked by first floor windows. The dormer is set back into the roof and it is considered

that given the separation of the properties to one another and the size and function of the window no undue loss of privacy or material increase in overlooking would occur.

The proposal is therefore considered to be acceptable taking into account the impact this would have upon the residential amenity of surrounding neighbouring occupants, complying with policy D2 and BE1 of the UDP and core planning principles of the NPPF.

Representations:

The matters raised in the representations, and the reasons Cllr Sokhal has requested the application be determined by sub-committee have been carefully considered and addressed in the assessment above.

Conclusion:

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

Having regard to the pattern of existing development in the area and the relevant provisions of the development plan and the National Planning Policy Framework, subject to the conditions, the proposed scheme would be in accordance with the development plan, would preserve the existing character of the dwelling and the wider conservation area and would not have any significant adverse impacts upon the amenities of neighbouring dwellings. The proposal is therefore recommended for approval.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

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

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

Plan Type	Reference	Version	Date Received
Plans- Location Plan	-	-	07/07/2016
Plans- Proposed Second Floor Plan	15_132.1.2	C	08/09/2016
Plans- Proposed Elevations	15_132.2.2	E	08/09/2016
Plans- Proposed Section	15_132.3	-	08/09/2016
Supp Info- Conservation/ Heritage Statement	-	-	07/07/2016

Application No: 2016/91431

Type of application: 65 - LISTED BUILDING

Proposal: Listed Building Consent for installation of replacement shopfront, signage and internal alterations (within a Conservation Area)

Location: 7-9, Cross Church Street, Huddersfield, HD1 2PY

Grid Ref: 414578.0 416692.0

Ward: Newsome Ward

Applicant: G Bateha

Agent: Ruzha Sirmanova, Acumen Designers & Architects Ltd

Target Date: 28-Jun-2016

Recommendation: CR1 - REFUSAL OF CONSENT

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

Listed Building Consent is sought for the installation of a replacement shopfront, internal alterations and signage to allow the re-use of the building as a restaurant. The internal alterations have been assessed under an earlier application, ref 2016/91161 which has been granted listed building consent. The works to the shopfront cause harm the character of the Listed Building and the conservation area which is not outweighed by any public benefit, contrary to the aims of Chapters 7 and 12 of the NPPF and policies BE1, BE2, BE16 and BE17 of the UDP.

RECOMMENDATION:

**1. REFUSE LISTED BUILDING CONSENT AND
2. DELEGATE AUTHORITY TO OFFICERS TO PURSUE ENFORCEMENT
ACTION TO REMOVE TIMBER CLADDING FROM THE SHOPFRONT AND
UNDERTAKE ASSOCIATED REPAIRS.**

2. INFORMATION

The application is referred to Committee at the request of Councillor Cooper for the following reasons:

“I would like to refer it to Planning Committee on the basis that I regard it as an improvement to the shop front and an enhancement to the street in general”

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

3. SITE DESCRIPTION / PROPOSAL

Site description

The application site currently operates as restaurant following conversion from an Estates Agents that was unoccupied for a number of months. The building dates from the early 19th century, being of three storeys in height and constructed from hammer dressed stone. The building is one of many such listed buildings along Cross Church Street that are of a similar style of construction. The site is within the Huddersfield Town Centre Conservation Area. Listed Building Consent and Planning Permission have been granted previously for the installation of a modern shopfront in 2006 and recently for the change of use and internal alterations to enable the use as a restaurant.

Proposal

The proposal is for the changes to the existing modern shopfront and signage to 7-9 Cross Church Street, Huddersfield. The submitted plans indicate that the white painted cladding of the existing shopfront will be altered by the attachment of new timber cladding to the vertical pilasters with new chrome

individual lettering on existing white painted fascia. The supporting statement suggests that the fascia will be illuminated by the existing lighting. The works now undertaken to the shopfront also include timber cladding to the fascia panel and individual lettering in cream. These do not form part of the submitted scheme and clarification is being sought from the agent.

4. BACKGROUND AND HISTORY

2016/91300 – installation of replacement shop front and internal alterations (planning application) - current application

2016/91301 – erection of illuminated fascia sign (advertisement consent) - current application.

2016/91104 – Change of Use and alterations to convert from Class A2/B1 to A3 (restaurant) and associated alterations (amended proposal) – granted planning permission

2016/91161 – Listed Building Consent for works to convert premises to A3 – granted consent.

2006/94605 – listed building consent for installation of new shop front and erection of illuminated fascia and projecting signs – consent granted

2006/94603 – change of use from hairdressers to estate agents and installation of new shop front – granted planning permission.

5. PLANNING POLICY

Kirklees Unitary Development Plan:

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE16** - shopfronts
- **BE17**-New Shopfronts in conservation areas or affecting listed buildings.

National Planning Policy Framework:

- Core Principles
- Chapter 7 – Requiring good design
- Chapter 12 – Conserving and enhancing the historic environment

6. CONSULTATIONS

Conservation and Design Officer: “The proposal makes some changes to the shopfront but in my opinion none of them look towards the aims and requirements of the legislation or national policy. There is a real opportunity here to bring the shop front back into style that would be in-keeping with the age of the building which would not only enhance the listed building but act as a catalyst for further change on Cross Church Street; promoting what could be an exemplar street in the town centre conservation area. There is no indication from the application what lies behind the existing shop front or whether investigations have taken place. It is suggested that a more traditional approach is taken. Failing that I do not believe that timber cladding is the way forward as this is not a traditional feature and as such it would be better to retain as is, albeit with the door relocated, than add another material. It is suggested that a traditional fascia is introduced, the pilasters exposed and an approach taken to add balance to the shop front.”

7. REPRESENTATIONS

None received.

8. ASSESSMENT

General principle / Policy:

This application seeks Listed Building Consent for works to the shopfront of the building. The proposal will be assessed having regard to the relevant policies in Chapter 12 of the NPPF. Of particular relevance in the NPPF local authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and of development making a positive contribution to local distinctiveness. Furthermore that development causing harm to the significance of heritage assets should not be permitted unless a proportionate public benefit can be demonstrated to outweigh that harm.

These above requirements are reflected in one of the core principles of the NPPF stating that planning should “always seek to secure high quality design. It is also a main objective of section 7 of the NPPF, with paragraph 56 stating that ‘the Government attaches great importance to the design of the built environment’.

Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) states that in considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act 1990 imposes a duty, when determining applications that affect buildings within a conservation area, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.

Policies of the Kirklees UDP BE1, BE2 and BE17 are applicable.

Policies BE1 and BE2 seek to ensure that all development is of good quality design, creating & retaining a sense of local identity, is visually attractive, promotes a healthy environment and is energy efficient. They also stipulate that new development should be designed to be in-keeping with any surrounding development in respect of design, materials and scale.

BE16 requires that new shopfronts or alterations to existing shopfronts should be designed to respect architectural features, that fascia's are designed to respect the features of the building as a whole and replacement fascia signs respect the character and appearance of the host and adjacent buildings in terms of colour, materials and lettering style and make a positive contribution to the streetscene.

BE17 states that new shopfronts on buildings within conservation areas or which affect listed buildings should preserve or enhance their character.

These and other material considerations are assessed below.

Impact on the significance of the building:

The application site currently operates as restaurant following conversion from an Estates Agents. Before this conversion the building had been vacant for some time. The building dates from the early 19th century, being of three storeys in height and constructed from hammer dressed stone. The building is one of many such listed buildings along Cross Church Street that are of a similar style of construction. The site is within the Huddersfield Town Centre Conservation Area. It is noted that the character and appearance of the ground floor retail units along Cross Church Street is mixed and that there are examples of unsympathetic shop frontages. This however does not set a precedent for the determination of this application and each proposal should be viewed on its own merits.

The proposal is for works to alter the existing modern shopfront and signage. The submitted plans indicate that the white painted cladding of the existing shopfront will be altered by the attachment of new timber cladding to the vertical pilasters, with new chrome individual lettering on the existing white painted fascia. The supporting statement suggests that the fascia will be illuminated by the existing lighting. As stated earlier in the report the works undertaken differ from those indicated on the submitted plans and vertical timber cladding has been attached to the fascia with signage comprising individually attached cream lettering. Amended plans accurately representing the works undertaken had been requested at the time of writing.

It is accepted that the existing shopfront is a modern addition, which gained Listed Building Consent and Planning Permission in 2006. Equally it is accepted that more recently Listed Building Consent and Planning Permissions have been granted for alterations to the shopfront, internal layout alterations and change of use from A2/B1 to A3 restaurant. The point of

contention here relates to the treatment of the existing shopfront in terms of the introduction of timber cladding; both that indicated on the submitted plans and the works undertaken on site.

During the consideration of the application the Conservation and Design Officer raised concerns over the use of horizontal timber cladding on the pilasters due to this not being a traditional feature and that there was no evidence or supporting information over whether the shopfront could be returned to a traditional style with defined pilasters and stall risers. Failing this it would be better to retain the existing shopfront, repaint and install the proposed signage. Discussions were held with the agent who confirmed that during the installation of the approved shopfront all the existing features had been removed and due to the structural work carried out, a traditional approach could not be taken; this was agreed by the Conservation Officer. However, it was still felt appropriate to retain the shopfront as existing.

Due to the applicant requiring the restaurant to open, the works were carried out prior to determination and the timber cladding was extended onto the fascia which was not previously shown on the submitted drawings. This introduced a feature onto a listed building which fails to preserve or enhance its character, does not respect the scale, design and architectural features of the building as a whole and fails to preserve or enhance the conservation area as required by the Planning (Listed Building and Conservation Areas) Act 1990. Traditionally the fascia of a shopfront would be flat to allow the painting of sign and defined by bevelled edges as a surround. The introduction of vertical timber 'wainscoting' is not a traditional shop front feature, does not provide the flat surface and prevents the use of a surround to terminate this flat surface. By doing so the fascia becomes overlarge and dominant and fails to provide a horizontal emphasis which again is a traditional approach.

The agent was contacted and advised to remove the cladding due to the impact on the building but as a way forward the Conservation Officer suggested that the shop front be returned to its previously approved style and repainted in a neutral colour of the agent's choice. The lettering style, as undertaken on site rather than that shown on the current plans, was not felt to be an issue. However, despite this advice the shopfront was not returned to the previous style and the cladding remains.

Paragraph 132 of the NPPF requires that when considering the impact of a proposed development on the significance of a heritage asset great weight is given to the asset's conservation. The NPPF describes any harm as substantial or less than substantial depending on the nature of the harm; substantial harm is normally the total loss of heritage features. In this case it is felt that the harm caused is less than substantial bearing in mind the previous alterations to the building. In such cases paragraph 134 applies which states that in such cases the harm should be weighed against the public benefit accrued by the proposal. There is little or no public benefit accrued from the style of shopfront, the public benefit comes from achieving a use for the

building. As such the development fails to comply with this paragraph and is contrary to the NPPF.

Having considered the proposal against relevant policies in the adopted development plan it is also considered that the proposed works to the shopfront, by reason of the timber cladding, would fail to respect the character and appearance of the host building or the surrounding area contrary to Policies BE1, BE2, BE16 and BE17 of the UDP.

Conclusion:

The proposed works to the shopfront, specifically the timber cladding, causes less than substantial harm to the significance of designated heritage assets: the listed building and the conservation area in which it is sited. This harm is not outweighed by any public benefit, contrary to guidance in the NPPF.

The proposed works to the shopfront, by reason of the timber cladding, would fail to respect the character and appearance of the host building or the surrounding area contrary to Policies BE1, BE2, BE16 and BE17 of the UDP.

The application is therefore not in accordance with Sections 16 or 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

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

9. RECOMMENDATION:

RECOMMENDATION:

- 1. REFUSE LISTED BUILDING CONSENT AND**
- 2. DELEGATE AUTHORITY TO OFFICERS TO PURSUE ENFORCEMENT ACTION TO REMOVE TIMBER CLADDING FROM THE SHOPFRONT AND UNDERTAKE ASSOCIATED REPAIRS.**

1. The proposed works to the shopfront would, by reason of their scale and in particular the use of timber cladding, fail to preserve or enhance the listed building or the Huddersfield Town Centre Conservation Area in which the building is sited. As such the works would be contrary to policies BE1(i,ii), BE2 (i), BE16 (i-iv) and BE17 of the UDP and Sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Furthermore the works would result in less than substantial harm to the significance of the heritage asset as defined by the National Planning Policy Framework. There is no public benefit afforded by the proposals to outweigh the harm to this heritage asset, contrary to paragraph 134 of the National Planning Policy Framework.

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

Plan Type	Reference	Version	Date Received
Existing Plans and Elevations	2413-01B	-	19.5.16
Proposed Plans and Elevations (to be revised to accurately represent works undertaken on site)	2413-02L	-	27.7.16

Application No: 2016/92739

Type of application: 62HH - FULL APPLICATION

Proposal: Erection of single storey rear extension

Location: 40, Briarlyn Avenue, Lindley, Huddersfield, HD3 3NN

Grid Ref: 411431.0 418676.0

Ward: Lindley Ward

Applicant: M Whitehead

Agent:

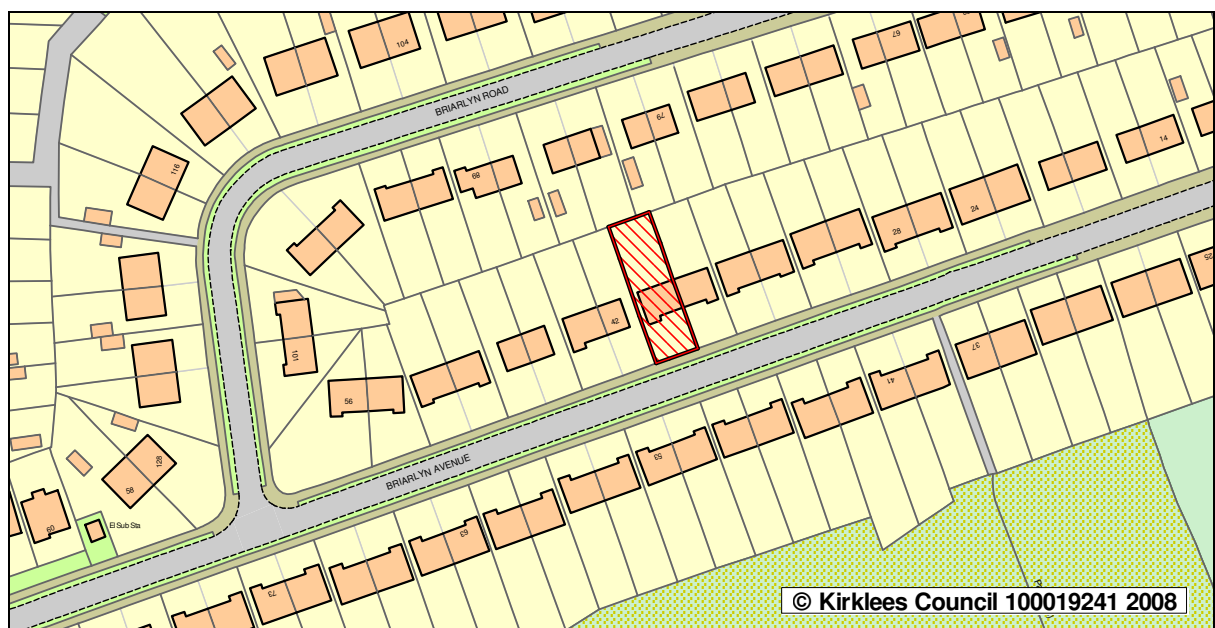
Target Date: 25-Oct-2016

Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The proposed extension on the rear elevation of 40 Briarlyn Avenue is considered to have minimal impact on residential amenity of neighbouring properties. However, the parapet wall feature above the proposed utility room is considered visually incongruous when viewed from Briarlyn Avenue. Amended plans removing this design element have been requested and are expected imminently. Subject to the submission of suitable amendments the development is considered acceptable.

Recommendation: Conditional full permission subject to the delegation of authority to officers to:

- A. secure amended plans to revise/remove the parapet wall feature such that it no longer causes harm to the visual amenity of the area**
- B. impose all necessary and reasonable planning conditions; and**
- C. Subject to there being no material change in circumstances, issue the decision**

2. INFORMATION

The application has been brought to Sub-Committee as the applicant is closely related to an officer within the Council's Investment and Regeneration Service. This is in line with the Delegation Agreement.

3. PROPOSAL/SITE DESCRIPTION

Site Description

The application relates to a semi-detached two storey house located on a quiet residential street in the Lindley area of Huddersfield. The property is constructed with brick and artificial stone from ground floor level, and pebble dash from first floor level. The property has a gable pitched style roof, covered in concrete tiles. Most other properties within close proximity of the host dwelling are of similar style and design. The property benefits from off road parking for up to two vehicles, and some garden amenity space located to the front and back of the property and the advantage of an attached flat roofed garage. The property has an existing rear extension which forms a living room.

Proposal

The proposal would be to the rear elevation and would consist of the enlargement of the existing kitchen/ living arrangements, to provide an open plan living/ kitchen/ dining area, with an additional storage/ utility room. It would extend across the entire rear elevation of the house and garage projecting 2.8m from the original rear wall. The extension would be one storey, be principally faced in stone and brick and have a lean-to roof in tiles to match the existing dwelling. The utility space would have cedar cladding on the external rear wall. The eaves height of the extension will be 2.8m, and the ridge height will be 4.0m (ground floor level to eaves is 2.3m). The extension appears to be higher than average due to a slight slope in the land to the rear of the property. There will be no new openings on the side elevations of the extension.

4. BACKGROUND AND HISTORY

No relevant planning history at 40 Briarlyn Avenue.

5. PLANNING POLICY

The site is Unallocated on the Kirklees Unitary Development Plan Proposals Map.

Kirklees Unitary Development Plan:

- **D2** – Land without notation on the proposals map
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)

National Planning Policy Framework (NPPF):

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

- Chapter 7 – Requiring good design

6. CONSULTATIONS

No consultations were required.

7. REPRESENTATION

The application was publicised by site notice and neighbour notification letters, which ended on the 4th of October 2016. As a result of this publicity no representations were received.

8. ASSESSMENT

General Principle:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) 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.

The general principle of extending a dwelling is further assessed against Policies BE1, BE2, BE13 and BE14 of the UDP and advice in Chapter 7 of the NPPF regarding design. These require, in general, balanced consideration of visual and residential amenity, highway safety and other relevant material considerations.

Impact on Visual Amenity:

The proposed extension would provide a storage/utility room, and an extension to the existing kitchen/ living/ dining arrangements. Internal alterations would allow for an extended garage and a W.C to be located underneath the stairs. The extension would project off the rear elevation and the utility room would be faced with cedar cladding, while the living/ kitchen extension would be faced in brick and stone, which would match the existing ground floor rear elevation of the host property. All these aspects of the design are considered to be acceptable and would provide an extension which would acceptably harmonise with the principal dwelling.

Due to sloping ground at the rear of the site the floor level of the extension would require be sited around 0.5m below the existing floor level of the ground floor. With this, and the existing garage having a flat roof, the design of the extension includes a parapet wall feature over the existing garage in order to continue the mono-pitch roof at a uniform height. The visual impact of this would be a brick wall projecting 1.6m above the garage. This would appear incongruous in relation to the original design features of the existing

house and the wider street scene. Although the parapet wall would be set back from the front elevation of the property, it would still be clearly visible from the road, resulting in harm to the visual amenity of the area.

Overall the proposal is considered acceptable - save for the parapet wall element of the design and the impact this would have on the overall appearance of the dwelling and wider streetscene. This has been discussed with the applicant and amended plans are expected revising this element of the design. Subject to the submission of suitable amended plans the proposal would comply with the requirements of Policies D2, BE1, BE2, BE13 and BE14 of the Unitary Development Plan, as well as Chapter 7 of the NPPF.

Impact on Residential Amenity:

The closest affected properties would be No. 38 Briarlyn Avenue on the east elevation, and No. 42 on the west elevation. As the extension projects from the rear elevation of the host property by 2.8m, it may result in a degree of overshadowing on the neighbouring properties. This impact may be considered minimal as the extension is only one storey high and the projection is limited and the orientation of the extension to the neighbouring properties, it is on the north elevation, meaning there would be no loss of direct sunlight. There will be no new window or door openings on any side elevations of the host property, meaning there would be no harmful overlooking, onto neighbouring properties, and there would be no loss of privacy for neighbouring residents.

The overall scale, siting and design of the extension and its relationship with neighbouring properties is acceptable and would not result in any undue impact on residential amenity, thereby acceptable and compliant with policies D2 and BE14 of the UDP.

Representations:

No public representations were received.

Conclusion:

The principle of development is considered acceptable, subject to the submission of amended plans. The scale and general appearance of the development, excepting the parapet wall, complies with Policies BE1, BE2, BE13 and BE14, of the UDP and there would be no adverse impact on the amenities of neighbouring properties.

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development could constitute sustainable development, subject to the amendments highlighted above.

9. RECOMMENDATION

Conditional full permission subject to the delegation of authority to officers to:

- A. secure amended plans to revise/remove the parapet wall feature such that it no longer causes harm to the visual amenity of the area**
- B. impose all necessary and reasonable planning conditions; and**
- C. Subject to there being no material change in circumstances, issue the decision**

1. The development hereby permitted shall be begun within three years of the date of this permission.

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

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

Plan Type	Reference	Version	Date Received
Location Plan			20/08/2016
Existing Plans and Elevations	01		20/08/2016
Proposed side (viewed from no. 38)	02		20/08/2016
Proposed elevation no. 2 (viewed from no. 42)	03		20/08/2016
Proposed rear elevation	04		20/08/2016
Proposed ground floor plan	05		20/08/2016
Existing plans and elevations	01A		30/08/2016
Proposed front elevation	08		30/08/2016

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KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

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

27 OCTOBER 2016

APPLICATION NO: 2016/90477

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ALTERATIONS TO CONVERT OUTBUILDING TO HOLIDAY ACCOMMODATION

ADJ 1, WHEAT CLOSE, HOLMBRIDGE, HOLMFIRTH, HD9 2QL

1. A draft Unilateral Undertaking has been submitted by the applicant which illustrates covenants that are in line with those sought by the Local Planning Authority as follows:-
 - a) the Property will not be used as a holiday let in the months of November, December and January;
 - b) occupancy of the Property is limited to up to 28 days at a time and with a minimum of 14 days no return between bookings to the last occupiers; and
 - c) a register of occupation will be maintained by the Owner which can be requested by the local planning authority at any given time upon reasonable notice.

APPLICATION NO: 2016/90245

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ERECTION OF ONE DWELLING (WITHIN A CONSERVATION AREA)

LAND AT, 1, CARR TOP LANE, GOLCAR, HUDDERSFIELD, HD7 4JB

Conditions

Minor amendments to the wording of conditions 9 and 10, see below:

9. Notwithstanding the hereby approved development, all new windows shall be timber framed and shall be recessed by a minimum distance of 75mm from the face of the building. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the windows shall thereafter be retained as such.

10. Development shall not commence on the roof structure of the dwelling until a scheme detailing landscaping for the site including boundary treatment and tree/shrub planting, has been submitted to and approved in writing by the Local Planning Authority. The development and the works comprising the approved soft landscape scheme shall be implemented within the first planting season following commencement of development and boundary treatment shall be installed before first occupation of the dwelling. The approved soft landscape scheme shall, from its completion, be maintained for a period of five years. If, within this period, any shrub or tree shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. The boundary treatment shall be retained throughout the life of the development.

APPLICATION NO: 2016/91431

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LISTED BUILDING CONSENT FOR INSTALLATION OF REPLACEMENT SHOPFRONT AND SIGNAGE. (WITHIN A CONSERVATION AREA)

7-9, CROSS CHURCH STREET, HUDDERSFIELD, HD1 2PY

Description of development

The agent has confirmed that this listed building consent application seeks approval solely for the alterations to the shop front and proposed signage. The internal alterations originally referred to already benefit from listed building consent. As such the revised description of development excludes 'and internal alterations'.

Plans and specifications schedule

An updated plan has been submitted to accurately represent the works undertaken to the shopfront and signage. These works have been assessed in the report before Members. In particular the changes indicate that it is no longer proposed to attach timber cladding to the pilasters or to add chrome lettering to the fascia. The timber cladding is attached to the fascia and the signage erected is cream in colour. The pilasters and stallrisers have been painted white.

Some 'frosted glass' film has been affixed to part of the shop front. This is easily reversible and is considered not to harm the significance of the building or the conservation area.

The revised schedule is:

Plan Type	Reference	Version	Date Received
Existing Plans and Elevations	2413-01B	-	19.5.16
Proposed Plans and Elevations (to be revised to accurately represent works undertaken on site)	2413-02M	-	27.7.16