

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

**Julie Muscroft**

Governance and Democratic Services

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HD1 2TG

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Please ask for: Andrea Woodside

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Wednesday 10 May 2017

## Notice of Meeting

Dear Member

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

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 18 May 2017**.

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

This meeting will be webcast live and will be available to view via the Council's website.

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**

**Service Director – Legal, Governance and Commissioning**

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

## **The Planning Sub-Committee (Heavy Woollen Area) members are:-**

### **Member**

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

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

### **Substitutes Panel**

#### **Conservative**

B Armer  
L Holmes  
B McGuin  
N Patrick  
K Sims

#### **Green**

K Allison  
A Cooper

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

E Firth  
S Hall  
M Sokhal  
S Ullah

#### **Liberal Democrat**

R Eastwood  
A Marchington  
L Wilkinson

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

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

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the meeting of the Committee held on 6 April 2017.

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**3: Interests and Lobbying**

5 - 6

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

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**4: Admission of the Public**

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

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## **5: Deputations/Petitions**

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

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## **6: Site Visit - Application No: 2016/92553**

Erection of detached dwelling and reinstatement of The Mill at 116 Low Road, Earlsheaton, Dewsbury.

(Estimated time of arrival at site – 9.50am)

Contact Officer: Emma Thompson

### **Wards**

**Affected:** Dewsbury South

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## **7: Site Visit - Application No: 2016/92558**

Temporary Permission for erection of single storey linked modular units at Masjid-E-Noor Education Centre, Lees Hall Road, Thornhill Lees

(Estimated time of arrival at site – 10.00am)

Contact Officer: Jennie Booth

### **Wards**

**Affected:** Dewsbury South

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## **8: Site Visit - Application No: 2016/93522**

Erection of two dwellings (within a conservation area) at 42-44 Low Town, Kirkburton.

(Estimated time of arrival at site – 10.30am)

Contact Officer: Julia Steadman

### **Wards**

**Affected:** Kirkburton

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**9: Site Visit - Application No: 2016/93053**

Erection of extension to function hall and change of use of attached dwellings (C3) to ancillary prayer room and formation of additional parking at former Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, and land opposite 486 Huddersfield Road.

(Estimated time of arrival at site – 11.00am)

Contact Officer: Sarah Longbottom

**Wards**

**Affected:** Dewsbury West

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**10: Site Visit - Application No: 2017/90542**

Erection of extensions at 19 Churchill Grove, Heckmondwike

(Estimated time of arrival at site – 11.20am)

Contact Officer: Nia Thomas

**Wards**

**Affected:** Heckmondwike

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**11: Site Visit - Application No: 2016/93496**

Erection of 6 industrial starter units adjacent to California Inn, Oxford Road, Gomersal.

(Estimated time of arrival at site – 11.40am)

Contact Officer: Julia Steadman

**Wards**

**Affected:** Cleckheaton

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**12: Local Planning Authority Appeals** 7 - 22

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

Contact Officer: Julia Steadman, Planning Services

**Wards**

**Affected:** Batley West; Denby Dale; Kirkburton

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**13: Planning Appeals - Annual Review** 23 - 30

To receive an annual overview of planning appeal decisions relating to the Heavy Woollen area between 1<sup>st</sup> January 2016 to 31<sup>st</sup> December 2016.

Contact: Julia Steadman, Planning Services

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**14: Tree Preservation Order 02/2017** 31 - 46

To consider an objection against the making of Tree Preservation Order (TPO) 02/2017, Ravens Lodge Terrace, Huddersfield Road, Dewsbury

Contact: Nick Goddard, Planning Services

**Wards**

**Affected:** Dewsbury West

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**Planning Applications** 47 - 50

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 15 May 2017.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 (Extension 74995)

**15: Planning Application - Application No: 2016/93910** 51 - 64

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

Contact Officer: Liz Chippendale, Planning Services

**Wards**

**Affected:** Batley East

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**16: Planning Application - Application No: 2015/90435** 65 - 78

Erection of 14 dwellings with integral garages at former Parkham Foods site, 395 Halifax Road, Liversedge.

Contact Officer: Louise Bearcroft.

**Wards**

**Affected:** Liversedge and Gomersal

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**17: Planning Application - Application No: 2016/93053** 79 - 88

Erection of extension to function hall and change of use of attached dwellings (C3) to ancillary prayer room and formation of additional parking at former Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, and land opposite 486 Huddersfield Road.

Contact Officer: Sarah Longbottom

**Wards**

**Affected:** Dewsbury West

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**18: Planning Application - Application No: 2016/92558** 89 - 96

Temporary Permission for erection of single storey linked modular units at Masjid-E-Noor Education Centre, Lees Hall Road, Thornhill  
Lees

Contact Officer: Jennie Booth

**Wards**

**Affected:** Dewsbury South

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**19: Planning Application - Application No: 2016/93522** 97 - 110

Erection of two dwellings (within a conservation area) at 42-44 Low Town, Kirkburton.

Contact Officer: Julia Steadman

**Wards**

**Affected:** Kirkburton

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**20: Planning Application - Application No: 2016/93496** 111 - 124

Erection of 6 industrial starter units adjacent to California Inn, Oxford Road, Gomersal.

Contact Officer: Julia Steadman

**Wards**

**Affected:** Cleckheaton

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**21: Planning Application - Application No: 2016/92553** 125 - 136

Erection of detached dwelling and reinstatement of The Mill at 116 Low Road, Earlsheaton, Dewsbury.

Contact Officer: Emma Thompson

**Wards**

**Affected:** Dewsbury South

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**22: Planning Application - Application No: 2017/91074** 137 - 144

Erection of detached dwelling (modified proposal) at Plot 2, Land to rear of 59 Far Bank, Shelley.

Contact Officer: Louise Bearcroft

**Wards**

**Affected:** Kirkburton

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**23: Planning Application - Application No: 2017/90542**

145 -  
158

Erection of extensions at 19 Churchill Grove, Heckmondwike

Contact Officer: Nia Thomas

**Wards**

**Affected:** Heckmondwike

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**Planning Update**

159 -  
162

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

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Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

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

**Thursday 6th April 2017**

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

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

Councillor Sokhal substituted for Councillor O'Neill.

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

**RESOLVED** – That the Minutes of the meeting held on 23 February 2017 be approved as a correct record.

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

Cllr Scott advised that she had been lobbied on Application 2017/90333.

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

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

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

No deputations or petitions were received.

**6 Local Planning Authority Appeals**

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

**RESOLVED** - That the report be noted.

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

The Sub-Committee gave consideration to a Direction from the Secretary of State (DEFRA) to make an Order to add a Public Footpath at Hey Beck Lane to the Definitive Map and Statement of Public Rights of Way.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Andy Dunlop.

**RESOLVED –**

That the Council make a Definitive Map Modification Order as directed by the Secretary of State, to modify the Definitive Map and Statement to record the route as shown by the bold dashed line on Plan A as a public footpath (the additional route applied for and shown on the application plan signed by the applicant's and received by the Council on 5 February 2014).

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

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Lawson, Kane, Pervaiz, A Pinnock, Smith, Scott, Sokhal, K Taylor and G Turner (13 votes)

Against: (No votes)

**8 Planning Application - Application No: 2017/90333**

The Sub-Committee gave consideration to Application 2017/90333 – Erection of single storey side and rear extensions at Copse House, 10 Blenheim Drive, Westborough, Dewsbury.

**RESOLVED –**

- 1) That authority be delegated to the Head of Development Management to approve the application, issue the decision notice and complete the list of conditions including matters relating to; the standard time limit for implementation of development (3 years), the development to be carried out in accordance with approved plans, facing and roofing materials to match

## Planning Sub-Committee (Heavy Woollen Area) - 6 April 2017

those on the host dwelling, and permitted development rights to be removed for additional openings.

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

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Lawson, Kane, Pervaiz, A Pinnock, Smith, Scott, Sokhal, K Taylor and G Turner (13 votes)

Against: (No votes)

### 9 Planning Application - Application No: 2015/90435

The Sub-Committee gave consideration to Application 2015/90435 – Erection of 14 dwellings with integral garages at former Parkham Foods site, 395 Halifax Road, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Andy Keeling (on behalf of a local resident) and Michael Singh (applicant).

#### **RESOLVED –**

That the application be deferred in order to enable further discussions to take place regarding affordable housing provision and vacant building credit.

Defer (Further discussions to take place between officers and applicant relating to affordable housing provision & Vacant Building Credit)

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

For: Councillors Akhtar, Bellamy, Dad, Grainger-Mead, Lawson, Kane, Pervaiz, A Pinnock, Scott, Sokhal, K Taylor and G Turner (13 votes)

Against: (No votes)

Abstained: Councillor Smith

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**KIRKLEES COUNCIL**  
**DECLARATION OF INTERESTS AND LOBBYING**  
 Planning Sub-Committee/Strategic Planning Committee

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

**LOBBYING**

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

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

**Date: 18 May 2017**

**Title of report: LOCAL PLANNING AUTHORITY APPEALS**

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

|   |  |
|---|--|
| <b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b> | <b>Not applicable</b>  |
| <b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)</a>?</b>                                    | <b>No</b>  |
| <b>The Decision - Is it eligible for "call in" by Scrutiny?</b>   | <b>No</b>  |
| <b>Date signed off by Service Director - Economy, Regeneration &amp; Culture &amp; name</b>   | <b>Paul Kemp<br/>9 May 2017</b>  |
| <b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>  | <b>No financial implications</b>   |
| <b>Is it also signed off by the Assistant Director - Legal Governance and Monitoring?</b>   | <b>No legal implications</b>   |
| <b>Cabinet member portfolio</b>   | <b>Economy, Skills, Transportation and Planning<br/>(Councillor McBride)</b> |

**Electoral wards affected: Denby Dale; Batley West; Kirkburton;  
Ward councillors consulted: No**

**Public or private:**

**1. Summary**

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

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

- 2.1** 2016/62/93586/E - Erection of extension and alterations to front dormer at 49, Lidgett Lane, Skelmanthorpe, Huddersfield, HD8 9AQ.  
(Officer) (Dismissed)

- 2.2** 2016/62/92019/E - Erection of five dwellings and highway improvements on Land adjacent 5A & 6, Leak Hall Crescent, Denby Dale, Huddersfield, HD8 8RZ. (Officer) (Dismissed)
- 2.3** 2016/60/91231/E - Outline application for erection of 3 dwellings at land on Cuckstool Road, Denby Dale, Huddersfield, HD8 8RF. (Officer) (Dismissed)
- 2.4** 2016/62/92766/E - Erection of first floor side extension and rooms in roofspace at 88, Woodsome Estate, Staincliffe, Batley, WF17 7EF. (Officer) (Dismissed)
- 2.5** 2016/62/92435/E - Erection of outbuilding with raised decking area at 12, Kestrel View, Shelley, Huddersfield, HD8 8HH. (officer) (Dismissed)

### **3. Implications for the Council**

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

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

### **4. Consultees and their opinions**

Not applicable, the report is for information only

### **5. Next steps**

Not applicable, the report is for information only

### **6. Officer recommendations and reasons**

To note

### **7. Cabinet portfolio holder recommendation**

Not applicable

### **8. Contact officer**

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

### **9. Background Papers and History of Decisions**

Not applicable

### **10. Assistant Service Director responsible**

Paul Kemp

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# Appeal Decision

Site visit made on 16 March 2017

**by Ian McHugh Dip TP MRTPI**

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

**Decision date: 29 March 2017**

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**Appeal Ref: APP/Z4718/D/17/3167677**

**49 Lidgett Lane, Skelmanthorpe, Huddersfield, HD8 9AQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Andree Ackroyd against the decision of Kirklees Council.
  - The application Ref 2016/62/93586/E, dated 19 October 2016, was refused by notice dated 19 January 2017.
  - The development proposed is modifications to the front-facing dormer and under-finish to front.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The description of the appeal development stated in the banner heading above is taken from the planning application form. However, the description given in the Council's decision notice is the "erection of extension and alterations to front dormer". In my opinion, the Council's wording is a clearer description of the proposal and I have considered the appeal on this basis.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the existing dwelling and on the streetscene.

## Reasons

4. The appeal property is a semi-detached bungalow with two front-facing dormer windows in the roof. It is situated in a residential area within a row of properties that front Lidgett Lane. Other dwellings in the locality vary in terms of their age, size and appearance. Some of these also have front-facing dormers, which are either later additions or part of the original dwelling design.
  5. The proposal is to extend the existing dormers at the front of the appeal dwelling by infilling the existing gap between the two. The extension would provide additional space within the existing bedrooms that the appellant considers necessary for her family needs.
  6. Policies BE1 and BE2 of the adopted Kirklees Unitary Development Plan (UDP) require (amongst other things) all development to be attractive and of good
-

quality design; and to be in keeping with surrounding development. In addition, Policy BE15 of the UDP lists criteria against which proposals for front-facing dormer windows are assessed. A key requirement of Policy BE15 is that the original roof form remains the predominant feature. In my opinion, these policies are consistent with the provisions of the National Planning Policy Framework (the Framework), which also requires new development to be of high quality design and for it to add to the overall quality of the area (paragraphs 17 and 58).

7. I acknowledge that the proposal would provide more useable space within the first floor bedrooms. At my site visit, I also viewed some of the other dwellings with front-facing dormers, including properties on Lidgett Lane and Westfield Drive. However, in my opinion, the proposal would be an incongruous and discordant addition at the front of the dwelling. As a result of the extension, the dormer structure would be a visually dominant feature and, overall, I consider that it would be out of proportion and scale with the original roof of the property. It would be clearly seen from Lidgett Lane and I consider that the proposal would be unacceptably harmful to the character and appearance of the both the existing dwelling and the streetscene. Consequently, it would conflict with the Development Plan and with the Framework, as referred to above.

#### **Other Matters**

8. The Council Officer's report refers to the conversion of a garage to a bedroom and new render on the front elevation. The Council states that these elements are permitted development. Consequently, I am not required to consider them as part of this appeal.

#### **Conclusion**

9. For the reasons given above, it is concluded that the appeal should be dismissed.

*Ian McHugh*

INSPECTOR

## Appeal Decision

Site visit made on 21 March 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

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

Decision date: 31 March 2017

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**Appeal Ref: APP/Z4718/W/16/3161984**

**Land adjacent to 5a and 6 Leak Hall Crescent, Denby Dale, Huddersfield HD8 8RZ**

- 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 Jonathan Mayo (Heywood Developments (Denby Dale) Limited) against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92019/E, dated 14 June 2016, was refused by notice dated 18 October 2016.
  - The development proposed is five new dwellings and a new adopted turning head.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of Nos 5a and 6 Leak Hall Crescent, No 25 Hillside and the proposed dwellings in terms of outlook and light, and No 25 Hillside in respect of privacy.

### Reasons

#### *Site and proposal*

3. The appeal site comprises a piece of open land at the end of a residential street with no through access. It includes an area of hard standing to its central area, but the areas which are adjacent to the side elevations and rear gardens of Nos 5a and 6 Leak Hall Crescent are grassed with some tree planting on the boundaries.
4. It is proposed to erect three two storey terraced houses (1 two bedroom and 2 three bedroom) adjacent to No 5a Leak Hall Crescent and a pair of two storey four bedroom dwellings adjacent to No 6 Leak Hall Crescent arranged off a central access road with a turning head.

#### *Character and appearance*

5. The appeal site falls within a part of Leak Hall Crescent where there are mainly stone built and hipped roofed semi-detached dwellings which have proportionate front and rear gardens, with stone walls fronting the main road, hipped slate roofs including chimneys, and a regularity of open gaps between

each of the residential blocks. In this part of the street, I consider that there is some design regularity and this gives the area its distinctive character. New detached stone built dwellings appear to have been erected on the lower parts of Leak Hall Crescent, but owing to the change in land levels and the bend in the road, such properties are not conspicuous when viewed from the appeal site.

6. The appeal site is currently open and is partly green. It provides a soft edge to the end of the street and there are open vistas to the less developed land to the west which includes a footpath. I am aware that outline planning permission has already been approved for residential development on the site, although all detailed matters (apart from access) are reserved for a subsequent application. The appellant has referred me to an illustrative layout plan which accompanied the outline planning application which showed four dwellings on the appeal site. However, the layout plan was not approved and, in any event, the dwellings were positioned in a different position to the appeal dwellings in so far that they were more closely aligned with the gable elevations of Nos 6 and 5a Leak Hall Crescent. It is, in any event, necessary for me to determine this appeal on its individual planning merits, and I therefore attach very limited weight to the indicative plan submitted with the former outline planning application.
7. I acknowledge that the proposed dwellings would be set well back from the building line of the dwellings on Leak Hall Crescent. In this respect, they would not be conspicuous when travelling up Leak Hall Crescent and given the position of the turning head there would continue to be open vistas to the land to the west. However, the dwellings would be conspicuous from more localised viewpoints on Leak Hall Crescent and in this respect would therefore be seen in the context of the existing semi-detached dwellings. In this regard, I consider that the proposed dwellings would appear substantial and imposing and that their design would be at odds with the relatively modest and unsubstantial existing semi-detached dwellings. The two storey projecting gables would appear particularly dominant and bulky on the proposed terrace of three dwellings, which would be in direct contrast to the simple/predominantly flat elevations of the nearby existing properties. Furthermore, the roofs of the dwellings would be gabled, and so would not be in-keeping with the roof design of the existing neighbouring dwellings.
8. My above design concerns are compounded by the fact that there would very limited landscaping to the front of the proposed dwellings and because the properties would be positioned close to the boundaries of the site. The turning head would be large and there would be significant expanses of driveway. I acknowledge that there would be some green areas, including a front garden to one of the proposed semi-detached properties, but overall the opportunities for landscaping would be very limited. Taking this into account, the parking of a number of vehicles to the front of the dwellings, and the overall scale and massing of the proposed dwellings, I consider that the proposal would create a very harsh and cramped environment to the detriment of the character and appearance of the area. There would be particular conflict with saved Policy BE1 (iv) of the UDP which states that development should contribute to an environment which *"provides a healthy environment including space and landscaping about buildings"*.

9. For the collective reasons outlined above, I conclude that the proposal would have significantly adverse impact upon the character and appearance of the area and would not therefore accord with the design aims of saved Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan 1999(UDP) and the National Planning Policy Framework (the Framework) which states, at paragraph 56, that "*good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*".

*Living conditions*

10. The proposed dwellings would be positioned well beyond the rear elevations of No 5a and 6 Leak Hall Crescent. They would be built in relatively close proximity to the boundaries with these properties, and owing to the height and bulk of the proposed dwellings, I consider that they would have a significantly dominating impact when viewed from existing rear windows and garden areas. In addition, and given the height and position of the dwellings, there would be some unacceptable overshadowing of the garden areas of No 5a and 6 Leak Hall Crescent, particularly later in the day.
11. The first floor rear elevation bedroom windows to the proposed semi-detached dwellings would face towards the rear elevation and garden of No 25 Hillside. Taking into account the very close separation distance, I consider that there would be significant overlooking of the windows and the garden area of No 25 Hillside to the detriment of the privacy enjoyed by the occupiers of this detached house.
12. I have not been provided with any development plan policies for the area which specify minimum garden sizes for residential properties. Nonetheless, I consider that all of the rear gardens would be disproportionately small for what would be five relatively large family houses. Given the scale of the dwellings and the size of the gardens, I consider that the garden areas would feel oppressive and that overall the dwellings would have a dominating impact when residents were using these spaces. Given the limited length of the gardens and the overall height of the proposed dwellings, I consider that there would be some overshadowing of the semi-detached dwelling gardens at about mid-day and to a lesser degree to parts of the garden areas of the terraced dwellings in the early mornings.
13. Owing to the changes in levels it is proposed that there would be a raised terrace to the rear of each of the three proposed terraced dwellings: they would lead down to very small lower garden areas. Based on the information submitted, I am concerned that it would be possible to look down and into neighbouring lower level gardens from the respective terraced areas. This would cause unacceptable harm to the privacy enjoyed by residents of these proposed dwellings.
14. For the collective reasons outlined above, I conclude that the proposal would cause significant harm to the living conditions of the occupiers of No 5a and 6 Leak Hall Crescent in terms of outlook and light; the occupiers of some of the proposed dwellings in terms of the private use of rear gardens; that the proposed rear garden areas would be unacceptably small, feel oppressive and have limited levels of light, and that significant harm would be caused to the occupiers of No 25 Hillside in respect of loss of privacy. Therefore, the proposal would not accord with the amenity aims of saved Policies D2 and BE12

of the UDP and the Framework. I do not consider that saved Policies BE1 and BE2 of the UDP are strictly relevant to this issue as they relate more to matters of general design.

### **Other Matters**

15. I note the appellant's comment that the Highway Authority has requested a large turning head and that this has meant that the dwellings are positioned further into the site. I do not know if the Highway Authority would support a smaller turning head, but, in any event, the requirement for a specific turning head cannot justify allowing harmful development. It would be open to the appellant to discuss an alternative proposal with the Local Planning Authority/Highway Authority, but this is not a matter than I can pursue as part of this appeal.
16. I have considered the appellant's comment about the dwellings being affordable and that some of the properties had already been sold. I do not have any specific information about affordability, although I do accept that the provision of five dwellings would make some, albeit a relatively limited, contribution towards the supply of dwellings in the area when the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. Whilst, the boost to housing supply does weigh in favour of the proposal, it does not outweigh or overcome the significant harm that would be caused to the character and appearance of the area and to the living conditions of existing and future residents.
17. I acknowledge the comments made by Melissa Lees who was hoping to purchase one of the proposed properties. Whilst this individual may have been prepared to purchase a dwelling with very limited private outside amenity space, it is nonetheless necessary for me to consider whether the proposed dwellings, including the associated outside amenity space, would be acceptable for all future occupiers. I have found that the private outside amenity space would be severely restricted, and the comments made by Melissa Lees do not alter my conclusion on this issue.
18. None of the other matters raised outweigh my overall conclusions on the main issues.

### **Conclusion**

19. For the reasons outlined above, and taking into account all other matters raised, the proposal would not accord with the development plan for the area. Therefore, the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR

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# Appeal Decision

Site visit made on 14 March 2017

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

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

**Decision date: 3 April 2017**

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**Appeal Ref: APP/Z4718/W/16/3166268**

**Cuckstool Road, Denby Dale, West Yorkshire HD8 8RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr & Mrs E Boocock against Kirklees Metropolitan Borough Council.
  - The application Ref 2016/91231, is dated 14 April 2016.
  - The development proposed is 3 residential dwellings.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters and Background

2. The original application sought outline planning permission for 3 residential dwellings on the appeal site with all matters reserved. Accordingly, I have determined the appeal scheme on that basis.
3. The Council did not issue a decision within the prescribed period. The appellants have exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's appeal statement states that the proposed dwellings would have an adverse impact on the amount and quality of open space available in the area and would also prejudice the appeal site's value as open land.

## Main Issue

4. Taking the above into account, the main issue is the effect of the proposed development on the character and appearance of the surrounding area.

## Reasons

5. The appeal site is located adjacent to and north of Cuckstool Road. At the time of my visit, the site was overgrown with a number of small trees and bushes located around the edges of the site. A low level stone wall forms the southern boundary of the site and is in a reasonable state of repair. However, at my visit, I noted that a sizeable section of the wall had fallen down at the south east corner of the site. The topography of the site slopes downwards towards the north and towards the nearby Denby Dale Cricket Club. The northern boundary of the site is marked by an area of trees beyond which lies the cricket club field. To the west and south are residential properties on Cuckstool Road which runs along the southern and eastern boundary of the site. The area has

- a mixed character with a balance of residential properties and areas identified as open space land, including the appeal site. The site is allocated as 'Urban Greenspace' in the Kirklees Unitary Development Plan (UDP).
6. Policy D3 of the UDP states that planning permission will not be granted on sites designated as 'urban greenspace' unless the proposed development is necessary for the continuation or enhancement of established uses or involves a change of use to alternative open land uses or would result in a specific community benefit. In all cases, development is required to protect visual amenity, wildlife value and opportunities for sport and recreation. Alternatively, development would only be allowed were alternative open space provision of equivalent quantity and quality to that being lost were proposed which was reasonably accessible to existing users. In addition, Paragraph 74 of the National Planning Policy Framework (the Framework) advises that open space should not be built upon unless an assessment has been made which clearly shows the open space in question to be surplus to requirements.
  7. Whilst I appreciate that Policy D3 is of some age, this alone is not a sufficient reason to give have any less weight to it in decision-making. Furthermore, having considered the above, I find Policy D3 to be in accordance with the Framework. As such, I give it significant weight in my determination of this appeal.
  8. From what I have seen and read, there is no substantive evidence to indicate that any alternative open space land of equivalent size and quality forms part of the proposal. Furthermore, there is no assessment before me which indicates that the area of open space which would be lost as a result of the proposal is surplus to requirements for the area.
  9. In addition, I find that the open space land which currently forms the appeal site makes a positive contribution to the character and appearance of the locality. It has the appearance of being a semi-natural area of land. In my view, this forms the core of its intrinsic value to the locality where an area with such a rural appearance is situated amongst and adjacent to residential properties which provides a positive edge of settlement environment of mixed character and appearance. Furthermore, the open space land which forms the appeal site is recognised as a valued element of the streetscape and supported through its allocation as 'Urban Greenspace' in the UDP.
  10. I note that the Council cannot demonstrate a five year supply of housing land and that the proposal would provide three new dwellings in a sustainable and accessible location. I acknowledge that this would make a small contribution to the housing supply shortfall and would provide a small area of formal open space for the benefit of the community. Furthermore, I appreciate that the site has limited wildlife and ecological value. Notwithstanding this, having had due regard to all of the evidence before me, and from what I saw during my visit, I find that the material harm which would be caused to the character and appearance of the locality and the loss of a key area of semi-natural open space would significantly outweigh the benefits of the scheme.
  11. The proposed development would result in the loss of a valued area of open space land which is allocated as such in the UDP. Furthermore, it would have an adverse visual impact on the character and appearance of the locality which would be contrary to local planning policy and the Framework.

12. Consequently, I conclude that the proposed development would have a material harmful effect on the character and appearance of the surrounding area. Therefore, it would be contrary to Policy D3 of the UDP and the Framework. Amongst other matters, this policy and guidance seeks to ensure that development has no significant adverse effect on the character or appearance of its surroundings.

**Conclusion**

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

*Andrew McCormack*

INSPECTOR

## Appeal Decision

Site visit made on 10 April 2017

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

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

**Decision date: 24 April 2017**

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**Appeal Ref: APP/Z4718/D/17/3170623**  
**88 Woodsome Estate, Batley WF17 7EF**

- 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 Yusuf Khalifa against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/92766/E, dated 11 August 2016, was refused by notice dated 26 January 2017
  - The development proposed is the erection of a first floor side extension and rooms in the roofspace.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. I take the view that the main issue in this appeal is the effect of the proposal on the character and appearance of the area.

### Reasons

3. The appeal proposal relates to a two storey end terrace dwelling of red brick construction with a concrete tile roof. The dwelling has already been extended with a large porch/front extension and a ground floor extension to the side.
4. The proposal is for the erection of a first floor side extension with rooms in the roofspace. The side extension would be built directly on the existing ground floor extension and would have the same footprint. It would be set in from the rear elevation and have a gable roof with a ridge height slightly lower than the host property. There would be a Juliet balcony to the front elevation.
5. The statutory development plan includes the saved policies of the Kirklees Unitary Development Plan (UDP). The Council's Local Plan was published for consultation in November 2016 and in accordance with the guidance in paragraph 216 of the National Planning Policy Framework (NPPF) has limited weight in planning decisions at this stage. The site is unallocated on the UDP Proposals Map and saved policies D2, BE1, BE2, BE13, BE14 and T10 are relevant in this case.
6. At my site visit it was plain to me that the existing building is an end terrace dwelling with a hipped roof to the side and that the corresponding dwelling at the other end of the row of terraces also has a hipped roof. Moreover, I saw that other rows of terraced properties in the vicinity had a hipped roof design.

The appeal proposal is to form a first floor extension with a gable roof. I appreciate that amended plans were submitted to try to reduce the visual impact of the design albeit still with a gable roof design. I also note that the proposal would be constructed in materials to match the existing dwelling. However, in my view, the appeal proposal would be materially out of keeping with the surrounding development on a prominent corner site. Given that the proposed gable roof design would affect the whole street scene and visual amenity of the area, the proposals are unacceptable. The proposal would be contrary to Policies BE1 and BE13 of the UDP and to paragraphs 58 and 64 of the NPPF which require good design. On the main issue I conclude that the appeal must fail.

7. I have taken into account all other matters raised including the Design and Access Statement submitted with the application. I appreciate that the proposal would provide additional living space for a growing family. I acknowledge that the proposal would be acceptable in relation to residential amenity. It would not adversely impact on the privacy, outlook or daylight of neighbours including those at 89 Woodsome Estate and would not offend aforementioned policies in this regard. Furthermore, there would be no detriment to highway safety from the proposals in the context of Policy T10.
8. Reference is made to other properties within the wider area where extensions have been approved by the Council and which have a gable roof design. I do not have all the details about these properties. However, none of these developments persuaded me that the appeal proposal would be appropriate in this situation. Suffice it to say that each decision must be considered on its own merits and in accordance with the provisions of the development plan and any other material considerations. Planning conditions would not overcome the objections I have described. I conclude that the proposal is in overall conflict with the development plan. None of the points raised are sufficient to outweigh this conflict. The proposal would not constitute sustainable development. My overall conclusion is that the appeal should be dismissed.

*Harold Stephens*

INSPECTOR

## Appeal Decision

Site visit made on 18 April 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

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

Decision date: 26 April 2017

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**Appeal Ref: APP/Z4718/W/16/3161267**

**12 Kestrel View, Shelley, Huddersfield HD8 8HH**

- 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 Paul Somerville against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92435/E, dated 18 February 2016, was refused by notice dated 30 September 2016.
  - The development proposed is the erection of a building with a raised decked area.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The building and the raised decked area are already on the site. I was able to see on my site visit that the bottom trellis had already been removed from the decked area. The building was in use by the appellant for office purposes.

### Main Issues

3. The main issues are the effect of the proposal upon (i) the living conditions of the occupiers of No 10 and No 14 Kestrel View in respect of outlook and privacy and (ii) the character and appearance of the area.

### Reasons

#### *Site and Proposal*

4. The appeal site comprises the rear garden of a semi-detached dwelling located within a modern housing estate. The rear garden slopes significantly upwards. There was originally a timber shed positioned at the top of the garden (with a small decked area), although the building appears to have been adapted in terms of increasing its height by a further 125mm. In conjunction with this development, the proposal also includes an extended terraced/decked area which is about 8.19 metres in length and 4.58 metres further forward than the part of the original decking which is positioned in the north eastern corner of the rear garden.
5. Most of the development is already in situ. The Council has previously refused planning permission (Ref 2016/62/90599/E) for such development, although it is understood that the appellant ran out of time to appeal such a decision. This proposal differs from the previous proposal in so far that it is proposed to erect

a 1.45 metre high privacy screen (measured from the decking level) to the front and sides of the proposed decked area. In addition, it is proposed to remove the trellis around the bottom of the decking and to reveal the structural posts which would be stained in a dark oak colour. There would be planting and pebbles in this area.

### *Living Conditions*

6. When considered in isolation, the building does not have an adverse impact upon the occupiers of neighbouring residential properties in respect of outlook and privacy. There has been a building on the site for some time and the increase in height relative to the former shed is insignificant.
7. Notwithstanding the above, I consider that when the building and decked areas are considered as a whole owing to their size, bulk and position they have a very dominant and overbearing impact when viewed from the rear windows and gardens areas of No 10 and No 14 Kestrel View.
8. I accept that the proposed privacy screen would have the effect of minimising some unacceptable impacts on the privacy enjoyed by the occupiers of these neighbouring properties. However, such privacy screens would not be effective when people were standing on the deck. In addition, the overall effect of such screens would be that it would create more solid and hence dominant sides to the decked area. Whilst the removal of the bottom trellis has reduced the dominating impact of the development to some extent, this does not overcome my significant concerns about the overall effect of the development upon the occupiers of No 10 and No 14 Kestrel View primarily in terms of their outlook, but also to some extent in terms of their privacy.
9. For the collective reasons outlined above, I conclude that the proposal would not accord with the amenity aims of saved Policy D2 of the Kirklees Unitary Development Plan 1999 (UDP).

### *Character and appearance*

10. The original shed and decked area represented a form of development which was subordinate in scale to the host dwelling. However, when considered as a whole, the appeal development appears dominant, bulky and incongruous in this rear garden setting and is not subordinate in scale with the host dwelling. I reach this conclusion taking into account the fact that the bottom trellis of the decked area has been removed.
11. I accept that the development is positioned to the rear of the house and so it is not particularly noticeable from more public areas. However, it can be seen from the rear of existing residential properties and paragraph 56 of the National Planning Policy Framework (the Framework) states that "*good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people*". In this case, I do not consider that the development contributes to making the area better for the people that reside in it.
12. I have considered the appellant's examples of other terraces/decks in the area, but I am not certain when these developments were built, or indeed whether they have had the benefit of planning permission. Within the immediate vicinity of the appeal site there are other decked areas. However, these are either not as bulky as the appeal development, do not also include a shed or

make use of glazed balustrades. I do not consider that the examples of other developments in the locality are directly comparable with the appeal proposal, and their existence does not justify allowing harmful development which would not accord with the development plan for the area.

13. For the above reasons, I conclude that the development causes material harm to the character and appearance of the area and therefore does not accord with the design aims of the Framework and saved Policies D2 and BE1 of the UDP.

#### **Other Matters**

14. I acknowledge the reasons why the appellant wants a level area. However, there are other level areas immediately to the rear of the conservatory. In any event, the reasons for erecting the decking do not outweigh my conclusions on the main issues.

#### **Conclusion**

15. Whilst the proposed building is acceptable in terms of its impact upon the character and appearance of the area, and the living conditions of the occupiers of neighbouring residential properties, the proposed decked area is not physically separate from such development and it has been necessary for me to consider the development as a whole. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal as a whole would not accord with the development plan for the area. Therefore, the appeal is dismissed.

*Daniel Hartley*

INSPECTOR

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

**Date: 18<sup>th</sup> May 2017**

**Title of report: A REVIEW OF PLANNING APPEAL DECISIONS (January 2016-December 2016)**

**The purpose of the report is to provide Members with an annual overview of planning appeal decisions relating to the Heavy Woollen area between 1<sup>st</sup> January 2016 to 31<sup>st</sup> December 2016.**

|   |  |
|---|--|
| <b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b> | <b>No</b>  |
| <b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)</a>?</b>                                    | <b>No</b>  |
| <b>The Decision - Is it eligible for "call in" by Scrutiny?</b>   | <b>No</b>  |
| <b>Date signed off by Assistant Director &amp; name</b>   | <b>Paul Kemp, Assistant Director of Place -</b>                          |
| <b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>  | <b>No financial implications</b>   |
| <b>Is it also signed off by the Assistant Director - Legal Governance and Monitoring?</b>   | <b>No legal implications</b>   |
| <b>Cabinet member portfolio</b>   | <b>Economy, Skills, Transportation and Planning (Councillor McBride)</b> |

**Electoral wards affected: All**  
**Ward councillors consulted: No**

**Public or private: PUBLIC**

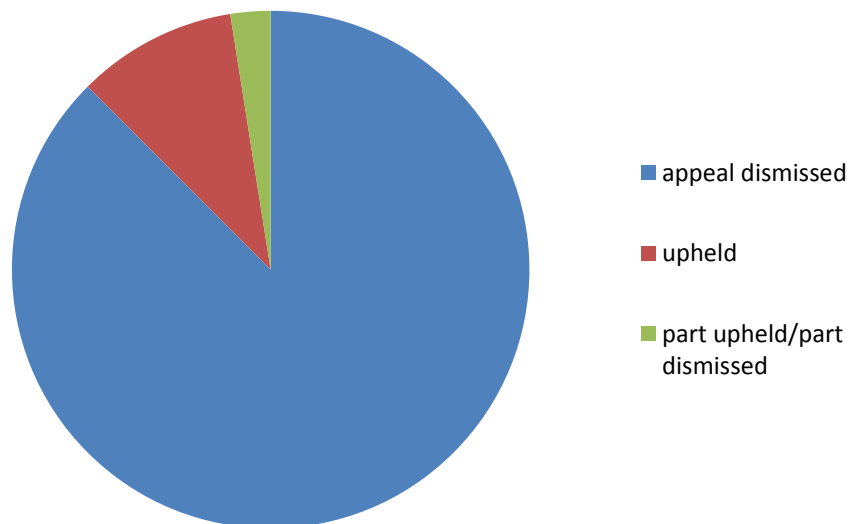
## 1. Summary

This report is for information only. It provides an annual overview of the decisions of the Planning Inspectorate, in respect of appeals submitted against the decision of the Local Planning Authority.

## 2. Information to note

2.1 Between 1<sup>st</sup> January 2016 and 31<sup>st</sup> December 2016, there were 40 planning application appeals submitted relating to the Heavy Woollen Area. Of these 87% were dismissed. Appendix 1 provides a list of relevant appeals and the level of decision.

2.2 Figure 1 below shows a breakdown of planning application appeals, whether dismissed or upheld.



*Figure 1: Breakdown of planning applications appeals relating to Heavy Woollen*

2.4 Of the planning application appeals, 36 were delegated to officers, of which 89% were dismissed. 4 were decided by the planning committee – of which 75% in accordance with officer recommendation. Of the decisions made by planning committee, 100% were dismissed.

## 3. Implications for the Council

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

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

## 4. Consultees and their opinions

Not applicable, the report is for information only

## 5. Next steps

Not applicable, the report is for information only

## 6. Officer recommendations and reasons

To note

7. **Cabinet portfolio holder recommendation**  
Not applicable
8. **Contact officer**  
**Simon Taylor – Head of Development Management**  
[Simon.taylor@kirklees.gov.uk](mailto:Simon.taylor@kirklees.gov.uk)
9. **Background Papers and History of Decisions**  
Not applicable
10. **Service Director responsible**  
Paul Kemp



## **Appendix 1 – List of planning application appeals between 1<sup>st</sup> January 2016 and 31<sup>st</sup> December 2016 (Heavy Woollen area)**

1. 2015/90589 - Demolition of existing dwelling and erection of two detached dwellings at 114, West Royd Avenue, Mirfield, WF14 9LE (delegated decision – appeal dismissed)
2. 2015/92329 - Erection of single storey rear and side extensions, conversion and pitched roof at 181, Headfield Road, Savile Town, Dewsbury, WF12 9JJ (delegated decision – appeal dismissed)
3. 2015/93129 - Erection of single storey extension at 15, Red Vale, Gomersal, Cleckheaton, BD19 4AJ (delegated decision – appeal dismissed)
4. 2015/92688 - Erection of extensions to front at 1, Carlisle Close, Dewsbury, WF13 2DN (delegated decision- appeal dismissed)
5. 2015/91152 - Outline application for erection of one dwelling at rear of 40A, Latham Lane, Gomersal, Cleckheaton, BD19 4AL (delegated decision – appeal dismissed)
6. 2015/90799 - Outline application for erection of 2 dwellings at rear of 2-5, The Crescent, Hightown, Liversedge, WF15 8BX (delegated decision – appeal dismissed)
7. 2015/90539 - Use of land for caravan/mobile home storage area and associated landscaping at Land at, Mount Pleasant Farm, 4, Jackroyd Lane, Upper Hopton, Mirfield, WF14 8EH (delegated decision – appeal dismissed)
8. 2015/90513 - Erection of detached dwelling with integral garage and formation of new access at 5, Field Head Farm Court, Shepley, Huddersfield, HD8 8FH (delegated decision – appeal dismissed)
9. 2014/93036 - Erection of new boundary fence at 121, Wakefield Road, Earlsheaton, Dewsbury, WF12 8AJ (delegated decision – appeal dismissed)
10. 2015/90405 - Erection of agricultural barn at 213, Denby Lane, Upper Denby, Huddersfield, HD8 8XZ (delegated decision – appeal dismissed)
11. 2015/92062 - Erection of single storey rear extension at 118, Headfield Road, Savile Town, Dewsbury, WF12 9JG (delegated decision – appeal dismissed)
12. 2015/93122 - Erection of balcony to rear at 8, York Place, Cleckheaton, BD19 3PA (delegated decision – appeal dismissed)
13. 2015/92200 - Erection of 4 dwellings with integral garages at Former site of Pickles & Swallow Ltd, Pinfold Lane, Flockton, Huddersfield, WF4 4DD (delegated decision – appeal upheld)
14. 2015/93227 - Erection of two storey and single storey rear extension to form annex accommodation at 10, Liversedge Hall Lane, Liversedge, WF15 7DB (delegated decision- appeal dismissed).
15. 2015/90923 - Prior approval for proposed change of use of agricultural building to dwellinghouse at Land opp, Windy Ridge Farm, 209, Denby Lane, Upper Denby, Huddersfield, HD8 8XZ (delegated decision – appeal dismissed)
16. 2015/93752 - Erection of dormer to front at 9, York Road, Mirfield, WF14 9RR (delegated decision – appeal dismissed)

17. 2015/91256 - Erection of detached dwelling at Land off, High Street, Thornhill, Dewsbury, WF12 OPR (delegated decision – appeal dismissed)
18. 2015/93294 - Installation of 1 no. non illuminated fascia sign at Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3ET (delegated decision – appeal dismissed)
19. 2014/94027 - Erection of 47 dwellings and associated works including access, public open space at Flockton Hall Farm, Barnsley Road, Flockton, Huddersfield, WF4 4DW (decision by committee against officer recommendation – appeal dismissed)
20. 2015/90373 - Erection of 2 holiday homes at land at Denroyd Farm, Denby Lane, Upper Denby, Huddersfield, HD8 8TZ (delegated decision – appeal dismissed)
21. 2015/93816 - Erection of single storey front extension at 21, Barnsley Road, Flockton, Huddersfield, WF4 4DP (delegated decision – appeal dismissed)
22. 2015/92695 - Erection of two storey side and rear and single storey front extensions at 8, Honeysuckle Drive, Thornhill Lees, Dewsbury, WF12 0SF (delegated decision – appeal dismissed)
23. 2016/91239 - Erection of first floor conservatory at Greenwood Barn, Barnsley Road, Upper Cumberworth, Huddersfield, HD8 8NN (delegated decision – appeal dismissed)
24. 2015/93308 - Erection of two storey side extension, single storey rear extension, alteration at 127-129, Leeds Old Road, Heckmondwike, WF16 9AQ (delegated decision – appeal part upheld/part dismissed)
25. 2014/93055 - Alterations to convert first floor to non-residential institution mosque and madrassa (D1) and external alterations at 2, Thornton Road, Thornhill Lees, Dewsbury, WF12 9HR (committee decision in accordance with officer recommendation – appeal dismissed)
26. 2016/90024 - Erection of fence at New Hall, 1, Nova Lane, Birstall, Batley, WF17 9LD (delegated decision – appeal dismissed)
27. 2015/93467 - Erection of one detached dwelling (within a Conservation Area) at Brentwood, 36 Oxford Road, Dewsbury, WF13 4LL (delegated decision – appeal dismissed)
28. 2016/90586 - Demolition of existing dwelling and erection of two detached dwellings at 114 West Royd Avenue, Mirfield, WF14 9LE (delegated decision – appeal dismissed)
29. 2015/91961 - Redevelopment of farm building to create 2 dwellings with associated parking at Mug Mill Farm, Mug Mill Lane, Thornhill, Dewsbury, WF12 0QE (decision by committee in accordance with officer recommendation – appeal dismissed)
30. 2016/91232 - Erection of two storey side extension at 11, Fisher Way, Heckmondwike, WF16 0BU (delegated decision – appeal dismissed)
31. 2016/91003 - Erection of orangery to rear at 3, Moorcroft Close, Mirfield, WF14 9FA (delegated decision – appeal dismissed)
32. 2016/90388 - Erection of front and rear dormers at 9, Cross Lane, Skelmanthorpe, Huddersfield, HD8 9BR (delegated decision – appeal dismissed)

33. 2015/92971 - Outline application for erection of detached dwelling at front of 107, Carlinghow Hill, Upper Batley, Batley, WF17 0AG (decision by committee in accordance with officer recommendation – appeal dismissed)
34. 2016/91961 - Erection of dormer window to front and second floor extension at the rear at 11, Upper Mount Street, Batley, WF17 6BA (delegated decision – appeal dismissed)
35. 2016/91588 – Erection of single storey rear extension at 138, Gomersal Lane, Gomersal, Cleckheaton, BD19 4JQ (delegated decision – appeal upheld).
36. 2015/93545 – Erection of agricultural barn at the rear of 481 Hunsworth Lane, East Bierley BD4 6RN (delegated decision – appeal upheld)
37. 2016/90511 – Outline application for one dwelling at 678b Bradford Road, Birkenshaw BD11 2EE (delegated decision – appeal upheld)
38. 2016/90818 – Land adj. 11 Park View, Cleckheaton BD19 3AN (delegated decision – appeal dismissed)
39. 2016/91205 – Outline application for the erection of 9 dwellings and associated access works at Land to the East of Field Head Lane, Birstall (delegated decision – appeal dismissed)
40. 2016/91821 – Erection of 3 no. illuminated plastic trees at Shama Restaurant, 192 Leeds Road, Heckmondwike WF16 9BJ (delegated decision – appeal dismissed).

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## LOCATION PLAN



Map not to scale – for identification purposes only

**Electoral Wards Affected:** Dewsbury West

### **RECOMMENDATION:**

DELEGATE approval to confirm Tree Preservation Order 02/17, Ravens Lodge Terrace, Huddersfield Road, Dewsbury WF13 3EF as served.

## **1.0 INTRODUCTION:**

- 1.1 The purpose of this report is for Members to consider an objection against the making of Tree Preservation Order (TPO) 02/2017, Ravens Lodge Terrace, Huddersfield Road, Dewsbury WF13 3EF and delegate authority to Officers to confirm the Order as opposed.
- 1.2 The TPO legislation requires that all TPO's have a 28 day period within which objections can be made. Any objections received must be considered before the TPO can be confirmed and therefore made permanent.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The properties affected by the TPO are Nos. 2-8 Ravens Lodge Terrace which is adjacent to Huddersfield Road in Scout Hill. The four trees included within this Order add high amenity value to the area which has a limited number of mature trees. The few trees that are present along this section of Huddersfield Road are in Council ownership and not under threat.

## **3.0 BACKGROUND:**

- 3.1 A planning application (ref.2016/93684) has been submitted for development at No.8 Ravens Lodge Terrace, Huddersfield Road, which had implications for the tree outside No.8. This planning application has since been granted.
- 3.2 These large individual trees are a prominent landscape feature positioned as they are adjacent to Huddersfield Road. For this reason they provide significant public amenity. A large mature tree had recently been felled in the rear garden of No.8. To protect the integrity of these trees and the public amenity they afford a new Tree Preservation Order (TPO) was made on 5th January 2017. TPO 02/17 was served by recorded delivery on 5<sup>th</sup> January 2017 to all interested parties, i.e. homeowners and neighbours where trees overhang a boundary line. (A copy of the Order is included in the Supporting Papers)

## **4.0 REPRESENTATIONS:**

- 4.1 In response to this Order one objection has been received from the owner of No.8 Ravens Lodge Terrace regarding the tree at the front of their property. The objection was on the following grounds:
  - i. A planning application for a driveway in front of the property and had intended to get remove the tree.
  - ii. The tree was blocking light from the property
  - iii. Damp conditions within the house
  - iv. Falling branches during bad weather
  - v. Overgrown tree and complaints from neighbours
  - vi. Son suffers from hayfever, asthma, allergies and plants.(A copy of the objection email is included in the Supporting Papers)

## **5.0 RELEVANT PLANNING HISTORY:**

- 5.1 2016/93684 – Erection of two storey extension to side and alteration to pavement – Approved

## **6.0 HISTORY OF NEGOTIATIONS:**

- 6.1 In light of the objection a letter was sent to the owner setting out the reasons for the Order and re-butting the reasons raised. In brief they are; the tree to the front of No.8 was shown as retained in the planning application 2016/93684; it was explained that light loss would not be a justification for the removal of these trees and the public amenity value they provide; hayfever can be caused by tree pollen however this typically lasts only 2-3 weeks of the year due to their flowering period; there were other trees in the immediate vicinity which would also contribute to the above and therefore the removal of this one tree would not solve the problems. It was hoped that this explanation would appease the objection raised. (A copy of the response to the objection is included in the Supporting Papers)
- 6.2 Having explained the reasons for the Order in greater detail to the Objector no formal response was received either accepting the TPO or relating to the status of their objection. A phone conversation occurred where further explanation was offered to explain that the tree will not prevent the proposed changes to the property and that mature trees have been shown to reduce the levels of pollutants in their immediate vicinity.

## **7.0 PLANNING POLICY:**

- 7.1 N/A

## **8.0 PUBLIC/LOCAL RESPONSE:**

- 8.1 N/A

## **9.0 CONSULTATION RESPONSES:**

- 9.1 N/A

## **10.0 MAIN ISSUES**

- Reason for making the TPO
- Objection received

## **11.0 APPRAISAL**

### Reason for Making the TPO

- 11.1 To protect and preserve the amenity value of trees and woodlands within the district that are under threat of removal or destruction to satisfy responsibilities under the Town and Country Planning Act.

## Objection Received

- 11.2 The Objector states a number of reasons that they feel the TPO should not be confirmed. The main one being that it will impede their plans, which were subject to a planning application at the time. The application has since been approved and works to the front and side of the property have commenced which the tree in front of No.8 has not prevented.
- 11.3 Concerns were also raised regarding the health of their son and asthma, hayfever and allergies. Tree pollen related hayfever will only affect people for the two to three weeks of the year that trees flower and studies have now shown that trees help reduce pollution particulate levels (a major cause of asthma).
- 11.4 Another reason given in the email objecting to the TPO was that branches fall from the tree during bad weather causing damage to their parked vehicles. Mature trees require maintenance much the same as any part of a property. Regular maintenance will minimise this and would be expected of any tree owner.

## **12.0 CONCLUSION**

- 12.1 The Order is warranted and justified due to the amenity value the trees provide. The points raised by the Objector do not override the benefit of confirming the Tree Preservation Order and it is believed that the Order should be confirmed.

### **Background Papers:**

Copy of The Tree Preservation Order, as served  
Copy of the objection email  
Copy of the response to the objection  
Photos

Tel: 01484 221000

Fax: 01484 225158

Email: [sandra.haigh@kirklees.gov.uk](mailto:sandra.haigh@kirklees.gov.uk)  
[www.kirklees.gov.uk](http://www.kirklees.gov.uk)

5<sup>th</sup> January 2017

Our Reference: DEV/SJH/SG/D26-1293

## MEMORANDUM

To: Trees Section  
Investment & Regeneration  
Civic Centre III  
Huddersfield

**Tree Preservation Order No 2 2017**  
**Ravens Lodge Terrace, Huddersfield Road, Dewsbury WF13 3EF**  
**Grid Reference: SE 234 208**

I enclose a copy of the above Order together with a copy of the Notice served on those affected by it.

**Sandra Haigh**  
**Legal Officer**  
**for Assistant Director – Legal, Governance and Monitoring**

## TOWN AND COUNTRY PLANNING ACT 1990

### THE KIRKLEES COUNCIL TREE PRESERVATION ORDER NO 2 2017

The Kirklees Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order –

#### Citation

1. This Order may be cited as “The Kirklees Council Tree Preservation Order No 2 2017

#### Interpretation

2. (1) In this Order “the authority” means the Kirklees Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012

#### Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall –
  - (a) cut down, top, lop, uproot, willfully damage, or wilful destroy; or
  - (b) cause or permit the cutting down, topping, lopping, willfully damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions

**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted

Dated this 5 January 2017

THE CORPORATE COMMON SEAL of )  
THE COUNCIL OF THE BOROUGH )  
OF KIRKLEES was hereunto affixed )  
in the presence of: )



\_\_\_\_\_  
Assistant Director – Legal, Governance & Monitoring/Authorised Signatory

### CONFIRMATION OF ORDER

This Order was confirmed by Kirklees Council without modification on the \_\_\_\_\_ day  
of \_\_\_\_\_ Two thousand and \_\_\_\_\_

OR

This Order was confirmed by Kirklees Council, subject to the modifications included  
in red ink on the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand and \_\_\_\_\_

Signed on behalf of Kirklees Council

\_\_\_\_\_

Authorised by the Council to sign in that behalf

### DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Kirklees Council on the \_\_\_\_\_ day  
of \_\_\_\_\_ Two thousand and \_\_\_\_\_

Signed on behalf of Kirklees Council

\_\_\_\_\_

Authorised by the Council to sign in that behalf

### VARIATION OF ORDER

This Order was varied by Kirklees Council on the \_\_\_\_\_ day of \_\_\_\_\_ Two  
thousand and \_\_\_\_\_ by a variation order under reference number a copy of which  
is attached

Signed on behalf of Kirklees Council

\_\_\_\_\_

Authorised by the Council to sign in that behalf

### REVOCATION OF ORDER

This Order was revoked by Kirklees Council on the \_\_\_\_\_ day of \_\_\_\_\_  
Two thousand and \_\_\_\_\_

Signed on behalf of Kirklees Council

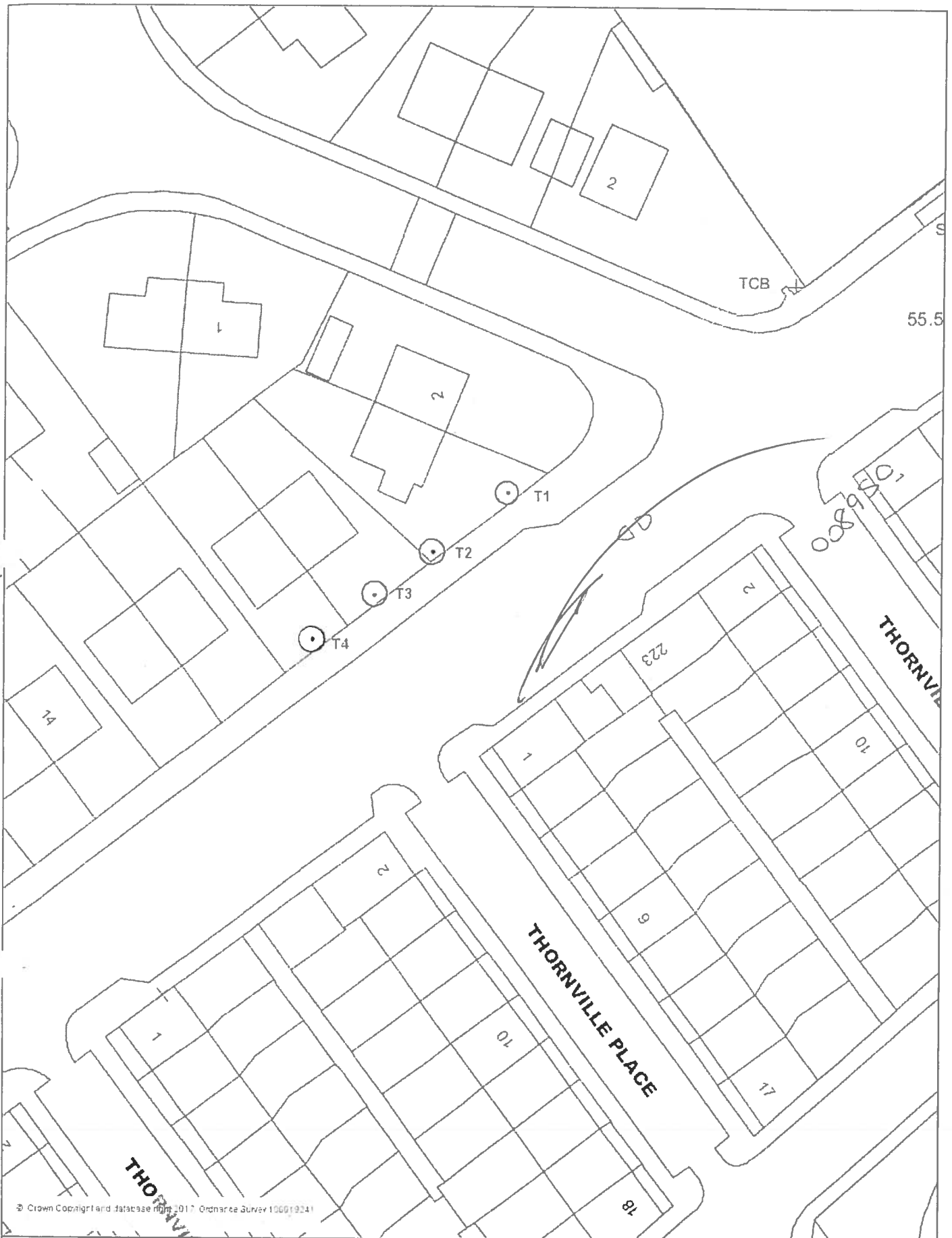
\_\_\_\_\_

Authorised by the Council to sign in that behalf

## SCHEDULE 1

### SPECIFICATION OF TREES

| <b>Trees specified individually</b><br>(encircled in black on the map) |   |                  |
|--|---|------------------|
| Reference on map   | Description   | Situation        |
| T1   | Sycamore  | To front of No.4 |
| T2   | Sycamore  | To front of No.4 |
| T3   | Sycamore  | To front of No.6 |
| T4   | Sycamore  | To front of No.8 |
| <b>Groups of trees</b><br>(within a broken line on the map)            |   |                  |
| Reference on map   | Description (including<br>number of trees in the group) | Situation        |
| None   | None  | None             |
| <b>Woodlands</b><br>(within a continuous black line on the map)        |   |                  |
| Reference on map   | Description   | Situation        |
| None   | None  | None             |




**Kirklees**  
 COUNCIL  
**Kompass**  
 KIRKLEES MAPS SERVICE  
 Tel: 01484 221757  
 (Internal 890 1757)  
 E-Mail: maps@kirklees.gov.uk

Tree Preservation Order No. 2 2017 - Ravens Lodge  
 Terrace, Huddersfield Road – GR SE 234 208

0 m    10 m    20 m



Scale 1 : 500

## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which apply in relation to England only, substantially revoke and replace the Town and Country Planning (Trees) Regulations 1999, to the extent to which they apply to England. This also revokes the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations 2008.

Part 2 prescribes the form of tree preservation orders and the procedure for their making, provisional effect, confirmation, variation and revocation. The prescribed form is set out in the Schedule to the Regulations.

Part 3 of the Regulations sets out prohibited activities in relation to a tree protected by an order and exceptions. Under regulation 13 a tree protected by a tree preservation order may not be cut down, topped, lopped, uprooted or willfully damaged or destroyed without the consent of the local planning authority, unless an exception applies. These exceptions are set out in sections 198(7) and 200(1) of the Town and Country Planning Act 1990, and in regulation 14 of the Regulations.

Section 198(7) provides exceptions relevant to section 39(2) of the Housing and Planning Act 1986 (c.53) (saving for effect of section 2(4) of the Opencast Coal Act 1958 (c.69) on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

Section 200(1) provides that a tree preservation order does not have effect in respect of anything done by or on behalf of Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision or anything done by or on behalf of any other person under a plan of works approved by the Forestry Commissioners under a forestry dedication covenant (as defined in section 5 of the Forestry Act 1967) or under conditions of a grant or loan made under section 1 of the Forestry Act 1979 (c.21).

Regulation 14 contains exceptions to the requirement for consent and regulation 15 contains exceptions for trees in conservation areas.

Part 4 of the Regulations prescribes the procedure for applications for consent under tree preservation orders.

Part 5 prescribes the procedure for appeals and for their determination. Regulation 19 grants a right of appeal in respect of a refusal to grant consent, a grant of consent subject to conditions or a failure to determine an application for consent within the prescribed time period.

In Part 6, regulation 24 provides for compensation claims, subject to exceptions, to be made where loss or damage has been incurred as a consequence of a refusal to grant consent, a grant of consent subject to conditions or a refusal of approval under a condition.

Part 7 contains miscellaneous provisions. Regulation 25 provides that the prescribed time for the purposes of sections 206(1)(b) (replacement trees) and 213(1)(b) (enforcement of controls as respects trees in conservation areas) is

whenever the cutting down or uprooting of a tree is authorised only by virtue of regulations 14(1)(a)(i) or 14(1)(c) (dead or dangerous trees).

Regulation 26 revokes the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations 2008, subject to transitional transitory and saving provisions in respect of certain classes or order. This regulation also saves regulation 17 of the Town and Country Planning (Trees) Regulations 1999 (amendment to the Town and Country Planning General Regulations 1992).

Under section 193 of the Planning Act 2008 (c.29), all tree preservation orders made prior to the date on which these Regulations come into force take effect with the omission of all of their provisions other than any that identify the order or identify the trees, groups of trees or woodlands to which the order applies.

A full impact assessment of the effect that this instrument will have on the costs of business, charities and the voluntary sector has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk). The assessment may also be accessed at [www.communities.gsi.gov.uk](http://www.communities.gsi.gov.uk).

## Nick Goddard

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**From:** Sandra Haigh  
**Sent:** 23 January 2017 13:15  
**To:** Nick Goddard  
**Subject:** FW: Ref:DEV/SJH/SG/D26-1293

Nick

I am forwarding this emailed objection and would be grateful if you could respond to Mr Asif.

Regards

Sandra Haigh  
01484 221000

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**Sent:** 23 January 2017 12:48

**Subject:** Ref:DEV/SJH/SG/D26-1293

Dear madam

I would like to make objection against the tree preservation order No 2 2017, as it is on a private property which I have recently purchased, I have submitted a planning application for an extension and driveway to this property which has been successful. I intend to have a driveway in front of property and this tree is in the way so intend to get rid of it. I did enquire with council for the other trees in garden which I have got rid of and was told there was no restrictions on them and was planning to get rid of this too but was waiting for a reply for my planning application. The tree is also a major obstruction to my property as it is blocking any light coming to the property as it covers the whole front of the house. The property is already in a bad state of repair and damp conditions within the house. It is a very overgrown tree which neighbours also have complained to me with branches falling into their gardens in bad weather conditions causing damage to their vehicles parked. My son also suffers from hayfever asthma and allergies, he has allergy to plants the tree has insects falling off it during summer which cause irritation to skin. So please consider my concerns and not allow this order to take effect.

Thanks  
Mohammed Asif  
Owner 8 Ravens lodge Terrace

Sent from my Samsung device

**Planning**

Investment and Regeneration  
PO Box B93, Civic Centre 3,  
Off Market Street, Huddersfield, HD1 2JR

Tel: 01484 414909

Email: [trees.planning@kirklees.gov.uk](mailto:trees.planning@kirklees.gov.uk)

Enquires to: Nick Goddard

Date: 23<sup>rd</sup> January 2017

Our Ref: TPO 02/17

Mohammed Asif  
8 Ravens Lodge Terrace  
Scout Hill  
Dewsbury  
WF13 3EF

Dear Mr Asif

Thank you for your correspondence regarding the Tree Preservation Order 02/17. Your comments will be taken into account and recorded as a formal objection regarding the inclusion of T4 in the order.

The reason given for making the order was that a planning application has been received for this property and the application may have an adverse effect on tree T4. Considering the removal of the tree to the rear of your property we have deemed it necessary to protect the four trees along Huddersfield Road due to the amenity value they provide to users of this busy road.

The tree, T4, to the front of your property was shown as retained on your plans submitted with your planning application (2016/62/93684/E) and it was therefore considered that the trees should be protected to ensure that first of all the tree was considered during the construction of a new drive and rear extension but also for the long term amenity value it provides.

Landowners have a duty of care in both civil and criminal law to take reasonable management measures to avoid foreseeable injury or harm caused by their trees. It is worth noting though that there is well-established case law upholding the principle that the standard of the duty of care varies according to the resources available to the landowner; meaning that a small landowner would not be expected to maintain as high a standard of management as a country estate or hospital trust for example.

With regards to your comments regarding light loss please consider that in law light loss would not be justification for the removal of these trees and the public amenity they provide. Please also note that while pollen from trees can cause hay fever this is a seasonal issue; tree pollen is only produced for a very limited period in spring. Additionally there are multiple trees in the area which will contribute to the pollen in your area so the loss of this tree will not significantly reduce the issues described.

Given your tree's position on Huddersfield Road and being one of four trees with high visual amenity in a row I would be pleased if you now felt able to formally withdraw your objection. If you do, please let me know in writing within the next 30 days.

If you do not wish to withdraw your objection then you need take no further action and I will write up your objection in my report before a decision on the confirmation of the TPO is made.

Yours Sincerely

Nick Goddard  
(Tree Officer)

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

## **PLANNING POLICY**

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

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

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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Originator: Liz Chippendale

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

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

#### APPLICANT

Mr Raza Ayoub

#### DATE VALID

24-Nov-2016

#### TARGET DATE

19-Jan-2017

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Batley East**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION: REFUSE**

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

**1.0 INTRODUCTION:**

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination due to the level of representations received in objection to the development. A petition of 43 signatures and 38 letters of objection were documented. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application was deferred from the 23<sup>rd</sup> February meeting to allow for further information to be submitted by the applicant with regards to the management of the proposed snooker room. Member's requested further details to be submitted of CCTV use, hours of operation, parking provision and a travel plan. The applicant was also requested to proactively engage with the local residents prior to submitting this information.
- 1.3 Following the decision to defer the application, the application has submitted information with regards to the management of CCTV recording equipment at the site and a very brief travel plan.

- 1.4 The proposed change of use of the vacant building to D2 use (Leisure and Assembly) as a snooker and games room is considered to not impact unduly on the residential and visual amenity of neighbouring occupants and, in this respect would accord with Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan and the core principle of the National Planning Policy Framework.
- 1.5 Furthermore, the current level of off-street parking, although it is under the recommended level for the proposed use, is considered acceptable when taking into account the associated traffic movements of the established use and level of on-street parking. The development is therefore not considered to materially add to highway safety implications, and would accord with the aims of policy T10 of the Kirklees Unitary Development Plan too.
- 1.6 However, although the NPPF is committed to securing sustainable economic growth by encouraging business and job creation, it also promotes safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion. In the circumstances of this planning application officers attach greater weight to these latter objectives, which the development is considered to clearly conflict with.
- 1.7 In this instance it is considered by officers that the resultant impact of the change of use in regards to the increased fear of crime for the local community would outweigh the benefits of the re-use of the vacant building in contrast to guidance within Chapter 8 of the National Planning Policy Framework.

## **2.0 SITE AND SURROUNDINGS:**

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

### **3.0 PROPOSAL:**

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

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

- 4.1 The application before sub-committee seeks full planning permission for the change of use of a vacant two storey building with current use of B1 business/office to a D2 use class as a snooker and games room (Leisure and Assembly).
- 4.2 Records show that the application site has been subject to the following planning history:
  - 2002/90188 – Change of use from workshops to combined workshop/office and showroom – Conditional full permission
  - 2003/94602 – Change of use of workshop to retail outlet to supply central heating – Refused
  - 2004/90700 – Change of use of workshop to retail/trade to supply central heating and bathroom – Refused
- 4.3 An enforcement investigation was opened on 23<sup>rd</sup> November 2016 with reference COMP/16/0294 following an allegation that the building was undergoing alterations to change the use to a shisha and snooker centre without the necessary planning permission. The application under consideration was registered on 24<sup>th</sup> November. As such formal enforcement action was not commenced, however, an action was added to the case file to monitor whilst awaiting the outcome of this planning application.

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

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 Following the decision to defer the application at the meeting on 23<sup>rd</sup> February, the applicant has submitted further information with regards to the use of CCTV at the premises and a brief travel plan.

5.2 The applicant has not submitted further information showing that any engagement or consultations were conducted with the local residents as requested by members.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007).

6.2 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

The site is unallocated on the Kirklees UDP proposals map.

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

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

6.4 Supplementary Planning Guidance / Documents:

There are no relevant supplementary planning guidance/documents

6.5 National Planning Guidance:

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

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the publicity 38 representations and a signed petition containing 43 signatures have been received in objection to the proposed change of use. The comments are summarised as follows:

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

7.2 A petition in support of the application was submitted containing 202 signatures which state the following:

“I can confirm I support the above planning application. I consider that the proposed user would provide much needed facilities for Batley and the site would not in my opinion cause problems for neighbours. Access in my opinion would not cause conflicts since users would use nearby public transport facilities or indeed walk to work”

7.3 Following the decision to defer the application at the committee meeting on 23<sup>rd</sup> February further representations were received including a petition containing 104 signatures and 75 representations. The comments are summarised as follows:

- The intensification of the current level of traffic by other businesses within the area
- Disturbance from associated nuisance and noise particularly during the evening and into the night
- An increase in the number of vehicles parked on Wellington Street which will be of detriment to highway safety
- The site has inadequate parking facilities
- The use as a snooker/games room will attract crime and anti-social behaviour.
- Loss of privacy for local residents
- Examples of previous reported crimes within other snooker centres in Batley
- There are currently a number of leisure activities within the area for the local youths
- The snooker club use would likely run into the late hours and therefore affect neighbouring properties by interrupted sleep
- Internal works to the application site are ongoing

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

- **KC Highways Development Management** – No Objection. However, it is noted that the submitted travel plan is not considered to be sufficient and is considered to be related more to the day-to-day management of the snooker room. If Member's are minded to approve the application

### 8.2 Non-statutory:

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

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

- **Police Architectural Liaison Officer** – Object to the application because it is likely to cause an increase in serious anti-social behaviour, nuisance, and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community. If Member's are minded to approve the application West Yorkshire Police would recommend certain conditions to be attached.

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application seeks full permission for the change of use of a vacant two storey building with a current use as B1 Business/workshop to D2 use (Assembly and Leisure) as a snooker and games room. The site is unallocated within the Kirklees Unitary Development Plan (UDP), therefore policy D2 applies. Policy D2 states that “planning permission for the development of land and buildings without notation on the UDP proposals map, and not subject to specific policies in the plan, will be granted provided that proposals do not prejudice the following:
- The implementation of proposals in the plan;
  - The avoidance of over-development;
  - The conservation of energy;
  - Highway Safety;
  - Residential Amenity;
  - Visual Amenity;
  - The character of the surroundings;
  - Wildlife interests; and
  - The efficient operation of existing and planned infrastructure.
- 10.2 Further policies of the Kirklees UDP are also applicable in regards to the design of the development. Policies BE1 and BE2 set out guidance in relation to the design, materials and scale to ensure that a sense of local identity is retained and promotes a healthy environment.
- 10.3 The core principle of the National Planning Policy Framework (paragraph 17) states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. Further matters for consideration are referenced in Chapter 1 of the NPPF which states that the planning system should “do everything that it can to support sustainable growth” with Chapter 8 of the NPPF adding that the planning system can “play an important role in facilitating social interaction and creating healthy, inclusive communities”.
- 10.4 A full assessment of the above will be considered below.

### Urban Design issues

- 10.5 There are no external alterations proposed to the building as part of the proposal for a change of use to snooker and games room. Although, it is envisaged that in time the current signage on the principal elevation would be removed following the closure of the former business use.
- 10.5 Information is submitted with regards to the use of CCTV at the premises, however, details of locations of the CCTV equipment have not been provided.
- 10.6 There are currently no planning applications submitted for proposed signage. However, depending on the design and scale of the signage it could benefit from permitted development rights under the Town and Country Planning (Control of Advertisements) Regulations 2007.

### Residential Amenity

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

#### *Noise*

- 10.8 The application site is set within an area which is predominantly residential. The nearest residential property is 113 Wellington Street to the North West which has a separation distance of 4.5m. Directly to the South of the application site is 15 Hamza Street which is 23.7m from the Southern elevation which also forms the boundary to the dwellings associated amenity space.
- 10.9 The building is within close proximity to residential properties and as such it is the concern of local residents that they would be unduly impacted by an increased level of noise disturbance associated with the use and service users.
- 10.10 It is considered by officers that although the use is likely to create an increased footfall, this can be minimised and controlled by the implementation of a condition restricting the hours of operation to 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 on Sundays, as recommended by KC Environmental Health. This restriction would limit the level of disturbance to ensure that the residential amenity is not unduly impacted.
- 10.11 Given the implementation of the attached condition, it is considered that any harm arising from the change of use can be mitigated against and the proposed change of use should not therefore cause any significant harm to the residential amenities of neighbouring residential properties. Subject to the condition relating to hours of use, the proposed development would comply with policies D2, BE1, and EP4 of the Kirklees Unitary Development Plan as well as the aims of chapter 11 of the NPPF in this respect.

### *Over Looking*

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

### Highway issues

- 10.14 Policy T10 sets out guidance for new development to ensure that there is a limited impact upon highway safety. Policy T19 sets parking standards for new developments. There have been a high number of representations received concerning the associated increase level of vehicle movements and impact of parking on Wellington Street.
- 10.15 KC Highways DM were consulted on the application. It was assessed that the current use as B1 Business/workshop, if brought back into use, would generate an estimated 30 two way vehicle movements per day which would be inclusive of HGV deliveries associated with the use.
- 10.16 Supporting information states that the proposed use would have an average of approximately 10 users per hour (numbers established as per a site within the same use that the planning agent recently worked on).
- 10.17 Policy T19 of the UDP states that for use class D2 Leisure and Assembly would require 1 parking space per 3 members of staff and 1 visitor parking space per 2 patrons. Based upon the applicants anticipated use of the snooker and games room there would be a requirement of 7 spaces in order to meet the recommended parking standards.
- 10.18 Whilst it is acknowledged that the current level of parking spaces (5 off-street) does not meet the required 7 spaces, given the level of vehicles movement associated with the established use and the available on-street parking spaces, the development is not considered to materially add to any undue highway safety implications and would be in compliance with policies T10 and T19 of the Kirklees UDP.

### Crime and anti-social behaviour

- 10.19 Chapter 8 of the National Planning Policy Framework sets out the important role that the planning system plays in facilitating social interaction and creating healthy and inclusive communities. Chapter 69 states that planning decisions should aim to achieve places which promote 'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion'.

- 10.20 There has been a high level of representation received with concern for the potential associated anti-social behaviour as a result of the change of use to snooker and games room both at the time of public consultation prior to the decision to defer the application at 23<sup>rd</sup> February meeting and after this decision.
- 10.21 The Police Architectural Liaison Officer (PALO) was re-consulted on the application for the proposed D2 (Leisure and Assembly) Snooker and games room following the submission of details of use of CCTV at the site. As part of the assessment the Neighbourhood Police Inspector for the Batley area was also consulted.
- 10.22 It is the considered view of West Yorkshire Police that the approval of the proposed D2 (Leisure and Assembly) Snooker and games room would be likely to cause an increase in the serious anti-social behaviour, nuisance and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community.
- 10.23 The assessment is based upon the opinion that an approval would create a 'honeypot' (a place where people have an excuse to congregate and linger). Crime and anti-social behaviour are more likely to occur at a specific location if potential offenders have a 'legitimate' reason to meet there.
- 10.24 Details were submitted with regards to the use of CCTV as a management strategy for the snooker room use. No details were submitted as to the location of CCTV equipment.
- 10.25 It is the considered opinion of West Yorkshire Police that CCTV is not a universal solution to security problems. Although the use of CCTV can help to deter offenders and assist in the identification once a crime has been committed. Unless it is monitored continuously as well as being recorded, it is considered to be of limited value in terms of providing a reaction and response to incidents as they are occurring.
- 10.26 Individuals who want to avoid being detected or identified by VVTC cameras will quickly work out the capabilities of the CCTV system in order to attempt to continue with illegal activities in areas possibly outside of camera coverage, or in hiding their faces as best they can to avoid identification.
- 10.27 It is the view of the Neighbourhood Policing Team for the Batley area that the introduction of CCTV is unlikely to deter the type of congregating around the premises that would raise the fear of crime and tensions within the local community.
- 10.28 In the absence of continuous management it is considered by officers that the proposed use as a snooker and games room would bring the likelihood of criminal or anti-social behaviour to the immediate vicinity which would in turn raise the level of crime amongst nearby residents.

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

### Representations

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

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

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

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

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

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

- 10.30 The site has inadequate parking facilities.

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

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

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

- 10.32 Loss of privacy for local residents.

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

10.33 Previously reported crimes in connection with other snooker rooms within the Batley area

**Response:** Although the use as a snooker room would be considered to be the same, the level of crime at other sites within Batley cannot be a material consideration when determining this planning application. All planning applications are decided on their own merits.

10.34 There are currently a number of leisure activities within the area for the local youths

**Response:** The re-use of a vacant building would be considered to outweigh any harm caused as a result to other similar uses within the vicinity of the site.

10.35 The snooker club use would likely run into the late hours and therefore affect neighbouring properties by interrupted sleep

**Response:** If Member's were to approve the application, Environmental Health has requested for a condition to be added restricting the hours of operation of the snooker/games room 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 Sundays. The implementation of this condition would be considered to minimise any disruption to local residents.

10.36 Internal works to the application site are ongoing

**Response:** Any internal works to the application site are permitted under the Town and Country Planning (General Permitted Development) Order 2015. It is considered that there would not be a breach in planning control until such a time that the use as a snooker/games room commenced. To date, there has been no evidence submitted which shows that the use has commenced.

#### Other matters:

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

## **11.0 CONCLUSION**

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

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

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

## **12.0 Reason for refusal**

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

### **Background Papers:**

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

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



Originator: Louise Bearcroft

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

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

#### APPLICANT

Swift Property  
Management &  
Consultancy

#### DATE VALID

05-Nov-2015

#### TARGET DATE

04-Feb-2016

#### EXTENSION EXPIRY DATE

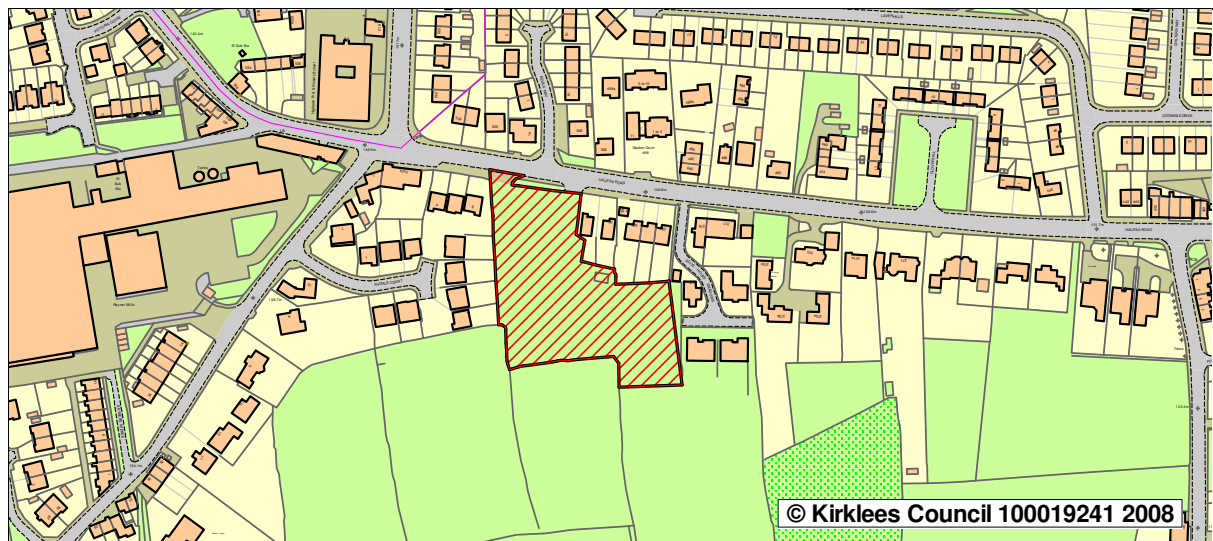
31-May-2017

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Liversedge and Gomersal**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:**

- 1. A financial contribution of £32,200 for off-site Public Open Space**
- 2. A financial contribution of £6,600.50 for Metro Cards.**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**

**1.0 INTRODUCTION:**

- 1.1 The application is referred to the Heavy Woollen Planning Sub-Committee because the proposal is for residential development on a site exceeding 0.5 hectares in area. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application was deferred from the 6<sup>th</sup> April meeting for further discussions to take place between officers and the applicant relating to affordable housing provision and Vacant Building Credit.
- 1.3 The principle of housing development is considered to represent sustainable development on this brownfield site. The proposal would not have a detrimental impact on highway safety or on residential amenity. Drainage and landscape matters can be satisfactorily addressed via condition.

- 1.4 The development triggers contributions towards public open space, affordable housing, and metro cards. The applicant has submitted a viability appraisal in support of the application which states that the development cannot sustain any Section 106 contributions. The appraisal has been independently assessed on behalf of the Council. The conclusion of the assessment is that the development can provide one affordable unit on site, (or a lump-sum contribution of £204,207), a Public Open Space Contribution of £32,000, and a Metro Card contribution of £6,660.
- 1.5 The applicant has confirmed that they are willing to provide the contributions for Public Open Space and Metro Cards. In respect of affordable housing, the applicant has confirmed that the floor space of the previously demolished buildings is greater than the floor space of the proposed dwellings. If the buildings had existed the site would have benefited from vacant building credit to be off-set against the requirement for affordable housing. In this case they would have been no requirement for affordable housing. It is considered that significant weight should be attached to this position and officers consider on balance the current offer to be acceptable to secure the re-development of this site.

## **2.0 SITE AND SURROUNDINGS:**

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

## **3.0 PROPOSAL:**

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

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

4.1 2004/92837 – Outline application for erection of residential development – Conditional Outline Permission

2007/90730 – Erection of 44 apartments (4 Blocks of 9 and 1 block of 8) – Withdrawn

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

5.1 Officers negotiated with the applicant to secure:

- The submission of a viability appraisal
- The submission of a drainage scheme and updated plans to incorporate the new drainage easement
- Additional information regarding the former buildings on site

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

6.1 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

The site is unallocated on the UDP proposals map.

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

- **D2** – Unallocated Land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **BE23** – Crime prevention
- **T10** – Highway Safety
- **H10** – Affordable housing
- **H12** – Arrangements for securing affordable housing
- **H18** – Provision of public open space
- **EP4** – Noise sensitive development
- **G6** – Land contamination
- **EP11** – Ecological landscaping

### 6.3 Supplementary Planning Guidance / Documents:

Affordable Housing SPD2  
Kirklees Council Interim Affordable Housing Policy

### 6.4 National Planning Guidance:

- **Chapter 4** – Promoting sustainable transport
- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring Good Design
- **Chapter 10** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 11** – Conserving and Enhancing the Natural Environment

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

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

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

### 8.0 **CONSULTATION RESPONSES:**

#### 8.1 **Statutory:**

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

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

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

- **K.C. Regeneration** – No comments made.

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Principle of development

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

- 10.4 A proposal for fourteen dwellings provides economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be social gain through the provision of new housing at a time of general shortage. National policy encourages the use of brownfield land for development and the site is located within a sustainable location in proximity to the local centre of Liversedge. The principle of housing development is considered to be acceptable, in accordance with the aims of the NPPF.

#### Urban Design issues

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

## Residential Amenity

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

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

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

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

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

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

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

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

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

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

#### Landscape issues

10.18 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The application is supported by a Bat Survey.

10.19 The Council's Ecologist notes the survey has established that none of the features on site is of significant ecological interest and the surrounding trees do not have any bat roost potential. It is advised that vegetation clearance be undertaken outside of the bird breeding season, and compensation measures be included. These are to include a landscaping scheme based upon the use of native tree and shrub species, an appropriate number of bat and bird boxes, and fencing to allow free movement of hedgehogs.

10.20 Subject to the inclusion of appropriate conditions, ecological issues are considered to be addressed and the proposal would accord with the aims of policy EP11 of the UDP as well as chapter 11 of the NPPF.

#### Highway issues

10.21 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. The development would be served by a single access point into the A649 Halifax Road on the opposite side of Halifax Road from Aquila Way which is a cul-de-sac serving 18 properties.

10.22 The A649 Halifax Road is a classified road and bus route with a 30 mph speed limit along this stretch which connects the A62 at Liversedge with Hipperholme. The junction with Hare Park Road and Hightown Road is located approximately 90 metres to the west of the proposed access. Hightown First and Junior School is located at the junction with Hightown Road where there are school "keep clear" markings and a pedestrian light control crossing. There is a speed camera located just past the western boundary of the application site.

10.23 Sight lines onto Halifax Road are good in both directions and the proposal provides sufficient off-street parking including visitor parking and internal refuse vehicle turning. Highways DM raise no objections, subject to the inclusion of appropriate conditions. These include a scheme for the proposed internal adoptable estate road and closure of the existing access.

- 10.24 Two minor adjustments were requested to the layout with respect to requirements for emergency vehicle access, and the provision of bin stores. The revised layout plan does not adequately address these matters however they can be addressed by condition and an advisory footnote.
- 10.25 With the inclusion of appropriate conditions, the proposal would have no detrimental impact on highway safety and would accord with the aims of policies D2 and T10 of the UDP.

#### Drainage issues

- 10.26 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach.
- 10.27 A draft Drainage Strategy has been submitted. This shows the intention to drain surface water to Clough Beck, located approximately 130m to the south of the site. An existing drain from Scitehouse Meadows connects to Clough Beck and could be used as surface water outfall point. The developer will need to secure rights to construct surface water sewers to the outfall location by private agreement or Formal Sewer Requisition. It is proposed the foul water sewer would be adopted by Yorkshire Water.
- 10.28 Flood Management note the intention is to put the off-site existing sewers up for adoption and a letter has been provided showing that the owners do not object. Flood Management will not sanction a proposed 3 l/s constraint for the 1 in 30 year storm, rising to 5 l/s for the 1 in 100+ climate change, and as only crude sizing of the attenuation tank has been supplied, a condition is required for detailed design.
- 10.29 Indicative flood routing using a drainage easement has been shown, and a detailed design is required. It is advised that Permitted Development Rights are removed from properties to prevent building over or close to the estates drainage systems and preserve a safe overland route in extreme events or blockage scenarios. Flood Management raise no objections, subject to the inclusion of appropriate drainage conditions. These include a scheme detailing foul, surface water, and land drainage, and an assessment of the effects of a 1 in 100 year storm event.
- 10.30 Yorkshire Water has no objection in principle to the proposed separate systems of drainage on site and off site and the proposed point of discharge of foul water to the respective public sewer.
- 10.31 To summarise, subject to the inclusion of appropriate conditions, drainage issues are addressed and the proposal would accord with the aims of chapter 10 of the NPPF.

### Representations

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

10.33 The proposal would make a nice community.

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

10.34 Residents should be informed of the right address.

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

### Planning obligations

10.35 The development triggers the following contributions:

- Public open Space – In accordance with Policy H18 the development is required to provide public open space on site at a rate of 30 sq. metres per dwelling, in accordance with Policy H18 of the UDP. The policy compliant requirement would equate to 420 sq. metres on site, or a lump-sum off-site contribution of £37,950.
- Affordable Housing – In line with the Council's Interim Affordable Housing Policy, the application is required to provide a contribution of 20% of units. The policy compliant requirement would be three dwellings.
- Metro Cards – Metro recommend a Residential MetroCard Scheme A – Bus only. The cost is  $14 \times £475.75 = £6,660.50$ .

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

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

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

10.38 The applicant has confirmed that they are willing to provide the contributions for Public Open Space and Metro Cards.

10.39 In respect of the affordable housing requirement, the site is a brownfield site. Vacant Building Credit (VBC) is applicable to brownfield sites and is an incentive to developers to help them bring forward and recycle land for housing led schemes. When applying VBC the existing floor space of a vacant building should be credited against the floor space of the new development. In this case the former buildings on the site have previously been demolished and therefore VBC cannot be claimed, however the application was deferred from the previous committee for the applicant to provide details of the floor space of the former buildings.

10.39 The floor areas of the buildings that have been demolished include:

- Main Parkham Factory 1920m<sup>2</sup>
- Garage (on Halifax Road) 232m<sup>2</sup>
- Small garage on site 28m<sup>2</sup>
- Upper Floor 600m<sup>2</sup>

The total floor space for the previously demolished buildings is 2780 m<sup>2</sup>

10.40 The proposed new dwellings would have a floor space of 2759. The breakdown is included below in the table below:

| Dwelling Type | Number | Floor Area (m <sup>2</sup> ) | Total (m <sup>2</sup> ) |
|---------------|--------|------------------------------|-------------------------|
| A             | 2      | 168                          | 336                     |
| B             | 5      | 189                          | 945                     |
| C             | 1      | 237                          | 237                     |
| D             | 1      | 286                          | 286                     |
| E             | 5      | 191                          | 955                     |

10.41 It has been confirmed that the floor space of the previously demolished buildings is greater than the floor space of the proposed dwellings. If the buildings had existed the site there would have been no requirement for an affordable housing contribution. Officers advice to Member's is that they can consider whether in the interest of housing delivery and enabling a brownfield site to come forward whether a pragmatic approach to enable this site to come forward is appropriate, taking a view that the scheme as a whole delivers benefits that outweigh the harm that arise from the difference in position about the viability.

#### Other Matters

10.42 The site is identified as potentially contaminated due to its previous use as a petrol filling station and factory. A phase I Report has been submitted but this is 8 years old and does not take into consideration any recent changes in guidance or any changes at the development site between the date of the report and the present time. A suite of contamination conditions will therefore be required to be submitted through condition.

- 10.43 The site also falls within the defined development high risk area where there are coal mining features and hazards which need to be considered. The Coal Authority concurs with the recommendations of the Desk Study Report that intrusive site investigations should be undertaken prior to commencement of the development. There are no objections to development subject to the imposition of appropriate conditions.
- 10.44 Paragraph 35 of the national Planning Policy guidance states that “Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to.....incorporate facilities for charging plug-in and other ultra-low emission vehicles..” For this development it is appropriate to secure electric vehicle charge points within the curtilage of each dwelling to encourage the use of ultra-low emission vehicles. This can be addressed by condition.

## **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.
- 11.2 The proposal is considered to constitute sustainable development. The conclusion of the assessment of the viability appraisal has identified that the site is capable of sustaining one affordable unit on site, or a lump-sum contribution of £204,207, a Public Open Space Contribution of £32,000 and a Metro Card contribution of £6,660. The applicant has confirmed that they are willing to provide the contributions for Public Open Space and Metro Cards. In respect of the affordable housing contribution, this is a brownfield site. It has been confirmed that the floor space of the previously demolished buildings is greater than the floor space of the proposed dwellings. If the previous buildings had still existed the developer would benefit from vacant building credit and in this case there would be no requirement for an affordable housing contribution. It is considered that to enable a brownfield site to come forward for housing that the benefits of the overall development outweigh the harm that would arise through not securing one affordable unit.

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

1. Development to commence within three years
2. Development to be in accordance with the approved plans
3. Samples of all facing and roofing materials
4. Details of boundary treatment
5. A scheme detailing the proposed internal adoptable estate roads
6. Blocking up of the existing access
7. Full Drainage Scheme
8. Submission of a Preliminary Risk Assessment (Phase 1 Report) to address land contamination and Coal Mining Legacy
9. Submission of an Intrusive Site Investigation Report (Phase II Report) to address land contamination and Coal Mining Legacy
10. Submission of Remediation Strategy to address land contamination and Coal Mining Legacy
11. Implementation of the Remediation Strategy to address land contamination and Coal Mining Legacy
12. Submission of Validation Report to address land contamination and Coal Mining Legacy
13. Noise Report or the provision of standard thermal double glazing and ventilation to the bedrooms of Plot 1
14. Landscaping Scheme based upon the use of native tree and shrub species
15. Bat and Bird Boxes
16. Electric Charge Points
17. Removal of Permitted Development Rights for extensions and new openings
18. Details of storage and access for collection of wastes

**Background Papers:**

Application and history files:

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

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



Originator: Sarah Longbottom

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

**Subject: Planning Application 2016/93053 Erection of extension to function hall and change of use of attached dwellings (C3) to ancillary prayer room and formation of additional parking Former Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3ET and land opposite 486 Huddersfield Road**

#### APPLICANT

Mr Ashiq Hussain

| DATE VALID | TARGET DATE | EXTENSION EXPIRY DATE |
|------------|-------------|-----------------------|
|------------|-------------|-----------------------|

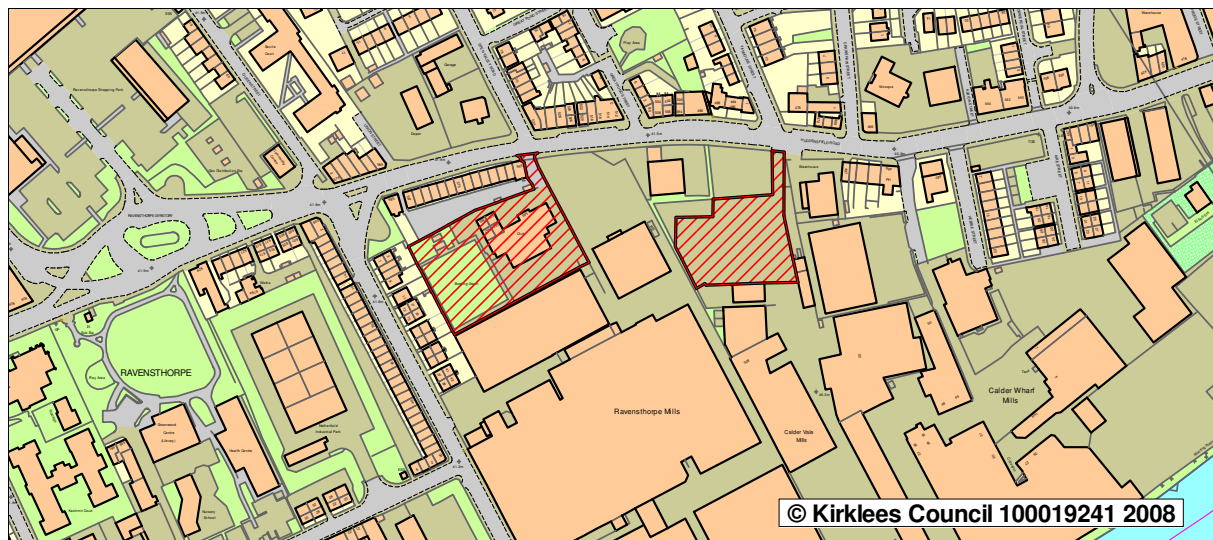
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| 19-Oct-2016 | 14-Dec-2016 |  |
|-------------|-------------|--|

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Dewsbury West**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:**

**1. Car park management plan for remote car parking area to ensure it is available at all times the development is in use and for the lifetime of the development.**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee due to the significant number of representations received, and previous member interest in the site.

**2.0 SITE AND SURROUNDINGS:**

2.1 549 Huddersfield Road, Ravensthorpe is a former Working Mens Club, now used as a Function Hall known as "The Grand", located behind existing dwellings fronting Huddersfield Road. The site comprises the original building and later extension, with car park to the side, on the site of the former bowling green. The site is located adjacent to a mixture of commercial and residential uses, approximately 200m from the centre of Ravensthorpe.

2.2 The current application also includes a partially surfaced car park to the east of the Function Hall, opposite 486 Huddersfield Road.

### **3.0 PROPOSAL:**

- 3.1 Full Permission is sought for the erection of extensions to the Function Hall, in addition to the change of use the attached dwellings to ancillary prayer room, and the formation of additional parking on land to the east. As part of the development, the applicant proposes to increase the hours of opening beyond those approved as part of the original application. The proposed hours of opening are 11.00 to 23.00 7 days a week.
- 3.2 The majority of the works which form the proposals have already been undertaken and approved as part of previous applications.

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

- 4.1 2015/93294 – Installation of 1 no. non illuminated sign - Refused
- 2015/93293 – Variation of Condition 6 (opening times) on previous permission 2012/90468 for erection of extension (Modified Proposal) – Refused (Appeal Dismissed)
- 2014/92784 – Variation of Condition 6 (opening times) on previous permission 2012/90468 for erection of extension (Modified Proposal) – Deemed withdrawn
- 2014/92616 – Erection of external flues – Approved
- 2014/92615 – Erection of non-illuminated sign - Refused
- 2014/92613 – Variation of Condition 2 on previous permission ref: 2012/90468 for the erection of extension - Approved
- 2013/91238 – Variation of Condition 2 on previous permission 2010/91970 relating to change of use of premises to function hall, erection of extension and change of use of bowling green to car park - Approved
- 2012/90468 – Erection of extension (Modified proposal) – Approved (partly implemented)
- 2010/92835 – Erection of front extension – Refused
- 2010/92950 – Change of use of dwellings to storage for private hire function room – Deemed Withdrawn
- 2010/91970 – Change of use of premises to function hall, erection of single storey extension and change of use of bowling green to car park - Approved

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Through the course of the application, additional information was requested from the applicant in the form of a Traffic/Car Park Management Plan in order for Officers to assess how the additional car parking was to be managed and marshalled. This was received and re-advertised by site notice, press advert and neighbour notification letter.
- 5.2 The description of development was also amended, following discussion with the applicant's agent, in order to more accurately reflect the current use of the site. The amended description was also re-advertised along with the additional information outlined above.

## **6.0 PLANNING POLICY:**

- 6.1 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **B5** – Extensions to business premises
- **T10** – Highway Safety
- **T19** – Parking Standards
- **EP4** - Noise Sensitive Development

### **National Planning Guidance:**

- 6.3 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- Chapter 1 – Building a strong, competitive economy
  - Chapter 7 – Requiring good design
  - Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

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

7.1 The application has been publicised by site notice, press advert and neighbour notification letter. As a result of site publicity, 21 letters of objection have been received, in addition to a petition of 337 signatures. The concerns raised are summarised as follows:

- The applicant is already operating within the opening hours requested on the application form, and holds two weddings in one day (afternoon and evening)
- The site is noisy with fireworks, revving car engines and loud music
- Surrounding streets are blocked by coaches and limousines, causing a nuisance to adjacent residents
- The use of the site results in congestion along Huddersfield Road
- Question how the building can include a prayer room when there is loud music and fireworks all night
- Health and Safety issue arising from lack of lighting in undercroft parking
- Proposals will impact on local property values
- Suggest that hours of opening are extended to 11pm on weekends only

7.2 The application was re-advertised on receipt of additional information and any representations received in relation to that re-publicity will be reported in the update.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**KC Highways Development Management:**

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

**KC Environmental Services:** Await response following re-consultation on additional information

## **9.0 MAIN ISSUES**

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

## 10.0 APPRAISAL

### Principle of development

- 10.1 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]”.

Furthermore, Policy B5 of the UDP allows for the extension of existing business premises provided that the amenity of occupiers of neighbouring properties, visual amenity and highway safety are safeguarded. Chapter 1 of the NPPF also sets out that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth and that planning should operate to encourage and not act as an impediment to sustainable growth.

All these considerations are addressed later in this assessment.

### Urban Design issues

- 10.2 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. Furthermore, paragraph 60 of the NPPF stipulates that planning decisions should not stifle innovation through unsubstantiated requirements to conform to certain development forms or styles, although it is proper to seek to promote or reinforce local distinctiveness.
- 10.3 The overall design of the proposed extensions has been assessed previously and at that time it was considered that whilst the extensions were to have a differing appearance to that of the host building, immediately to the rear of the site were industrial buildings which had a similar design and the proposals would result in a juxtaposition of the contemporary and traditional. The scale of the proposed extensions was not, on balance, considered to be problematic when taken into account with the large scale commercial building adjacent the site to the south.
- 10.4 The use of render, ashlar stone and cladding to the external elevations of the extensions, again, has previously been considered to be acceptable and would not detract from the visual amenity of the area.
- 10.5 The current proposal involves the change of use of the former back to back residential properties to the north west of the main function hall to provide prayer room facilities to serve clients of the Function Hall. The external alterations required to facilitate this use are considered by Officers to be minimal in nature and would not detract from the appearance of the host building, nor surrounding area.
- 10.6 The additional parking area to the east of the site has a partially surfaced character and is currently used for parking.

### Residential Amenity

- 10.7 Paragraph 17 of the NPPF lists the core planning principles which should underpin both plan-making and decision taking. One of these principles is that planning should: *“always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land”*.
- 10.8 Policy BE1 (iv) of the UDP echoes the above advice, stating that: *all development...should contribute to a built environment which promotes a healthy environment, including space...about buildings”*
- 10.9 The current proposals (with regard to the built envelope of the site) would not differ significantly from the previously approved applications with regard to their impact upon residential amenity.
- 10.10 KC Environmental Services (Pollution and Noise Control) have been consulted on the application and initially raised concerns with regard to the hours of opening proposed by the applicant, as complaints have been received with respect to the existing car parking arrangement and resultant noise disturbance to residents. Environmental Services have recommended the imposition of a condition requiring the submission of a Car Park Management Scheme that specifically addresses how local residents will be protected from excessive noise from the car park. As a Car Park Management Plan has been submitted through the course of the application, KC Environmental Services have been re-consulted and their response is awaited.

### Highway issues

- 10.11 Access to the former WMC is gained via a private access off Huddersfield Road. The width of the access varies between 5.5m and 6.0m. In addition to serving the site, it also provides access to approximately 15 dwellings to the north of the site and Ravensthorpe Mills industrial units to the south. The existing car park serving the site has provision for 98 spaces.
- 10.12 The additional car park to serve the Function Hall is located approximately 125m to the east, also accessed off Huddersfield Road, and associated with Calder Vale Mills. The submitted details indicate that this would provide provision for a further 81 parking spaces.
- 10.13 In response to concerns raised by KC Highways DM over increased traffic during peak times on Huddersfield Road, a Traffic/Car Park Management Plan has been submitted by the applicant. This sets out how the existing car park and additional parking would be managed: -
- Both car parks to be allocated a colour
  - Fully trained Parking Marshalls to be placed at locations set out within the Traffic/Car Park Management Plan with hand held directional signage to each coloured car park
  - Each car park would be managed by Parking Marshalls, in accordance with the following:

#### 10.14 'Green' Parking (Existing Car Park)

- This would provide priority parking for the Wedding Party, and managed on a reserved space basis. Parking cards will be provided by the Function Hall to be displayed on the windscreen of vehicles on arrival.
- Parking Marshalls would direct the vehicles from the highway through the parking area to the specific parking space in order to keep traffic moving quickly from Huddersfield Road and maintain flow through the site.
- Traffic will be directed on a 'one-way' system into the car park by Marshalls identified by wearing High Visibility jackets and communicating via radio.

#### 10.15 Blue Parking (Additional Car Park)

- Vehicles to be directed by Parking Marshalls using hand signage from Huddersfield Road
- This car park to be used by all other guests including any coach arrivals
- Vehicles to be parked by Marshalls and occupy spaces furthest away from site entrance first

10.16 The submitted Traffic/Car Park Management Plan also makes reference to the provision of a box junction on Huddersfield Road at the junction with the site access. The provision of this could be secured by condition.

10.17 The proposed Traffic/Car Park Management Plan is considered to be acceptable from a Highways perspective, however the increase in opening hours to include peak weekday traffic periods and the additional moving traffic generated by the proposal is still considered to be a potential issue at peak times. Officers therefore consider the hours of opening to customers of 19.00 to 23.00 Monday to Friday and 11.00 to 23.00 on Saturdays and Sundays. There shall be no opening on Bank Holidays except in instances where a Bank Holiday falls immediately after Ramadan. The detail of the instances when post Ramadan Bank holiday opening will be permitted will need to be agreed through a suitably worded condition.

#### Flood Risk

10.7 A Flood Risk Assessment (FRA) was submitted with previous applications and on the basis of this; the Environment Agency raised no objections subject to the development being carried out in accordance with the guidance contained within it. The current proposals would not impact on the content of the previously submitted FRA. As such, subject to the inclusion of a condition setting out that the development is to be carried out in accordance with the content of the FRA, the proposal would accord with the aims of chapter 10 of the NPPF.

## Representations

10.8 The representations received are addressed as follows:

The applicant is already operating within the opening hours requested on the application form, and holds two weddings in one day (afternoon and evening)

**Response:** The site is the subject of an Enforcement complaint and the current application seeks to regularise the situation with regard to the hours of opening.

The site is noisy with fireworks, revving car engines and loud music

**Response:**

Surrounding streets are blocked by coaches and limousines, causing a nuisance to adjacent residents

**Response:** The applicant has submitted a Traffic/Car Park Management Plan which aims to address the management of vehicles arriving and leaving the site in order to reduce traffic congestion along Huddersfield Road.

The use of the site results in congestion along Huddersfield Road

**Response:** This is addressed above

Question how the building can include a prayer room when there is loud music and fireworks all night

**Response:** The prayer room would be ancillary to the Function Hall use

Health and Safety issue arising from lack of lighting in undercroft parking

**Response:**

Proposals will impact on local property values

**Response:** This is not a material planning consideration

Other Matters – Building Control/H&SE etc

10.9 This will be expanded in the update report to committee.

## **11.0 CONCLUSION**

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

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

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

1. Development to be carried out in accordance with approved plans and details
2. Car parking to be available at all times the business is operating and carried out in accordance with Traffic and Car Park Management Plan
3. Hours of use; not before 7pm and not after 11pm Monday to Friday. Not before 11am or after 11pm Saturday and Sunday. No Bank Holiday openings.
4. Bank Holiday openings of 11am to 11pm will be allowed were a Bank Holiday follows immediately after the month of Ramadan with the detail of this to be agreed in writing with the LPA within 3 months of the date of issue of the decision notice.
5. Management plan to be agreed to protect neighbours from noise for use of the car parking areas by visitors, guests and staff.
6. Delivery management plan to be agreed in writing with the LPA within 3 months of the date of issue of the decision notice.

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93053>

Certificate of Ownership – Notice served on Owner/Agricultural Tenant of Caldervale Mills and Certificate B signed.



Originator: Jennie Booth

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

**Subject: Planning Application 2016/92558 Temporary Permission for the erection of single storey linked modular units Masjid-E-Noor Education Centre, Lees Hall Road, Thornhill Lees, Dewsbury, WF12 9HF**

#### APPLICANT

Abdul Hakim, Masjid-E-Noor Education Centre

#### DATE VALID

27-Jul-2016

#### TARGET DATE

21-Sep-2016

#### EXTENSION EXPIRY DATE

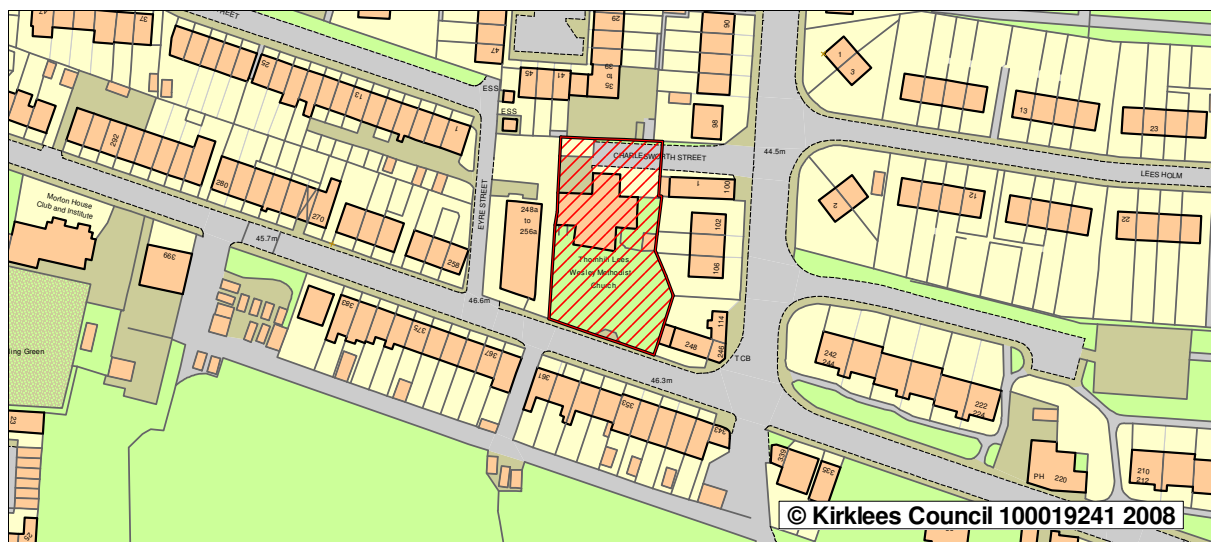
10-Apr-2017

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Dewsbury South**

No

Ward Members consulted

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**RECOMMENDATION: REFUSE**

**1. Insufficient information has been submitted to enable an assessment of the highway implications arising from the proposed development. No additional parking provision has been included within the proposals and as such the intensification is considered to represent a significant hazard in terms of highway safety. To permit the proposals would be contrary to policies D2, BE1, T10 and T19 of the Kirklees Unitary Development Plan and the aims of chapters 7 & 8 of the National Planning Policy Framework.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning sub-Committee for determination in accordance with the Council's scheme of delegation at the request of Councillor Masood Ahmed for the following reason: *"I would like the members to consider the highway safety implications of the proposals. As the education centre is an existing community facility mainly used by the residents of Thornhill Lees, the requirement for the additional parking facilities could be considered to be overly burdensome."*
- 1.2 The Chair of the Sub-Committee has confirmed that Councillor Masood Ahmed's reason for making this request is valid having regard to the Councillor's Protocol for Planning Committees.
- 1.3 It is the opinion of officers that the proposed single storey modular units would represent an increase in the users of the facilities with no increase in the parking facilities for the centre. This would result in increased on-street parking to the detriment of highway safety. The proposal therefore would be contrary to Kirklees Unitary Development Plan Policy and the National Planning Policy Framework.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The Masjid-E-Noor Education Centre on Lees Hall Road is a stone built building, formerly a Methodist chapel, set back off the main road with a large car park. The building itself consists of 3 distinct elements, the main hall and lesser section to the side and a more modern flat roofed extension to the front. The main section of the building is traditional in appearance with stone

detailing. There is also a detached outbuilding in the grounds to the front of the building. At the time of the site visit (09/08/2016) work was underway for the approved extensions (2014/93706) and there were a number of cabins to both the front and the rear of the building.

- 2.2 There are terraced properties to the south and west of the site, a new housing development to the rear of the building and a modern row of townhouses to the east of the former chapel.

### **3.0 PROPOSAL:**

- 3.1 The applicant is seeking temporary permission for the installation of modular units to the rear of the education centre. The modular building would have a width of 21m, a depth of between 9.8m and 6.4m, an eaves height of 3m and an overall height of 4m. The building would have a clad finish which would combine boarding and a render. It is the intention the applicant to utilise the modular building as additional classroom facilities.

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

- 4.1 2002/90615– formation of access ramp – Conditional Full Permission
- 4.2 2010/91863 – conversion from church to 4 flats – refused for the following reasons
1. The proposed development by virtue of its design significantly alters the fabric of this undesignated heritage asset which plays a significant contribution to the visual amenity and character of the area. To approve the application would be contrary to Policies BE1 and BE2 of the UDP and the National Planning Policy Framework.
  2. The proposal by virtue of its internal arrangement would result in overlooking at close quarter from the habitable room window to the western site boundary of the residential units to the west of the application site. To approve the application would be harmful to residential amenity and would be contrary to Policy D2 of the UDP.
  3. Insufficient information has been submitted to enable the Local Planning Authority to formally assess the impact of the proposal on protected species to approve the application without a bat survey would be contrary to the National Planning Policy Framework.
- 4.3 2014/93706 - Erection of an internal first floor mezzanine, two entrances and fire escape, erection of ground floor extensions, alterations to the building and car park layout, and conversion of outbuilding to body wash room – granted and work commenced on site

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The initially submitted plans included a flat roof with a height along the boundary of 3.7m. As such, there were originally visual amenity concerns regarding such a large flat roofed structure representing an incongruous feature when considered with the traditional stylings of the former Methodist church and with residential amenity given the proximity to the surrounding residential properties. Amended plans have been provided which reduce the eaves height of the structure and incorporating a hipped roof form.

## **6.0 PLANNING POLICY:**

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

The site is unallocated on the UDP proposals map.

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

- **D2** – Unallocated Land
- **BE1** – Design principles
- **C1** – Community Facilities
- **T10** – Highway Safety
- **T19** – Parking standards

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

None relevant

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

**Chapter 7** – Requiring good design

**Chapter 8** – Promoting healthy communities

**Chapter 11**- Conserving and enhancing the natural environment.

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

7.1 The application was publicised by letters and site notice with the publicity expiring on 30/08/2016.

7.2 Two (2) letters of objection were received to the original publicity.

7.3 A summary of the issues raised are as follows:

- Proximity of the extension to the boundary of no. 98 Brewery Lane.
- Loss of privacy to 98 Brewery Lane.
- Proximity to the neighbouring 250 and 250a Lees Hall Road

## **8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**KC Highways Development Management** - Object to the proposals on the grounds of highway safety.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual Amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 The site is unallocated on the Unitary Development Plan proposals map and on such sites there is a presumption in favour of development providing that the proposals would not cause harm to highway safety, residential and visual amenity or any other relevant considerations.

These impacts will be considered in greater detail in the below assessment.

10.2 The existing building is an education centre and therefore would be considered to be an established community facility. Paragraph 70 of the NPPF states that planning policies and decisions should “ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community”. The proposed extension would allow the facility to develop and as such the principle of development is acceptable providing the proposals do not prejudice highway safety, and visual and residential amenity.

### Visual Amenity

- 10.3 The Masjid-E-Noor Education Centre is a traditional stone building with stone detailing on the main element of the structure. Originally the building was constructed as a Methodist church with a large area to the front between the building and the road and there is a smaller area to the rear. The building has existing single storey extensions to the front and rear.
- 10.4 It is appreciated that the building offers a community facility in the form of an education centre. The Local Planning Authority has supported the enhancement of these facilities with the previous planning application and permission was granted in 2014 to form an internal mezzanine, extend and alter the design of the existing extensions and other alterations to the building. The original building had a floor area of 240 square metres and the approved works increase the size to 378 square metres approximately. Construction has commenced on the approved scheme.
- 10.5 The current scheme for the modular buildings would increase the floor space by a further 180 square meters approximately. Given the significant grounds the front and rear of the main building are significant, the site as a whole is considered to be a sufficient size to host the new building to the rear without overdeveloping the site.
- 10.6 The setting of the existing education centre, being a traditional stone building with ornate detailing, together with the diverse character of the surrounding residential and retail properties has been considered and negotiations did take place between the officer, the applicant and the agent to ensure that the decision would be based upon the most appropriate design. As a result of the discussions, the design has been amended from the initial larger flat roofed structure to produce a more sympathetic relationship between the traditional style of the former Methodist church and the neighbouring residential properties with the reduction proposed for the eaves height and the use of a hipped roof form. The overall single storey nature of the building would not have a particularly offensive visual appearance in the context of the site. The use of a combination cladding and boarded finish could result in an acceptable visual appearance of the building.

### Residential Amenity

- 10.7 The nearest properties to the site which would have the potential to be affected by the proposals would be 98 Brewery Lane and 35-39 Providence Court. The building is proposed to be sited along the northern boundary with the properties on Brewery Lane and Providence Court occupying a lower position than the education centre. To a lesser extent, the neighbouring properties to the west, 248 to 256 Lees Hall Road and the properties to the east 100 to 106 Brewery Lane also share boundaries with the site.

- 10.8 The structure would be single storey and the height to the eaves has been reduced to 3m and the roof form would be hipped away from the neighbouring properties to the rear. There would be no windows in positions which could represent any loss of privacy and the use as a class room is not considered to have the potential to impact on auditory issues or produce odours. As such, the buildings are not considered to represent any significant harmful impact in terms of the amenities of the neighbouring properties.

#### Highway issues

- 10.9 The site is located close to the junction of Brewery Lane and Lees Hall Road and would have the potential to impact on highway safety. As such, Highways Officers were consulted regarding the proposals. The following assessment is based on the comments of the Highways Officer.
- 10.10 The proposed extension will be in addition to the extensions and alteration proposed by planning approval 2014/93706 and will create an additional approximately 110 sqm of teaching space (D2 Assembly and Leisure).
- 10.11 The 2014 approval increased the size of the proposed gentlemen's prayer hall to the ground floor by removing an existing stage. The existing hall is approximately 80 sqm which increased to approximately 105sqm. A second female prayer hall of an approximately equal size to the ground floor gentlemen's prayer hall was proposed to be provided to the first floor.
- 10.12 The capacity of the two Halls is confirmed at 110 (55 in each hall) with 70 anticipated to attend (45 in prayer hall 1 and 25 in prayer hall 2). This is based on the information submitted with the 2014 application.
- 10.13 Based upon the capacity of the two halls and the proposals to provide improved parking facilities with 21 spaces Highways considered the 2014 application to be acceptable.
- 10.14 This application provides an additional approximately 110 sqm of teaching space (D2 Assembly and Leisure). No information is provided with this application regarding the anticipated numbers likely to attend.
- 10.15 The survey information provided with the 2014 application dated 26th February 2015 is potentially out of date given that it would have been undertaken prior to any works being undertaken to the extensions and alterations proposed by the 2014 application.
- 10.16 Recommended parking standards for this use class is 1 space per 6 children which should be in addition to the 2014 approval. The proposals under consideration do not meet this requirement and as such the proposal would be considered significant detrimental in terms of highway safety.

## Representations

10.17 Two letters of objection were received. The main issues are addressed by officers below.

- Proximity of the extension to the boundary of no. 98 Brewery Lane and to 205 & 250a Lees Hall Road – *The impact on the neighbour's amenities is a material consideration and amended plans were negotiated to reduce the height of the building along the boundary to reduce the impact. The extension is single storey with a hipped roof which would take the emphasis up and away from the neighbours and as such would not be considered to be harmful with regards to the amenities of 98 Brewery Lane or 250 & 250a Lees Hall Road.*
- Loss of privacy to 98 Brewery Lane – *loss of privacy is a material consideration. There are no windows proposed which would face towards the neighbouring residential properties. Furthermore, there is a fence along the boundary at a sufficient height to screen the building. There would not be any loss of privacy as a result of the proposed building.*

## Other Matters

10.18 There are no other matters to be considered.

## **11.0 CONCLUSION**

11.1 It is the opinion of officers that the proposed single storey modular units would be unacceptable as they would represent an increase in the users of the facilities with no increase in the parking facilities for the centre which would be contrary to Kirklees Unitary Development Plan Policy and the National Planning Policy Framework. This would result in increased on street parking to the detriment of highway safety.

## **Background Papers:**

Application details

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92558>

Relevant history

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f93706+>

Certificate of Ownership –Certificate A signed on 23/07/2016



Originator: Julia Steadman

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

Subject: Planning Application 2016/93522 Erection of two dwellings (within a Conservation Area) 42-44, Low Town, Kirkburton, Huddersfield, HD8 0SB

#### APPLICANT

L Hawkyard

#### DATE VALID

19-Oct-2016

#### TARGET DATE

14-Dec-2016

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Kirkburton**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

1.1 The application is referred to the Heavy Woollen Planning Sub-Committee due to the significant number of representation received. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site forms part of the garden area associated with nos.42-44 Low Town, Kirkburton.

2.2 The host dwelling is a two storey stone built cottage. A drystone boundary wall is located along the frontage of the site with Low Town and the garden area is tiered, taking into account the topography of the area.

2.3 There is a substantial conifer hedge located along the rear (western) boundary of the site, which provides screening from the properties along Riley Park, which are at a higher land level than the application site.

2.4 There is a mixture of house types within the immediate vicinity of the site although along Low Town itself, the buildings are predominantly of natural stone construction.

**3.0 PROPOSAL:**

3.1 The proposal is for the erection of two dwellings within the Kirkburton Conservation Area.

- 3.2 The dwellings would form a pair of semi-detached dwellings, being three stories to the front and two storey to the rear because of the topography of the land.
- 3.3 Parking spaces would be provided to the front of each of the dwellings. The parking spaces would be surfaced in a permeable surface. Stone setts would be included to differentiate between the highway of Low Town and the driveways.
- 3.4 The proposal also includes the erection of a detached garage and store which would serve the existing dwelling.

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

- 4.1 None

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

- 5.1 During the course of the application amended plans were received which secured the following:-

- reduced the ridge height of one of the plots;
- amended the fenestration detail of the plots;
- provided details of the hard landscaping and boundary treatment to the front of the site;
- site section details submitted to demonstrate the relationship with the existing dwelling(s) to the rear of the site, located along Riley Park.
- A further amendment has been requested setting the detached garage back from the boundary with Low Town by approximately 2.0m in order to ensure adequate sight lines would be provided. This amended plan is currently awaited and will be reported to members in the update.

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

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

The site is located within the designated Kirkburton Conservation Area.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design principles  
**BE2** – Quality of design  
**BE5** – Preservation/enhancement of conservation areas.  
**BE12** – Space about buildings  
**NE9** – Retention of mature trees  
**T10** – Highway safety  
**NE9** – Retention of mature trees

Supplementary Planning Guidance / Documents:

- 6.3 None

National Planning Guidance:

- 6.4 **Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring good design  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** – Conserving and enhancing the natural environment  
**Chapter 12** – Conserving and enhancing the historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 As a result of the initial publicity on the scheme, 20 representations were received. A summary of the issues raised are as follows:-

- Development would be out of scale
- ‘Garden grabbing’
- Ridge height in relation to neighbouring properties not shown, think it should be no higher than those either side
- Over-development of the site and would appear as a cramped form of development
- All other three storey developments along Low Town are set within larger plots
- Height, scale, and massing would result in visually imposing building, out of character with the surrounding area
- Proposed garage should be set back at least 2m
- Overlooking of neighbouring properties – proposed dwellings would overlook the majority of the garden of no.23 as well as habitable rooms. The distances would also be below those set out in guidance
- Negative impact on wildlife – loss of trees/shrubs and due to the limited landscaping proposed, would not be replaced

- Four extra cars using Low Town – create access and safety issues (which already exist). Also no pavements and so, extra cars would create pedestrian safety issues. Not sufficient parking provision either
- Flooding concerns – a stream runs under Low Town
- Inconsistency in determination of planning applications
- Noise and disturbance – plot 2 has a balcony directly opposite the main outdoor space and windows of no.23
- Bats present in the vicinity
- Strain on local schools, doctors surgery.

7.2 Kirkburton Parish Council was consulted on the application and strongly objects to the proposals for the following reasons:

- Highways Grounds: It is a difficult road, largely without any pavements and forms the rear access to the Parish Church. The road is also used extensively by pedestrians, whose safety would be compromised by this development.
- There is nowhere for vehicles to turnaround, so they would be forced to reverse, which would further add to highways safety problems.
- Insufficient parking provision.
- This development is inappropriate in a Conservation Area.
- It is a high density development in an area of low density development, so the proposed new development would be out of character with the local area.
- There would be a lack of privacy, as parts of the new houses would directly overlook the existing properties.
- Drainage: the culvert already overflows regularly at times of heavy rainfall and also water drains off the field. The foundations of the new properties would block the culvert and make the situation worse.
- The area is rural and benefits from nesting birds and bats, which would be adversely affected by the removal of mature trees.

7.3 The amended plans have been re-advertised. As a result, two of the original objectors have repeated comments which have previously been listed above. Should any further representations be received, they shall be reported to members in the update.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**K.C. Highway Development Management** – Sight lines from the access onto Low Town would be substandard however there are numerous other similar accesses along this section of Low Town and there have been no reported injury accidents. Each dwelling would also have two off-street parking spaces. The proposals are therefore considered acceptable from a highways perspective subject to conditions and subject to an amended plan setting the detached garage 2.0m back from Low Town.

## 8.2 Non-statutory:

**K.C. Conservation & Design** – Following receipt of amended plans, the reduction in the height of one of the plots is considered to reduce harm to the conservation area and is considered acceptable. Conditions relating to window details and the use of natural stone facing material are recommended.

**K.C. Arboricultural officer** – No objection regarding trees. Would be good to secure some decent planting around the proposals as some mitigation for the tree removal that has already been given consent in June 2016.

**K.C. Strategic Drainage** – There are no watercourses running directly through the site. No objections are raised and no conditions suggested in respect to drainage/flood risk.

## 9.0 MAIN ISSUES

- Principle of development
- Urban Design & Conservation issues
- Residential amenity
- Housing issues
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application site is located within the Kirkburton Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) 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 UDP together with guidance in Chapter 12 of the NPPF. The purpose of a conservation area designation is not to stifle development, but is to ensure that the historic significance of the area is taken into account.
- 10.2 In this instance, the proposal involves the erection of two dwellings on land that currently forms part of the garden area associated with no.42-44 Low Town. Following consultation with the Council's Conservation & Design team, officers are not against the development of this garden area for residential purposes. The form of development along this stretch of Low Town is relatively dense and does not follow a particular layout. As such, officers are of the opinion that the principle of residential development is acceptable and would accord with the aims of policy BE5 of the UDP and chapter 12 of the NPPF.

- 10.3 Furthermore, the site is located within a sustainable location, within close proximity to the local centre of Kirkburton with its facilities and good public transport links.

#### Urban Design & Conservation issues

- 10.4 During the course of the application, discussions have taken place regarding the design of the dwellings. Amended plans have been submitted which have provided some variation in the ridge height of the two plots. The ridge height of plot 1 would be set below that of no.42-44 Low Town, as demonstrated on the submitted section drawing.
- 10.5 It is acknowledged that the dwellings would be set over three floors, incorporating an integral garage at ground floor level, with the main habitable rooms on the first and second floors. Due to the topography of the land and the variation of house types in the vicinity, it is the view of officers that the design (including fenestration detail) of the dwellings proposed would not be detrimental to character of the area, complying with policies BE1, BE2, and BE5 of the UDP as well as chapters 7 and 12 of the NPPF.
- 10.6 With regard to the fenestration detail, the integral garages at ground floor level would be recessed and therefore, would not appear overly prominent within the street scene. The window openings would vary in their dimensions, with plot 2 incorporating a larger extent of glazing at first floor level. Rooflights and Juliet style balconies are also proposed. These design details are considered to result in a contemporary house type, which, subject to the use of appropriate materials, are considered by officers to be acceptable in this context.
- 10.7 In order to ensure that appropriate materials are used for the construction of the dwellings, it is recommended that conditions are imposed setting out that the facing material shall be natural stone. This is due to the predominant facing material in the area being natural stone. With regard to the roofing material, a natural slate is recommended to be conditioned. The inclusion of such conditions would comply with policies BE1, BE2, BE5, and BE11 of the UDP as well as chapters 7 and 12 of the NPPF.
- 10.8 Due to the position of the dwellings, which would be set out within the site, during the course of the application, discussions took place regarding the extent of hard-landscaping to the front of the proposed dwellings. To address this initial concern, stone setts have been proposed along the frontage of the site with some areas of soft landscaping also included. The main driveway areas would also be surfaced in a permeable surface. It is the view of officers that, with the inclusion of the above features, the parking areas to the front of the proposed dwellings would not appear overly dominant and would conserve the setting of the conservation area, in accordance with policies BE1, BE2, and BE5 of the UDP and chapters 7 and 12 of the NPPF.

- 10.9 With regard to the detached double garage, this would be located to the front of the site and would appear relatively prominent. However, the location of the garage, when taking into account the position of development along Low Town, which does include development built very close to the back of the roadway, would not, in the view of officers, appear out of keeping. It should be noted however, that an amended plan has been requested in order to address HDM comments which would set the garage back by approximately 2.0m from Low Town. The garage would be of a timber construction which would, in the view of officers, soften its impact within the street scene.
- 10.10 In all, the proposal is considered acceptable from a visual amenity and conservation perspective, complying with the aims of policies BE1, BE2, BE5, and BE11 of the UDP as well as chapters 7 and 12 of the NPPF.

#### Residential Amenity

- 10.11 Policy BE12 of the UDP sets out suggested distances to achieve between existing and proposed residential developments. The policy does however state that distances less than those set out "*will be acceptable if it can be shown that, by reason of permanent screening, changes in level, or innovative design, no detriment would be caused to existing or future occupiers of the dwellings or any adjacent premises or potential development land which may be affected*".
- 10.12 In this instance, to the rear of the site, there is a significant change in land level, with the dwellings on Riley Park set at a higher level than those on Low Town. In order to understand this relationship, site sections have been submitted during the course of the application. The sections demonstrate that there would be no direct relationship between the proposed dwellings and those located on Riley Park.
- 10.13 With regard to the existing dwellings on the opposite side of Low Town (to the east), these dwellings are at a similar land level to the application site. No.25 Low Town is located directly opposite the application site. It includes windows in its gable, facing towards the application site, at both ground floor and first floor level.
- 10.14 With regard to the window at ground floor level, there would not be a direct relationship because the proposed dwellings would incorporate integral garages at ground floor level. Furthermore, this window is already very visible from general pedestrians using Low Town. With regard to the first floor windows, a distance of approximately 12m would be achieved. In this instance, officers are of the opinion that the proposals would not result in an undue loss of residential amenity because of the slight angled orientation of no.25 with the highway (thus the properties would not directly face one another), along with the window at first floor level in plot 1 which would have the most direct relationship, would serve the kitchen area. With regard to the window at second floor level in plot 1, this would not directly face the window in the gable of no.25.

- 10.15 No.23 Low Town is also located to the east of the application site however this is set in excess of 21m back from the application site. Officers are therefore of the opinion that the proposed development would not adversely impact upon the amenity of these occupants.
- 10.16 With regard to the host dwelling, no.42-44 Low Town, the gable elevation would face the application site, and there are openings in this elevation at both ground and first floor level. A distance of 7m would be retained with the gable of plot 1.
- 10.17 With regard to the ground floor window, there is an existing, rather substantial boundary wall which would screen this existing window from the gable of plot 1. Officers are therefore satisfied that there would be no greater impact upon the amenity of users of this room as a result of the proposed development. With regard to the window at first floor level, this appears to be a secondary window, with the main window serving that room being located to the front of the property. Provided that no openings are inserted in the southern gable elevation of plot 1, which can be conditioned, officers are satisfied that there would be no detrimental impact caused to the residential amenity of existing or future occupants.
- 10.18 In relation to the dwellings to the west, located along Riley Park, these dwellings are located at a significantly higher level than the application site. In order to demonstrate the relationship with these existing dwellings, a section drawing was submitted during the course of the application. The section drawings demonstrate that the ridge height of the plots would be no higher than the existing boundary treatment to the properties on Riley Park. In light of this, officers are satisfied that there would be no undue impact caused to the residential amenity of these occupants either.
- 10.19 No.40 Low Town, located to the north, is set further back from the highway of Low Town and as such, officers are satisfied that there would be no direct relationship with this property.
- 10.20 There are no other properties that are considered to have a direct relationship with the proposed dwellings.
- 10.21 For the reasons set out above, officers are satisfied that the proposed development, with the inclusion of appropriate conditions removing permitted development rights for the insertion of new openings, would not result in any significant undue impact to the residential amenity of surrounding occupants. As such, the proposal is considered to comply with the aims of policies BE1, BE2, and BE12 of the UDP.

#### Highway issues

- 10.22 The site is located along Low Town which is an adopted highway with a 30 mph speed limit with an observed estimated speed of 15-20 mph and street lighting along its length. The highway has an average width of 5.7m along the site frontage.

- 10.23 The sight lines from the proposed access onto Low Town are considered substandard however officers are of the opinion that because there are a number of similar accesses along this section of Low Town and there have been no reported injury accidents, the proposed access points to serve the two dwellings would not materially add to any undue highway safety implications, complying with policy T10 of the UDP. However, an amended plan has been requested which would set the detached garage back by approximately 2.0m from Low Town in order to improve the sight lines.
- 10.24 With regard to the internal layout, each dwelling incorporates an integral garage. Whilst it should be acknowledged that the internal measurements for both garages would be below the recommended minimum size of a single garage, the driveway serving each dwelling would be of a sufficient width to accommodate two off-street parking spaces. The parking provision is therefore considered sufficient to serve the development, which is in a sustainable location, and would accord with policy T19 of the UDP.

#### Drainage issues

- 10.25 In light of some of the concerns raised in the representations, advice was sought from the Council's Strategic Drainage officer. It has been confirmed that there is a watercourse that follows the line of Low Town in part, however, it enters the site between nos.23 and 25 Low Town and then goes north, along the route of Low Town (therefore, away from the application site). The Council's Drainage officer has confirmed no objection to the proposals and does not consider any specific drainage conditions are necessary. The proposal is therefore considered to comply with the aims of chapter 10 of the NPPF.

#### Representations

- 10.26 Officers respond to the issues raised by the objectors as follows:-
1. Development would be out of scale  
**Response:** Amended plans were submitted during the course of the application which has reduced the ridge height. Furthermore, the section drawings indicate that the proposed dwellings would, in the view of officers, have an acceptable relationship with surrounding properties, which does vary in scale.
  2. 'Garden grabbing'  
**Response:** The principle of development has been assessed and is considered, by officers, to be acceptable in principle.
  3. Ridge height in relation to neighbouring properties not shown, think it should be no higher than those either side  
**Response:** It is the view of officers that the proposed ridge height would be appropriate in this context, for the reasons set out in the main assessment.

4. Over-development of the site and would appear as a cramped form of development  
**Response:** It is the view of officers that the two dwellings would retain a reasonable amount of amenity space. Furthermore, due to the layout of the surrounding area, the dwellings would not appear out of keeping.
5. All other three storey developments along Low Town are set within larger plots  
**Response:** Noted.
6. Height, scale, and massing would result in visually imposing building, out of character with the surrounding area  
**Response:** As previously set out, there is a variety of building types and scales within the vicinity. It is therefore the view of officers that the proposed dwellings would not appear out of character with the area.
7. Proposed garage should be set back at least 2m  
**Response:** As set out in the main assessment, there are a number of buildings along Low Town that are within close proximity to the highway. It is therefore the view of officers that the position of the proposed garage would not appear out of place. However, it should be noted that, following comments from HDM, an amended plan has been requested which would set the garage back by 2.0m from Low Town in order to achieve appropriate sight lines.
8. Overlooking of neighbouring properties – proposed dwellings would overlook the majority of the garden of no.23 as well as habitable rooms. The distances would also be below those set out in guidance  
**Response:** The garden area of no.23 is located between the front of the house and Low Town. This area is therefore visible from the highway. Officers are therefore of the view that the proposed dwellings would not intensify the existing relationship.
9. Negative impact on wildlife – loss of trees/shrubs and due to the limited landscaping proposed, would not be replaced  
**Response:** There has been no objection raised by the Council's Arboricultural officer. Some small areas of landscaping are proposed as part of the development. In addition, bat and bird box provision are recommended in order to comply with the aims of chapter 11 of the NPPF.
10. Four extra cars using Low Town – create access and safety issues (which already exist). Also no pavements and so, extra cars would create pedestrian safety issues. Not sufficient parking provision either  
**Response:** Consultation has been carried out with the Council's Highways Development Management team who raise no objection to the proposals from a highway safety perspective. This has been assessed above.
11. Flooding concerns – a stream runs under Low Town  
**Response:** This has been assessed in the report above.

12. Inconsistency in determination of planning applications  
**Response:** Each application is considered on its own merit in relation to all relevant material planning considerations.
13. Noise and disturbance – plot 2 has a balcony directly opposite the main outdoor space and windows of no.23  
**Response:** This has been addressed above.
14. Bats present in the vicinity  
**Response:** Noted. A condition is recommended relating bat box provision.
15. Strain on local schools, doctors surgery.  
**Response:** Due to the small scale of the development it falls significantly below the threshold for requesting an education contribution. The strain on the doctors surgery is not a material planning consideration.
- 10.27 With regard to the Kirkburton Parish Council comments, officers respond as follows:-
1. Highways Grounds: It is a difficult road, largely without any pavements and forms the rear access to the Parish Church. The road is also used extensively by pedestrians, whose safety would be compromised by this development.  
**Response:** A full assessment has been made in regard to highway safety.
  2. There is nowhere for vehicles to turnaround, so they would be forced to reverse, which would further add to highways safety problems.  
**Response:** See comments above.
  3. Insufficient parking provision.  
**Response:** See comments above.
  4. This development is inappropriate in a Conservation Area.  
**Response:** The Council's Conservation & Design officer has reviewed the amended proposals and considers the proposals acceptable from a heritage perspective.
  5. It is a high density development in an area of low density development, so the proposed new development would be out of character with the local area.  
**Response:** As previously set out, the area is diverse in layout and appearance. The proposed development is therefore, in the view of officers, not considered to be out of keeping.
  6. There would be a lack of privacy, as parts of the new houses would directly overlook the existing properties.  
**Response:** This has been fully assessed in the residential amenity section above.

7. Drainage: the culvert already overflows regularly at times of heavy rainfall and also water drains off the field. The foundations of the new properties would block the culvert and make the situation worse.

**Response:** This has been assessed in the drainage section above.

8. The area is rural and benefits from nesting birds and bats, which would be adversely affected by the removal of mature trees.

**Response:** This has been addressed above.

### Other Matters

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

### **11.0 CONCLUSION**

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

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

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

1. Standard time limit for implementation of the development (3 years).
2. Development to be carried out in accordance with the plans.
3. Facing material to be natural stone.
4. Roofing material to be natural slate.
5. Boundary treatment in accordance with the submitted details.
6. Hard and soft landscaping in accordance with the submitted details.
7. Full details of the window frames to be submitted for approval.
8. Surfacing of the driveways to be permeable.
9. Remove permitted development for new openings in the southern gable elevation of plot 1.
10. Provision of bat boxes.
11. Provision of bird nesting opportunities.

### **Background Papers:**

Application and history files:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93522>

Certificate of Ownership – Certificate A signed and dated 16 September 2016.

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Originator: Julia Steadman

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

Subject: Planning Application 2016/93496 Erection of 6 industrial starter units adj, California Inn, Oxford Road, Gomersal, Cleckheaton, BD19 4HQ

#### APPLICANT

J Oates

#### DATE VALID

25-Oct-2016

#### TARGET DATE

20-Dec-2016

#### EXTENSION EXPIRY DATE

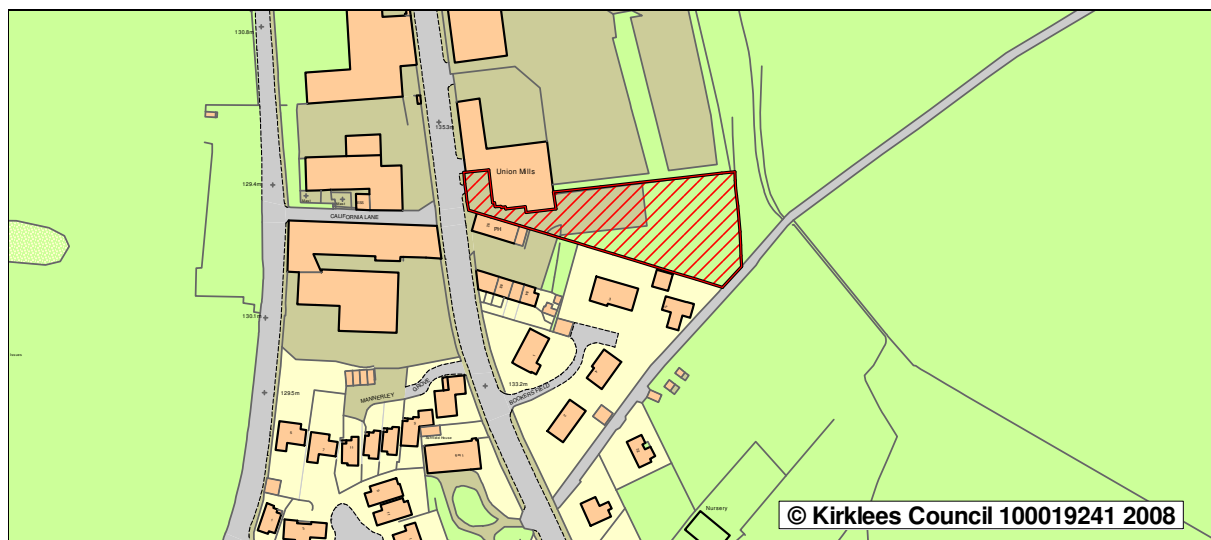
22-May-2017

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Liversedge and Gomersal**

Yes

Ward Members consulted  
(referred to in report):

- Cllr Lisa Holmes

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The planning application is brought to the Heavy Woollen Planning Sub-Committee because of the significant number of representation that has been received. This is in accordance with the Council's scheme of delegation.
- 1.2 This proposal would see the erection of six industrial starter units on a vacant plot within an area that is characterised by commercial uses to the north and west. It is considered by officers that the development would be satisfactorily designed and, subject to the inclusion of relevant planning conditions, would not have any significant adverse impact on local amenity, the local environment, or highway safety.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located adjacent to California Inn, Oxford Road, Gomersal. It currently comprises of an area of vacant, un-kept land which is accessed via an existing access located between Union Mills and California Inn. The land gradually slopes upwards from west to east.
- 2.2 To the north of the site is Union Mills, to the east are open fields (which are allocated Green Belt on the Kirklees UDP proposals map), to the south are residential properties located off Brookers Field, and to the west is California Inn.
- 2.3 Public footpath SPE/59/20 is located the south of the application site.

### **3.0 PROPOSAL:**

- 3.1 The proposal is for the erection of 6 industrial starter units.
- 3.2 The units would be all be attached and form one linear building measuring 56m in length by 12m in depth. Units 1 to 5 would each have a floor area of 106 sq m, with unit 6 being larger, at 140 sq m. Due to the topography of the land, the units, although all the same height (7.0m), would have a 'stepped' finished floor level, with units 5 and 6, being located at the highest finished floor level.
- 3.3 The materials proposed comprise of Marshall Cromwell Pitched Faced Weathered and Goosewing Grey composite cladding for the walls, and Goosewing Grey composite cladding for the roof.
- 3.4 The access would be taken from the existing access, located to the north of California Inn. Twenty parking spaces would be provided within the site, along with a cycle parking area and bin store.
- 3.5 Palisade fencing would be erected around the perimeter of the site, set in by 1.0m from southern boundary of the application site in order to allow for continued pedestrian access along the route of footpath (SPE/59/20) which has been obstructed.

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

- 4.1 None of the application site however, there is some planning history relevant to the determination of this application at the neighbouring Union Mills site as follows:

2014/92447 – Certificate of lawfulness for proposed use of site to operate 24 hours a day, 7 days a week – Certificate Granted

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

- 5.1 During the course of the application, an amended plan was sought setting in the security fencing from the boundary of the site in order to allow continued pedestrian access. This amended plan was received on 12 April 2017.
- 5.2 A Coal Mining Risk Assessment was submitted during the course of the application following comments received from the Coal Authority.
- 5.3 A Transport Statement was requested during the course of the application. This was received on 1 March 2017. However, further information was required, which resulted in the submission of an addendum to the original report, received on 8 May 2017.

## 6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The 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 is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

The site is unallocated on the Kirklees Unitary Development Plan proposals map.

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

- 6.2 **D2** – Unallocated Land  
**BE1** – Design principles  
**BE2** – Quality of design  
**EP4** – Noise sensitive development  
**R13** – Public Right of Way and Access Areas  
**T10** – Highway safety  
**T19** – Parking standards  
**G6** – Land contamination  
**B1** – Employment needs of the district

### Supplementary Planning Guidance / Documents:

- 6.3 None relevant to the determination of this application.

### National Planning Guidance:

- 6.4 **Chapter 1** – Building a strong, competitive economy  
**Chapter 7** – Requiring good design  
**Chapter 8** – Promoting healthy communities  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** – Conserving and enhancing the historic environment

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

7.1 As a result of the publicity, 28 individual representations have been received. A summary of the main concerns raised are as follows:-

- Doesn't appear to be sufficient parking for 6 industrial started units.
- No information relation to the expected use of the units and the possibility of 24 hrs operation.
- Impact on value of property.
- A public footpath is shown running on the inside of the boundary of neighbouring dwellings.
- The site notice was only erected allowing 9 days to object.
- The brownfield land would be better used for housing development.
- Suggest that local businesses object and are duly concerned about the validity of continuing to trade in the area, due to issues of parking which looks to be exacerbated if the plan goes ahead.
- The suggestion that only 6 full-time jobs will be created is ridiculous – the figure has been given in an attempt to reduce the assessment of environmental impact through vehicular movement.
- For short periods of time throughout the day, loading and unloading of a nearby business premise will block the access road – the proposal would affect the viability operations and deter future investment in machinery and local jobs for the existing business.
- There is serious traffic congestion, particularly as wagons for the local industrial premises park alongside both sides of the street, causing obstruction. There is insufficient capacity for more wagons.
- Para. 6.7.2 of “Manual for Streets” sets out that the kerb to kerb width of the road should be at least 3.7m – in this case, it is just 4.1m – this has safety implications for pedestrians and cyclists wishing to access their place of work.
- If planning permission is approved, double yellow lines must be painted along both sides of Oxford Road.
- The landowner has cut down a number of trees – even though the application form states that there are “no trees”. The site was cleared before the application was submitted, with no regard to wildlife or wildlife habitat.
- Challenge the validity of the application because a transport statement or assessment should be included (para. 32 of the NPPF).

- Challenge the validity of the application because the applicant has failed to provide a Design & Access Statement, and there are no details of the location of the 20 parking spaces or provision for delivery vehicles.
- The applicant has not carried out consultation or engaged with the local community, contrary to para. 66 of the NPPF.
- Attention is drawn to policy T2 of the UDP, in which the council commits to improving accessibility, the highway network, road safety and environmental conditions. Reference also made to policy T10 of the UDP.
- If the development goes ahead, will it be subject to a payment of a Community Infrastructure Levy?

7.2 In addition to the above, a petition with 64 signatures has been received stating “*we, the undersigned, formally object the planning application above*”.

7.3 Ward Councillor Lisa Holmes has also been in contact above the application and asked to be kept updated during the course of the application.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C. Highways Development Management** – The number of parking spaces proposed is broadly in line with adopted standards set out in the UDP; the layout of the proposed internal parking area is considered acceptable. Vehicular access to the site is proposed via an existing access that currently serves the neighbouring businesses at Union Mills. The internal carriageway leading from the public highway into the application site is currently used for loading/unloading with businesses associated with Union Mills.

Updated HDM comments 26/04/2107

In light of the above comments, a Transport Statement (Paragon Highways March 2017) and a subsequent addendum (additional information) have been submitted in support of the application. This information sufficiently addresses a number of concerns and points of clarification with regards to trip rates and accident data statistics.

HDM is satisfied that the proposal is acceptable with regards to access by a range of vehicle sizes and that they can serve the development and improve turning facilities for the existing Union Mills in a safe and efficient manner within the site.

However in addition a condition will be required to provide signage and ‘Keep Clear’ markings within the internal access arrangement.

As such, the proposal is considered acceptable in terms of traffic impact upon the safety and efficiency of the local highway network.

**Coal Authority** – Originally objected because a Coal Mining Risk Assessment had not been submitted. However, following receipt of a Coal Mining Risk Assessment report, the Coal Authority has confirmed that they withdraw their objection subject to the imposition of conditions securing:-

- \* The submission of a scheme of intrusive site investigations for approval;
- \* The undertaking of that scheme of intrusive site investigations;
- \* The submission of a report of findings arising from the intrusive site investigations;
- \* The submission of a scheme of remedial works for approval; and
- \* Implementation of those remedial works.

**Health & Safety Executive** – Awaiting final comments which shall be reported to members in the update.

## 8.2 **Non-statutory:**

**K.C. Environmental Services** – Conditions relating to noise, contaminated land, and air quality are recommended. A footnote relating to construction site noise is also suggested.

**K.C. Public Right of Way** – Objected to the position of the security fence. Amended plans were submitted by the applicant to address this concern and further consultation has been carried out with the PROW officer. No further comments have been provided at the time of writing this report.

## 9.0 **MAIN ISSUES**

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Environmental issues
- Highway issues
- Representations
- Other matters

## 10.0 **APPRAISAL**

### Principle of development

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

- 10.2 The NPPF makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 20 of the NPPF states:

*“ . . . local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century”.*

- 10.3 As this proposal would positively contribute towards the local economy in terms of jobs and investment, it is therefore considered by officers that subject to this proposal not compromising the key sustainable principles set out in the NPPF this proposal is acceptable in principle.

#### Impact on visual amenity

- 10.4 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Section 7 of the NPPF indicates that good design is a key aspect of sustainable development and that poorly designed development should be refused.
- 10.5 The area surrounding the application site comprises of a mix of residential (to the south) and commercial to the north and west. The commercial premises include traditional stone-built premises (Union Mills) and other, more modern rendered style buildings with composite cladding on the opposite side of Oxford Road.
- 10.6 In this instance, the design of the buildings, along with the materials proposed, are considered appropriate when taking into account the surrounding context and are fairly typical of this type of development. The scale of the buildings would be similar to others in the immediate vicinity and officers therefore consider that this development would not be out of keeping within the wider setting. It is therefore considered that this proposal would not detrimentally affect visual amenity and would therefore accord with policies D2, BE1, and BE2 of the UDP and the aims of chapter 7 of the NPPF.

#### Impact on residential amenity

- 10.7 Whilst this proposal is located within an existing commercial setting there are a number of residential properties to the south of the site. The noise climate in this area is already relatively high due to the busy Oxford Road and existing commercial activity. However, this proposal could add to the local noise climate and the cumulative effect may therefore have an impact. Consequently it is proposed to include a planning condition which would require the applicant to provide details of how sensitive properties in the vicinity of the site would be protected from excessive noise levels. This is considered to comply with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.

- 10.8 With regard to the scale of the development, the units would be located along the northern boundary of the site, and therefore some 20m from the nearest dwelling at no.3 Brookers Field. As a result, officers are therefore of the opinion that there would be no overbearing impact upon the amenity of these existing occupants as a result of the new buildings. The application form does not provide details of the hours of use but Officers considered it fair and reasonable in order to balance the interest of residential amenity with the operational flexibility of the development to restrict the hours of use of the development to not before 7am and not after 10pm.
- 10.9 In all, subject to the inclusion of appropriate conditions, the proposals are not considered to result in a significant adverse impact upon residential amenity and would accord with the aims of policies D2 and EP4 of the UDP as well as chapter 11 of the NPPF.

#### Environmental issues

- 10.10 The site has been identified as being potentially contaminated due to its previous use as a Mill and underground petrol store. As a result, Environmental Services have recommended conditions relating to the submission of Phase 1 and 2 reports, a Remediation Strategy, the implementation of a Remediation Strategy, and the submission of a Validation Report. With the inclusion of such conditions, the proposal is considered to comply with the aims of policy G6 of the UDP and chapter 11 of the NPPF.
- 10.11 The proposal is adjacent to an Air Quality Management Area where significant efforts have been made in recent years to improve air quality. It is therefore important to ensure that this proposal does not have a significant detrimental effect on air quality in the vicinity and that any impact is satisfactorily mitigated. Should planning permission be granted, and in order to accord with chapter 11 of the NPPF, it is proposed to include a planning condition which would require the provision of low emission vehicle charging points.

#### Highway issues

- 10.12 The six industrial units total some 988 sq m. In line with the adopted parking standards as prescribed within the UDP, the development should be provided with parking at a ratio of 1 space per 40-50 sq m. This would equate to 20-25 parking spaces. In this instance, 20 parking spaces would be provided within the site which is considered to be broadly in line with adopted standards and is considered acceptable.
- 10.13 The layout of the proposed internal parking area is also considered to be acceptable with all spaces being able to be accessed in a safe and efficient manner.

- 10.14 Vehicular access to the site is proposed via an existing access that currently serves an existing vehicular access for neighbouring business and light industrial uses at Union Mills. The internal carriageway leading from the public highway (Oxford Road) into the application site is currently used for loading/unloading for businesses associated with Union Mills.
- 10.15 During the course of the application a Transport Statement and addendum was submitted which addressed initial concerns and provided points of clarification with regard to trip rates and accident data statistics.
- 10.16 In light of the above, officers are satisfied that the proposal is acceptable with regards to access by a range of vehicle sizes and that they can serve the development in a safe and efficient manner within the site. The proposal is also acceptable in terms of traffic impact upon the safety and efficiency of the local highway network.
- 10.17 With regard to the Public Right of Way (SPE/59/20), which is located along the southern boundary, concern was initially raised by the Council's Public Right of Way (PROW) officer that the provision of palisade fencing along the red line boundary of the site would further obstruct the (already obstructed) footpath. In light of this concern, the applicant has amended the scheme and proposes to set the new palisade fencing in by 1.0m from the southern boundary of the site. This would ensure that access could still be retained and would accord with the aims of policy R13 of the UDP.

### Representations

- 10.20 The representations received have been carefully considered during the course of the application and addressed where appropriate in this assessment. Each summarised point is however, responded to below:-

1. Doesn't appear to be sufficient parking for 6 industrial started units.

**Response:** *An assessment has been set out in the 'Highways issues' section of this report in relation to the parking provision. The number of parking spaces proposed is considered to be broadly in line with the standards set out in policy T19 of the UDP.*

2. No information relation to the expected use of the units and the possibility of 24 hrs operation.

**Response:** *Due to the proposal being for industrial 'starter units', there have been no details submitted in regard to the end user or the hours of operation. Following consultation with the Council's Environmental Services, they have not raised this as an objection. It is proposed to condition the hours of use of the development to not before 7am and not after 10pm. A further condition is also recommended in relation to the submission of a noise report and appropriate mitigation measures in order to safeguard the amenity of surrounding occupants.*

3. Impact on value of property.

**Response:** *This is not a material planning consideration.*

4. A public footpath is shown running on the inside of the boundary of neighbouring dwellings.

**Response:** *During the course of the application, an amended plan has been submitted which ensures that the new boundary fencing would be set 1.0m away from the southern boundary. It should however be noted that the definitive line of the public footpath does in fact, run along the inside boundary of the neighbouring properties at nos.2 and 5 Brookers Field.*

5. The site notice was only erected allowing 9 days to object.

**Response:** *The publicity for this application, which was received on 25 October 2016, has been carried out in accordance with the Council's relevant procedures set out in the Development Management Charter. More than 21 days have passed since the application was advertised by site notice and the application being determined.*

6. The brownfield land would be better used for housing development.

**Response:** *Noted however, as previously set out, this is a mixed use area, where there are existing commercial premises. The proposed use is therefore considered by officers to be appropriate in this location.*

7. Local businesses object and are duly concerned about the validity of continuing to trade in the area, due to issues of parking which looks to be exacerbated if the plan goes ahead.

**Response:** *In order to safeguard how the existing businesses operate, further information is in the process of being submitted by the applicant and will form part of the Transport Statement. It is however, the opinion of officers that the proposed development would be compatible with the surrounding commercial activities.*

8. The suggestion that only 6 full-time jobs will be created is ridiculous – the figure has been given in an attempt to reduce the assessment of environmental impact through vehicular movement.

**Response:** *Noted. The proposals have been assessed in relation to parking standards and trip generations, which are set out in the additional Transport Statement submitted during the course of the application. This information has been assessed by HDM and is considered acceptable to demonstrate that the proposal would not cause significant harm to highway safety and efficiency.*

9. For short periods of time throughout the day, loading and unloading of a nearby business premise will block the access road – the proposal would affect the viability operations and deter future investment in machinery and local jobs for the existing business.

**Response:** *Further information is in the process of being submitted by the applicant in relation to this matter. The further information shall be reported to members in the update.*

10. There is serious traffic congestion, particularly as wagons for the local industrial premises park alongside both sides of the street, causing obstruction. There is insufficient capacity for more wagons.

**Response:** *HDM has assessed the proposals and, as set out the 'Highways issues' section of this assessment, is considered acceptable.*

11. Para. 6.7.2 of "Manual for Streets" sets out that the kerb to kerb width of the road should be at least 3.7m – in this case, it is just 4.1m – this has safety implications for pedestrians and cyclists wishing to access their place of work.

**Response:** *HDM has assessed the proposals and have confirmed that the access serving the site is acceptable for the use proposed.*

12. If planning permission is approved, double yellow lines must be painted along both sides of Oxford Road.

**Response:** *HDM have not requested that double yellow lines should be painted along Oxford Road.*

13. The landowner has cut down a number of trees – even though the application form states that there are "no trees". The site was cleared before the application was submitted, with no regard to wildlife or wildlife habitat.

**Response:** *There were no protected trees located on this site, or adjacent to the site, and therefore, the trees could be removed without requiring consent. A condition is recommended below relating to the submission of an Ecological Design Strategy which would include appropriate ecological mitigation measures, in accordance with the aims of chapter 11 of the NPPF.*

14. Challenge the validity of the application because a transport statement or assessment should be included (para. 32 of the NPPF).

**Response:** *A Transport Statement has been submitted during the course of the application.*

15. Challenge the validity of the application because the applicant has failed to provide a Design & Access Statement, and there are no details of the location of the 20 parking spaces or provision for delivery vehicles.

**Response:** *Officers are satisfied that adequate information has been submitted in order to assess the proposals.*

16. The applicant has not carried out consultation or engaged with the local community, contrary to para. 66 of the NPPF.

**Response:** *Whilst good practice, the applicant does not have a statutory duty to consult or engage with the local community.*

17. Attention is drawn to policy T2 of the UDP, in which the council commits to improving accessibility, the highway network, road safety and environmental conditions. Reference also made to policy T10 of the UDP.

**Response:** *The proposals have been fully assessed by officers and, for the reasons set out the assessment along with the inclusion of appropriate conditions, the proposals are considered acceptable from a highway network, road safety, and environmental perspective.*

18. If the development goes ahead, will it be subject to a payment of a Community Infrastructure Levy (CIL)?

**Response:** *CIL has not yet been introduced at Kirklees.*

### Other Matters

10.21 *Coal Mining Legacy:* The application site is located within an area that has been identified as 'High Risk' in relation to coal mining legacy. As such, during the course of the application a Coal Mining Risk Assessment (CMRA) was submitted. This has been assessed by the Coal Authority who have confirmed that, subject to the inclusion of appropriate conditions, the proposals are acceptable from a coal mining legacy perspective, in accordance with the aims of chapter 11 of the NPPF.

10.22 *Ecology:* Consultation has taken place with the Council's Ecologist who has confirmed that there is no concern with regard to habitats on site however there are some reasonable habitats just outside the boundaries (e.g. hedges and scrub areas that might be ideal for bats/birds etc). In light of this, a condition is recommended relating to the submission of ecological enhancement through an Ecological Design Strategy. The inclusion of such a condition would ensure that the proposals comply with the aims of chapter 11 of the NPPF.

10.23 *Flood Risk and Drainage:* The site is located within Flood Zone 1 and therefore has a very low probability of flooding. The proposal is therefore considered to comply with the aims of chapter 10 of the NPPF.

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

## **11.0 CONCLUSION**

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

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

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

1. Standard 3 years to implement the permission.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Boundary treatment to be erected in accordance with the submitted details.
4. Samples of facing and roofing materials to be submitted.
5. Area of parking, access, and turning to be surfaced, drained, and marked out.
6. A scheme for 'Keep Clear' markings and informative signage within the internal site access arrangement.
7. Submission of an Ecological Design Strategy.
8. Scheme relating to the installation of low emission vehicle charging points.
9. Submission of a Noise Report with appropriate mitigation measures to protect the occupants of nos. 3 and 5 Brookers Field from noise from the development prior to first use of the development.
10. Submission of a Preliminary Risk Assessment (Phase 1 report).
11. Submission of an Intrusive Site Investigation Report (Phase II report).
12. Submission of a Remediation Strategy.
13. Implementation of the Remediation Strategy.
14. Submission of a Validation Report.
15. Hours of use of the development to not before 7am and not after 10pm

**Background Papers:**

Application and history files.

Website links to view:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93496>

Certificate of Ownership – Certificate A signed and dated 11 October 2016.

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**Report of the Head of Development Management**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 18-May-2017**

**Subject: Planning Application 2016/92553 Erection of detached dwelling and reinstatement of access adj The Mill, 116, Low Road, Earlsheaton, Dewsbury, WF12 8BZ**

**APPLICANT**

Stercap (Properties) Ltd

**DATE VALID**

27-Jul-2016

**TARGET DATE**

21-Sep-2016

**EXTENSION EXPIRY DATE**

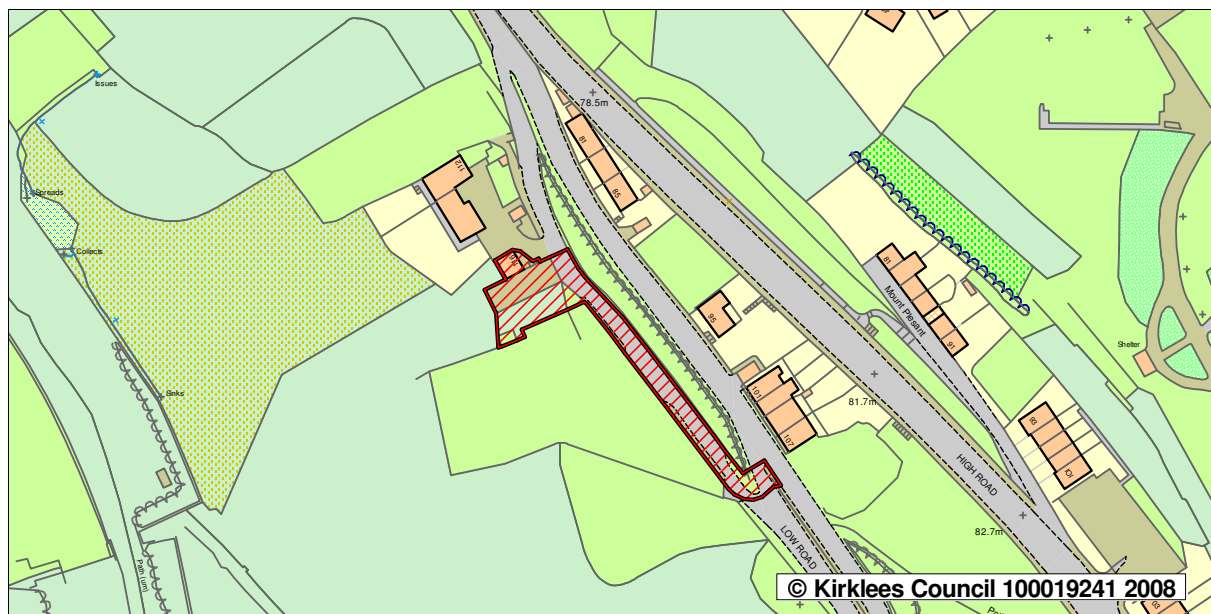
21-Dec-2016

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Dewsbury East Ward**

NO

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**  
**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report and in order to allow for the expiration of site publicity (2<sup>nd</sup> June 2017).**

## **1.0 INTRODUCTION:**

- 1.1 This application has been brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation due to the proposed development being a departure from the Kirklees Unitary Development Plan.
- 1.2 The erection of one detached dwelling on this brownfield site is considered to be acceptable as the benefit of locating residential development in this sustainable location would outweigh the loss of the site in terms of any ecological or visual impacts.
- 1.3 The design, scale, and layout of the proposed new dwelling is considered by officers to be acceptable. Furthermore the dwelling has been designed so that it would have no undue detrimental impact on the amenity of any adjoining occupants.
- 1.4 The site forms part of a wider area of land allocated as Provisional Open Land (POL). A building is already located on the site and it is considered that the redevelopment of the site will not prejudice any potential future development of the wider POL allocation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is a vacant piece of land off Low Road, Earlsheaton. The land did contain a large mill building but that has long since gone with only very limited remnants of the building remaining and the land has become overgrown but is unkempt in appearance. The land forms part of a much wider POL allocation which includes land to the south, west and north though rest of the allocation is at a significantly lower level and can only be accessed via Ridings Road off of the Dewsbury Ring Road.
- 2.2 The surrounding area is made up of residential development mainly comprising of terraced dwellings of a simple appearance. This section of Low Road currently serves one detached dwelling (112 Low Road) which is a fairly large detached dwelling, again of a simple design. Low Road itself is very narrow, in a poor state of repair and is quite steep especially at its junction with Middle Road which has extremely poor visibility.

## **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of one detached dwelling on land off Low Road, Earlsheaton. The dwelling would roughly be 'L' shaped and measure 14m x 11m with a height of 7m rising to 9.5m. Accommodation would be over three floors with the upper floor being in the roof space and having three pitched roof dormers. The design of the dwelling would include balconies, windows of varying designs and sizes and would be constructed using natural stone walls and stone roof slate.
- 3.2 Access to the dwelling would be taken from Low Road and include vehicle turning within the site. Private amenity space would be quite limited and consist of a small area to the north of the site and a small patio area around the dwelling (though this would involve large retaining walls as the land beyond drops away significantly).

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Application 2015/91964 – Erection of a single dwelling – refused for the following reasons:
  1. Low Road, by reason of its width, poor surfacing, lack of pedestrian facilities and its steep, acute angle at its junction with Middle Road, is considered to be unsuitable for any intensification in its use. The proposed development would result in additional vehicles and trips using Low Road to the detriment of highway and pedestrian safety. The improvements proposed of turning facilities and surfacing is not considered enough of a benefit to outweigh the significant issues with regard to the substandard nature of Low Road and its junction with Middle Road. The application would therefore fail to comply with Policy T10 of the Unitary Development Plan

2. The proposed development by reason of its design and appearance would have a detrimental effect upon the visual amenities of the surrounding area and wider street scene. The inclusion of dormer windows and balconies would be out of keeping with the simple nature of development within the area. The application would therefore fail to comply with Policies BE1 and BE2 of the Unitary Development Plan as well as Paragraphs 60 and 64 of the NPPF – National Planning Policy Framework.

Application 2009/93042 – Erection of 4 dwellings, withdrawn (concern over highways/access, design, scale and overdevelopment).

94/91851 – Change of use and alterations to convert warehouse to one dwelling with integral garage, approved.

89/00577 – Conversion of warehouse into six flats, approved.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Application 2015/91964 was for a similar proposal but was refused because of concerns relating to highway safety and also the design and appearance of the proposed new dwelling.
- 5.2 Due to issues surrounding land ownership the access has been revised and relevant notices been served and amended plans received to address officer concerns regarding design and highway safety.
- 5.3 Amended plans were submitted in order to address officer concerns regarding design. Discussions also took place regarding highway safety.

## **6.0 PLANNING POLICY:**

- 6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).
- 6.2 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).
- 6.3 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

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

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

**D5** – Provisional Open Land

**BE1** – Design Principles

**BE2** – Design of new development

**BE12** – Space about buildings

**G6** – Development having regard to contamination

**EP11** – Incorporation of integral landscaping which protects or enhances ecology

**NE9** – Retention of mature trees

**T10** – Highway safety considerations

**T19** – Parking standards

6.5 Supplementary Planning Guidance / Documents:

None relevant

6.6 National Planning Guidance:

‘Core Planning Principles’

**Chapter 4** - Promoting sustainable transport

**Chapter 6** – Delivering a wide choice of high quality homes

**Chapter 7** – Requiring good design

**Chapter 8** – Promoting healthy communities

**Chapter 11** – Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been readvertised and will expire on the 2<sup>nd</sup> June 2017. One letter of representation was received to the original proposals regarding access, loss of light and overlooking in addition to concerns regarding ownership. No representations have been received to the revised details to date.

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**KC Highways Development Management:** No objections.

8.2 **Non-statutory:**

**KC Flood Management & Drainage:** No objections

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application has previously been assessed and considered to be greenfield for the purposes of considering development. Officers at the time recognised that the land did once contain a building and that these remains were considered to have blended into the landscape in the process of time (Annex 2 of the NPPF). Having undertaken site investigations it is considered that whilst the site is very overgrown there is clearly a building present that is considered to conflict with the view that the land blends in with surrounding land. As such officers consider that the site can be considered as brownfield and the development considered on this basis.
- 10.2 The application site includes land designated as Provisional Open Land (POL). Policy D5 of the UDP 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”*
- 10.3 The Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will also be the vehicle to assess whether there are exceptional circumstances to return POL sites back Green Belt or whether they may be suitable for allocation as Urban Greenspace. The Local Plan process is underway but is still some way from being sufficiently advanced to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.
- 10.4 The weight that can be afforded to policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 215 and 49.

- 10.5 In the context of paragraph 215, the wording of policy D5 is consistent with NPPF paragraph 85 concerning safeguarded land. However, with regard to paragraph 49 the Council is currently unable to demonstrate a five year supply of deliverable housing sites.
- 10.6 The weight that can be given to policy D5 in these circumstances was assessed in October 2013 by a Planning Inspector in his consideration of an appeal against refusal of permission for housing on a POL site at Ashbourne Drive, Cleckheaton (ref: APP/Z4718/A/13/2201353). The inspector concluded (paragraph 42):
- “The lack of a five-year supply, on its own, weighs in favour of the development. In combination with other paragraphs in the Framework concerning housing delivery the weight is increased. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date. Policy D5 clearly relates to housing and so it, too, is out of date and its weight is reduced accordingly. This significantly reduces the weight that can be given to the policy requirement for there to be a review of the plan before the land can be released. In these circumstances, the Framework’s presumption in favour of sustainable development is engaged.”*
- 10.7 NPPF paragraph 14 states that where relevant policies are out-of-date, permission should be granted “unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”.
- 10.8 Footnote 9 lists examples of restrictive policies but this does not include land allocated as Provisional Open Land.
- 10.9 The NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. It states that these roles are mutually dependent and should not be undertaken in isolation; “economic, social and environmental gains should be sought jointly and simultaneously through the planning system” (paragraph 8). The ‘economic’ role includes providing support for growth and development requirements. In this case this includes business opportunities for contractors and local suppliers during construction and demand for services from new residents. The ‘social’ role states the need to support communities by providing housing to meet the needs of present and future generations. This is particularly at a time of general housing need given the Council is unable to demonstrate a 5 year supply of housing land. The ‘environmental’ role includes contributing to protecting and enhancing the natural, built and historic environment. Although the proposal would develop a greenfield site, where national policy encourages the use of brownfield land for development, it also makes it clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.

- 10.10 As such, in the absence of both a five year housing supply and provided there are no significant and demonstrable adverse impacts that can be evidenced and substantiated and which outweigh the benefits when assessed against the policies in the framework taken as a whole, the principle of developing this site is considered to be acceptable.
- 10.11 Assessing the policies in the national planning policy framework as a whole in accordance with the paragraph 14 test, the provision of housing on this brownfield site, outweighs the environmental harm arising from the development and the proposal is considered to be sustainable development.

#### Urban Design issues

- 10.12 It is recognised that the application site is within an area which is not largely surrounded by development. That said there are still a number of buildings within close proximity which could be read in association with the application site.
- 10.13 The site contains a dilapidated industrial building which appeared to be three storeys high when viewing historic maps (despite the design and access statement saying it was four storeys). It appeared as though that the design and appearance of this building was very simple with uniform windows in terms of their size and position within the building. The same is true with other buildings within the locality on Middle Road, which are predominantly stone terraced dwellings of a simple design/appearance.
- 10.14 Paragraph 60 of the NPPF also states that it is proper to seek and promote/reinforce local distinctiveness. Para 64 goes onto say that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area. Policies BE1 and BE2 of the UDP also re-enforce this.
- 10.15 In this case, officers consider that the local distinctiveness of the area is characterised by simply designed buildings which have an element of symmetry. The original plans submitted have been revised through negotiation with officers to ensure the building proposed respects the design and scale of those in the vicinity. The former dormers have been removed and balconies replaced, ensuring local distinctiveness is protected.
- 10.16 Officers therefore consider that the design and appearance of the proposed dwelling would be acceptable when viewed within the context and would not harm the character and appearance of the surrounding area. The application would therefore comply with Policies BE1 and BE2 of the UDP as well as paragraphs 60 and 64 of the NPPF.

### Residential Amenity

- 10.17 The nearest existing residential dwelling to the proposed development would be 112 Low Road located to the north of the site. This dwelling is at a slightly lower level to the application site and there would be a distance of approximately 15m between the two buildings. This northern elevation of the proposed dwelling would only contain non-habitable rooms and as such, the distance between the buildings is considered to be acceptable.
- 10.18 Other dwellings within the area are located to the east on Middle Road and are approximately 25m away from the application site. Due to this distance together with the difference in levels it is considered that the proposal would not result in any undue impacts upon the residential amenities of these occupants.
- 10.19 To conclude, officers consider that the proposed development would not have a detrimental impact upon the residential amenities of any surrounding property and the application would comply with the aims of policy BE12 of the UDP.

### Highway issues

- 10.20 The access to the site is narrow and manoeuvring poor, as such there have been concerns with regards to highway safety. The dwelling would be accessed off Low Road which is a part-adopted highway which connects onto Middle Road. Low Road is a narrow, single width road which serves one dwelling (116 Low Road) and is a dead-end at its most southern point. Due to the levels difference, the gradient of Low Road at the junction with Middle Road is fairly steep with limited opportunity for improvement due to land levels.
- 10.21 The agent has provided a revised plan reference 6911\_01c that shows details of the revised access and retaining walls. The existing access from Middle Road is shown to be retained unaltered. Localised pothole repairs along the section of road are considered sufficient in order to improve the surface between Middle Road and the development site.
- 10.22 It is considered that, when taking into account the former use in addition to the access improvements shown, that the proposal for a single dwelling would, on balance, be in accordance with Policies T10 and T19 of the Kirklees Unitary Development Plan.

### Drainage issues

- 10.27 Initial plans and information provided no details regarding the proposed drainage. The application form states that surface water will be discharged to the mains sewer. There is a Yorkshire Water sewer in Low Road. However the site slopes downwards away from the road. Any form of a pumped surface water system would not be supported.

- 10.28 The applicant has confirmed that the site currently drains to the public combined sewer to the south west and that this is the intended point of discharge for the proposed development. This would be acceptable and in accordance with guidance contained within the NPPF.

#### Representations

- 10.29 Concerns raised have been addressed in the main report. For the reasons outlined above it is considered that the development meets Kirklees Unitary Development Plan Policy and the NPPF. Any matters raised during the course of the period of readvertisement will be addressed in the update.

#### Other Matters

- 10.30 *Ecology* – A bat scoping report has been submitted with the application. The survey found no evidence of bats during the time the scoping survey was carried out but does acknowledge that the surrounding woodland does provide good habitat. Within the recommendations, it states that two further surveys should be undertaken between May & August in order to fully establish the bat roost potential. A condition is recommended which requires these surveys to be carried out prior to development commencing. This would be in accordance with guidance contained within the NPPF.
- 10.31 *Trees* – There are a number of large trees just beyond the site boundary (going down the embankment), none of these are protected or meet the criteria for protection and as such there would be no concerns with regards to development in close proximity. The proposals would comply with Policy NE9 of the UDP.
- 10.32 *Coal Mining* – The site is within a high risk area for historic coal mining activity. The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Mining Report (July 2015, prepared by Avie Consulting Ltd), which accompanies this planning application.
- 10.33 The Mining Report correctly identifies that the application site may have been subject to past coal mining activity. The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth associated with coal which outcropped across the site.
- 10.34 The Mining Report has been informed by an appropriate range of sources of information; including a Coal Mining Report, BGS geological mapping, and historic OS mapping. Based on this review of existing sources of geological and mining information, Section 6 of the Report confirms that the risk to the site is from subsidence from unrecorded mine workings.
- 10.35 Accordingly, Section 7 of the Report recommends that a Phase 2 Intrusive Site Investigation is undertaken to determine the potential risks to the development and to identify any necessary remedial measures.

10.36 Subject to conditions, the development could be constructed without impacting upon any historic coal mining features and would therefore comply with guidance contained within the NPPF.

10.37 *Air quality* - In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of electric car charging points is recommended should the application be approved. This would be in accordance with the aims of the NPPF.

## **11.0 CONCLUSION**

11.1 To conclude, in accordance with NPPF there is a presumption in favour of sustainable development and planning permission should be granted "unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted". The proposal is considered to present a sustainable form of development. There are no other material considerations that outweigh this finding.

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

1. 3 year Time limit
2. Plans to be approved
3. Vehicle areas to be laid out
4. Specifications and gradients for driveways and access
5. Electric vehicle point
6. Materials for new dwelling
7. Removal of Permitted Development Rights
8. Intrusive investigation
9. Report from site investigations
10. Remediation strategy
11. Remediation works
12. In accordance with Bat report
13. Turning facilities to be provided
14. Provision of access from the southern section of Low Road
15. Retaining walls

## **Background Papers:**

Application file website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92553>

Certificate of Ownership – Certificate D signed with notice being served in the Dewsbury Reporter.

History file website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91964>



Originator: Louise Bearcroft

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

**Subject: Planning Application 2017/91074 Erection of detached dwelling (modified proposal) Plot 2, Land to rear of, 59, Far Bank, Shelley, Huddersfield, HD8 8HS**

#### APPLICANT

G Stead

#### DATE VALID

03-Apr-2017

#### TARGET DATE

29-May-2017

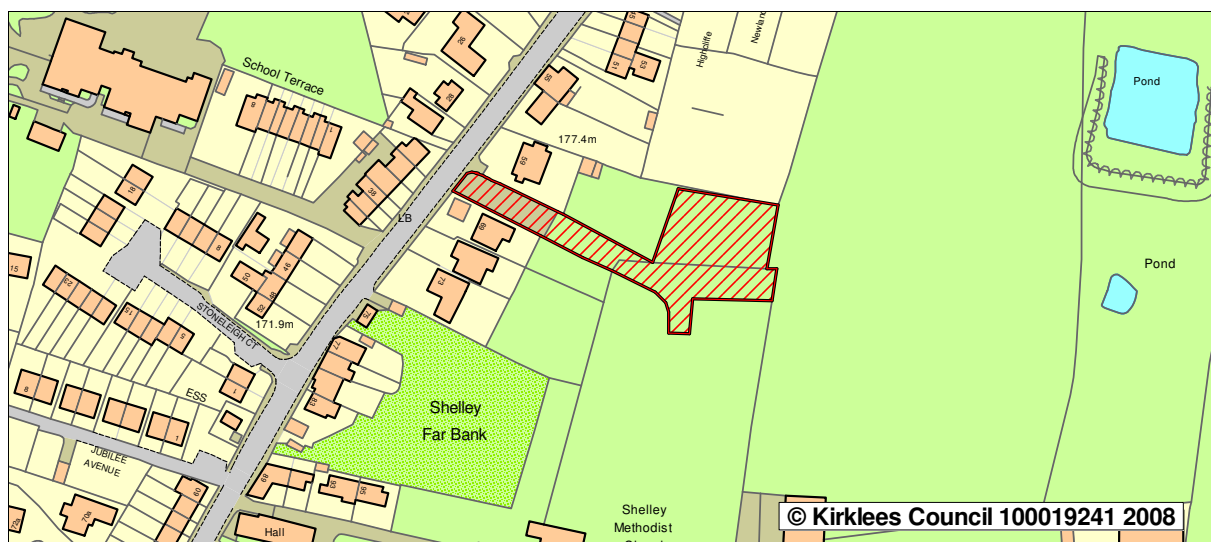
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected:**

**Kirkburton**

No

Ward Members consulted

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Committee as the application represents a departure from the Kirklees Unitary Development Plan. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The principle of residential development has previously been established on this site through the granting of planning permission for the erection of two dwellings (under application reference 2016/90756) which was approved by the Heavy Woollen Planning Committee on 15 December 2016. In light of the recent planning history, the principle of development is still considered to be acceptable by officers.
- 1.3 There would be no harmful effect on highway safety or residential amenity arising from the revised house type. On balance the design of the dwelling would not have an undue detrimental impact on the visual amenities of the surrounding area.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is an open area of land to the rear of No.59 Far Bank at Shelley. The site is bounded by the garden area of No.53 Far Bank to the north, by undeveloped Green Belt land to the east, by undeveloped Provisional Open Land to the south, and by the rear garden areas of No.59 Far Bank to the west.

2.2 The site has an existing field access located between No. 59 and No.69 Far Bank. The site slopes downwards from west to east, and along the northern boundary are a number of mature trees. The site is allocated as Provisional Open Land on the Unitary Development Plan Proposals Map.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for the erection of a detached dwelling which would be constructed to 'passive house' standards. This is a standard for energy efficiency which results in ultra-low energy buildings that require little energy for space heating or cooling. The proposed dwelling would be two storeys in height and would have a box like structure with a flat roof. It is proposed the dwelling would be predominately constructed of timber cladding with coursed natural stone at ground floor level on the principal elevation only. The proposed dwelling would have an attached garage constructed of grey render, and habitable rooms are proposed in the southern, eastern and western elevations.

3.4 Off-street parking and a private amenity space is proposed to serve the dwelling. Access would be as per the previously approved application; via a 5 metre wide tarmac roadway culminating in a turning head.

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

4.1 2016/90756 – Erection of 2 detached dwellings – Conditional Full Permission

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

5.1 The design of the dwelling was discussed with the applicant who wishes it to be determined on the basis of the submitted scheme.

### **6.0 PLANNING POLICY:**

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

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

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

### Supplementary Planning Guidance / Documents:

None

### National Planning Guidance:

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

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

- 7.1 The application was advertised by neighbour letter, site notice and press notice. The final date for all representations is 12<sup>th</sup> May.

At the time of writing no representations have been received. Any representations received will be reported to Members in the update.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**Highway Services (Informal Discussion) – No objections**

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

None

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues

- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application site is allocated Provisional Open Land (POL) on the UDP proposals map. However, the principle of residential development, for two dwellings, has previously been established on the site under planning application 2016/90756, which was considered by the Heavy Woollen Planning Committee on 15 December 2016.
- 10.2 In light of the above, the principle of residential development is acceptable. It should be noted that the development does not need to achieve 'passive house' standards to be acceptable in planning terms. This is consistent with the previous planning permission granted by Committee.

### Urban Design issues

- 10.3 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. Paragraph 60 of the National Planning Policy Framework (NPPF) stipulates that planning policies and decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however, proper to seek to promote or reinforce local distinctiveness.
- 10.4 NPPF para 64 notes that planning permission should be refused for development of poor design which fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 10.5 Within this surrounding area there is a mix of property types, with the majority having a traditional appearance and being of natural stone construction. The application site is not within a Conservation Area, nor are there any listed buildings within the vicinity of the site. Furthermore, the site itself is sited below the level of the adjacent highway and the proposal would not be viewed in the context of the street scene of properties directly fronting onto Far Bank.
- 10.6 The proposed dwelling would be two storeys in height and its scale would be in keeping with neighbouring properties within the surrounding area. The design of the dwelling however and its construction material would contrast to the traditional appearance of neighbouring properties. The ethos behind the design of the dwelling is for it to be constructed to 'passive house' standards for ultra-low energy buildings, and the proposed materials have been chosen to assist in achieving this standard. The proposed dwelling would have a box like structure with a flat roof, predominately constructed of timber cladding with coursed natural stone at ground floor level on the principal elevation only, and grey render for the garage.

- 10.7 There are no objections to a contemporary design approach; however in the previous application officers negotiated with the applicant to secure a greater proportion of stone work, particular on the principal elevations which would be seen from the access road. The previous design for the dwelling also proposed a pitched roof of aluminium construction with zinc coating in a grey colour. The applicant does not wish to make any revisions to the design of the proposed dwelling, and the impact on the character of the surrounding area has to be carefully considered.
- 10.8 The dwelling incorporates natural stone walling on the ground floor of the principal elevation which would be the most visible elevation, seen from the proposed access road and views from land to the south. The applicant has confirmed that the pine wood cladding (produced by manufacturer Accoya) will have a light / mud grey stain. This type and colour of cladding is the same as that approved in the previous 2016 application, although in the revised design, it is now proposed that the majority of the dwelling will be timber clad. The proposed flat roof would be constructed of bitumen felt with a surface ballast of dark grey. This would contrast with the pitch roof forms of neighbouring properties but it does have the effect of reducing the height of the dwelling and thereby limiting its visual impact. It is acknowledged that the dwelling would have a contemporary appearance, however it is considered on balance it would not have an undue detrimental impact on the visual amenities of the surrounding area which would justify refusal of the application.

#### Residential Amenity

- 10.9 UDP Policy D2 requires residential amenity matters to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties to the site which would be affected by the development include No.59 Far Bank located to the north-west of the site and No.69 Far Bank located to the south-west.
- 10.10 The principle of residential development, for two dwellings, has previously been established on the site under planning application 2016/90756 and it is considered the revised design of Plot 2 would not have a detrimental impact on the amenity of occupiers of neighbouring properties.

#### Highway issues

- 10.11 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. No revisions to the approved access are proposed and the proposed access arrangements remain acceptable.

#### Drainage issues

- 10.12 The proposal is to drain the surface water through soakaway which remains acceptable in accordance with the hierarchy of sustainable drainage.

### Representations

- 10.13 No representations have been received at the time of writing. Any representations received will be reported to Members in the update.

### Other Matters

- 10.14 In the previous application the applicant submitted details of ecological landscaping. This confirmed the site is bounded by dry stone walls, with Hawthorne along the north boundary. Grasses / plants identified within the site are Yorkshire fog, Fescue, Couch, Annual meadow, Buttercup, Dandelion, Dock, Thistle and Plantain. To mitigate against the effects of developing the site, a landscape / planting scheme was proposed to provide an enhanced environment for wildlife and includes a wild flower meadow, and a 5 metre wide dense buffer between the plots. Whilst no details have been provided on the block plan submitted with this revised house type, this mitigation remains acceptable and will be a condition of the permission.

## **11.0 CONCLUSION**

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

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

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

1. 3 year time limit for implementation
2. Development carried out in accordance with the plans and specifications
3. Facing and roofing materials to be inspected and approved
4. Boundary Treatment details
5. Appropriate surfacing of all areas indicated for vehicular access and turning area
6. No gates/barriers to be erected across the vehicular access from Far Bank
7. Re-locating of street lighting column
8. Landscape Scheme
9. Schedule of Landscape maintenance

**Background Papers:**

*Planning application:*

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91074>

Certificate of Ownership – Certificate A signed



Originator: Nia Thomas

Tel: 01484 221000

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## Report of the Head of Development Management

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

Subject: Planning Application 2017/90542 Erection of extensions 19, Churchill Grove, Heckmondwike, WF16 0BW

#### APPLICANT

Mr N Cheema

#### DATE VALID

22-Feb-2017

#### TARGET DATE

19-Apr-2017

#### EXTENSION EXPIRY DATE

23-May-2017

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Heckmondwike**

Ward Members consulted

No

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is reported to Sub-Committee following a request from Councillor Steve Hall who states:

“I would like the committee to assess the application’s front extension as I am not in favour of the impact on the street scene”.

This is in accordance with the delegation agreement.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 19 Churchill Grove is a two storey semidetached dwelling constructed of brick with stone cladding on the front elevation, tiles for the roof and upvc for the openings. The site has an area of grassed amenity space to the front of the site, a driveway to the side and an area of amenity space to the rear which includes a conservatory.
- 2.2 Surrounding the site is predominantly residential, with a mixture of semidetached houses and detached bungalows in the cul de sac – with a turning head located at the top of the street. As can be seen in the planning history section of this report, many of the surrounding dwellings have been extended (although it is important to note that there are no front extensions in the near vicinity, the surrounding extensions are to the rear and to the side of neighbouring dwellings). To the rear of the site lies a large area of playing fields.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for the erection of extensions consisting of a two storey rear extension, a two storey side extension and a single storey front and wrap around side extension. Each individual element of the proposal will be described below.

#### **3.2 Two storey rear extension (previously approved under 2014/91292)**

The extension will project 3 metres from the rear of the site, will 6.5 metres in width and will be 6.8 metres in overall height (4.95 metres to the eaves).

#### **3.3 Two storey side extension (previously approved under 2014/91292)**

The extension will project 1.9 metres from the side of the dwelling, will be 6.7 metres in length and will be 6.25 metres in overall height (4.9 metres to the eaves).

#### **3.4 Single storey wrap around front and side extension**

The extension will project 1.5 metres from the front of the dwelling, will be 6.95 metres in width and will be 3.6 metres in overall height (2.5 metres to the eaves).

This extension will also wrap around the side at single storey level – it will project 1.9 metres from the side of the dwelling, 4.45 metres in length and will be 3.55 metres in overall height (2.4 metres to the eaves).

3.5 The extensions will be constructed from brick, stone and render for the external walls, concrete tiles for the roof and upvc for the openings.

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

4.1 2014/91292 – Erection of two storey side and rear extensions – approved (no. 19 Churchill Grove)

4.2 2009/91512 – Erection of two storey extension – approved (no. 21 Churchill Grove)

4.3 2004/92114 – Erection of single storey extension – approved (no. 17 Churchill Grove)

4.4 2009/92450 – Erection of first floor extension over existing porch - approved (no. 24 Churchill Grove)

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The case officer has been in negotiations with the agent with regards to the removal of the roller shutter at ground floor level serving the store. This feature is not considered to be in keeping with the residential nature of the area and acceptable amended plans (with this feature removed) have been received.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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.

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

**D2** – Unallocated land

**BE1** - Design principles

**BE2** – Quality of design

**BE13** – Extensions to dwellings (design principles)

**BE14** – Extensions to dwellings (scale)

**T10** – Highways Safety

**T19** – Parking Provision

- 6.4 National Planning Guidance

It is considered that the following part of the NPPF is relevant:

- Chapter 7 – Requiring good design
- Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

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

7.1 The Council has advertised the application by site notice /neighbour letters which expired on 21.03.2017. 4 representations have been received. These representations will be summarised and commented on in section 10.17 of this report.

## **8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:** The Health and Safety Executive (HSE) - awaiting consultation response.

8.2 **Non-statutory:** Highways Development Management (informal) – no objection subject to recommended condition requesting two parking spaces to be provided on site.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 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]”. Visual amenity, residential amenity and highways safety will be assessed in this report.

10.2 The general principle of making alterations to a property is assessed against Policies BE1, BE2, BE13 and BE14 of the Unitary Development Plan and advice within Chapter 7 of the National Planning Policy Framework regarding design. Highway safety and parking provision issues will be considered against policies T10 and T19 of the UDP. All these require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations.

- 10.3 The below sections of the report will discuss the impact on residential and visual amenity in detail. Officers consider it is important to bring members' attention to the fact that the two storey rear and two storey side elements of the proposal benefit from an extant permission and are unaltered in size or design in this current application. This means that the main consideration for members is the single storey front and wrap around side extension.

Visual amenity/local character

- 10.4 The impact on visual amenity is acceptable. Each individual element of the proposal will be addressed below.
- 10.5 *Single storey front/side extension* – Following the receipt of amended plans which include the removal of the roller shutter, the impact on visual amenity is acceptable. The projection of 1.5 metres from the front of the host dwelling is considered to comply with UDP policy BE14 which states that front extensions must be “relatively small in scale”.
- 10.6 Small front extensions and porches are common features in residential areas. However, in this instance the proposal would be the first front extension in the street scene, making it an uncommon feature on Churchill Grove. Although the extension would create a feature that would alter the currently uniform building line of front elevations, the introduction of this element of the proposal on the streetscene and on the adjoining semidetached dwelling (no. 17) would be acceptable. The end result would be a dwelling that has an extension that would not dominate its principal frontage for the reasons discussed below.
- 10.7 The extension which would be located in a reasonably sized garden and given its significant set down from the ridge of the host dwelling, would be read as a subservient addition. For this reason, the extension would be sympathetic in scale to the host dwelling and is not considered to detract from its character. The proposed materials and openings match those of the host dwelling and although it is noted that there is render on the front elevation that would be a new feature in the immediate area, this will not make up the full front elevation and will therefore constitute a minor change to the overall appearance of the dwelling. The render feature is considered to complement the existing stone front elevation of the dwelling which is similar to many of the dwellings on Churchill Grove.
- 10.8 The wrap around side extension would be acceptable in terms of its design for the above reasons and given that there are several side extensions on Churchill Grove and the location of the side extension is not as prominent as the front extension, there will be no harm to the character of the area or the streetscene.

- 10.9 *Two storey side extension* – despite the extension being visible from the highway, there will be no harm to the character of the area and the streetscene. The character of the area is fairly varied, with several dwelling types in close proximity to the site and many of these dwellings have been extended (see planning history). The extension will be constructed from brick, stone and render for the external walls, concrete tiles for the roof and upvc for the openings. The design and materials of the openings replicate those in the host dwelling and the roof form is consistent with the host dwelling.
- 10.10 This two storey side extension element of the proposal has already been approved under 2014/91292 and for the above reasons is considered to be acceptable in terms of visual amenity. Additionally, it is noted that under app.ref 2009/92450 a two storey side extension of a similar design has been previously approved. The extension, by virtue of its set down and set in from the front elevation, would be read as a subservient addition to the host dwelling and would not be read incongruously in relation to the appearance of the host dwelling.
- 10.11 Because the extension is to the side, a terracing effect needs to be considered, in accordance with UDP policy BE14. In this instance, the side extension will be set down from the ridge of the host dwelling by a distance of 1.25 metres and will be set in from the boundary of the site by 1 metre. The two storey element of the proposed side extension will also be set in from the front elevation by a significant distance too. For these reasons, there will be no harmful terracing impact.
- 10.12 *Rear extension* - the extension will project 3 metres which is compliant with UDP policy BE14 and will not be visible from the streetscene. The materials and openings of the extension will match those of the host dwelling. For the above reasons, the rear element of the proposal will not detract from the character of the host dwelling or harm the visual amenity of the area (see planning history section of this report for examples of other rear extensions on Churchill Grove). Furthermore, the design of the extension, in terms of its roof form, fenestration detail and materials would also be in-keeping with the host dwelling. This element of the proposal has been approved under 2014/91292.
- 10.13 Condition 6 recommends that an additional parking space shall be created at the front of the dwelling to overcome concerns relating to parking provision (see highways safety section of this report). The formation of this parking space is likely to remove the majority of the small area of grassed amenity space to the front of the dwelling. Although this grassed area is important for visual amenity, many of the surrounding dwellings have large areas of hardstanding to the front of the site. It is considered that this small addition of hardstanding will not have a detrimental impact on the streetscene or character of the area.

- 10.14 Whilst it is acknowledged that the extensions will take up a large area of the site by virtue of extending to the front, rear and side of the original dwelling, there will be a reasonable sized area of garden area to the rear of the site (approximately 10 metres in length) remaining, as well as a small area of hardstanding to the front of the site. For this reason, the proposal is not considered to constitute overdevelopment of the site.
- 10.15 Overall, the development is considered to be acceptable in terms of visual amenity and compliant with UDP Policies D2, BE1, BE2, BE13 and BE14 as well as Chapter 7 of the NPPF.

#### Residential Amenity

- 10.16 The impact on residential amenity is acceptable. 4 representations have been received which have been assessed in the representations section of this report.
- 10.17 Impact on no. 21 Churchill Grove
- 10.18 With regards to the front extension, given that the extension has a relatively small projection and is set off the boundary with this site by over 3.5 metres, there will be no overbearing impact on the occupiers of no. 21 Churchill Grove. There are no openings in the side elevation facing this site. Should openings be inserted in the future, they would serve a non-habitable room (store) and would not lead to any overlooking/loss of privacy.
- 10.19 With regards to the side extension, there is a distance of 3.5 metres between the extension and no. 21. This distance, given that the extension is set down from the ridge of the host dwelling and the fact that the two storey element of the proposal is set in from the front elevation of the dwelling by 4.45 metres, is considered to be acceptable to avoid an overbearing impact on the occupiers of this dwelling. There is a window in the side elevation of no. 21 at first floor level and a porch at ground floor level but these openings serve a non-habitable space.
- 10.20 With regards to overlooking/loss of privacy, there are two openings proposed in the side elevation of this dwelling serving a shower room and a landing/non habitable space. A condition will be recommended to ensure that the shower room opening will be obscurely glazed. There will be no overlooking/loss of privacy.
- 10.21 With regards to the rear extension, this will project 3 metres from the rear of the dwelling and will be set off the boundary with this dwelling by 1 metre, with at least a further 2 metres to the dwelling itself. This distance along with the fact that the roof is hipped away from the boundary with this site means that there will be no overbearing impact on the occupiers of this dwelling. Additionally, the extension is set down from the ridge of the host dwelling which further reduces any overbearing impact.

- 10.22 Although an opening has not been proposed in the side elevation of this extension and there is currently an outbuilding in the rear garden of no. 21 shielding the majority of the views into the rear amenity space, this could be removed and there would be overlooking into private space. For this reason, a condition has been recommended to remove permitted development rights for new openings in the side elevation of this ground floor element of the extension. First floor side openings are controlled by the GPDO and therefore a condition is not required.
- 10.23 Impact on no. 17 Churchill Grove
- 10.24 The side extension to the southeast of the site will not impact on the occupiers of this dwelling to the northeast in any way.
- 10.25 The rear extension has been previously approved – it projects 3 metres from the rear of the site and will be located over 0.5 metres from the boundary with this site. Additionally, the element of the proposal closest to this boundary is at single storey level with a lean to roof which would slope away from this boundary to minimise a loss of sunlight. For these reasons, there would be no harmful overbearing impact despite no. 17 Churchill Grove having a conservatory serving a habitable space to the rear of the site. Given that there are no openings in the side elevation of the extension, there would be no overlooking/loss of privacy. Should openings be inserted at ground floor level in the future, there may be a loss of privacy to the conservatory to the rear of no. 17 and for this reason, a condition removing permitted development rights for new openings in this elevation has been recommending. First floor side openings are controlled by the GPDO.
- 10.26 With regards to the front extension, although it is acknowledged that there is a bay window in the front elevation of no. 17 which serves a habitable room, given that the extension is single storey and has a sufficiently small projection and is set off the boundary with this site by 0.2 metres, there will be no overbearing impact on the occupiers of no. 17. With regards to overlooking/loss of privacy, there are no openings in the side elevation facing this site. Although an opening could be inserted that serves a habitable room (lounge), this window would look into an area of amenity space to the front of the dwelling that is already very visible from the highway. For this reason, there would be no overlooking/loss of privacy over and above the existing situation and a condition to this effect is not recommended.
- 10.27 To the southeast of the site is open land and therefore there will be no impact on residential amenity. To the northwest of the site, there is a distance of over 30 metres between the application site and the dwellings to the front. This is considered to be acceptable to avoid any harmful impact on residential amenity, especially given the small scale of the proposed development.

10.28 Overall, the development is considered to be acceptable in terms of residential amenity, thus complying with UDP Policies BE1 and BE14.

#### Highway issues

10.29 It is acknowledged that the extensions will lead to an increase in the number of bedrooms from 2 to 4 which could lead to additional trips to the site. For this reason, 3 parking spaces are required to comply with UDP policy T19. In this instance, existing parking provision will be reduced to one space on the driveway (as the side extension will be erected on the existing driveway). Following an informal consultation with Highways Development Management, a condition has been recommended to provide two parking spaces on site which is considered satisfactory in this instance. A condition has been recommended to ensure that the sub base and surfacing of the hardstanding is permeable, complying with NPPF Chapter 10.

10.30 With regards to highways safety, the occupiers of the dwelling may have to reverse onto the highway but given that Churchill Grove is a quiet residential estate road and the occupiers of the dwelling currently have to reverse onto the highway (as do many of the neighbouring occupiers), the proposed development will not cause highways safety issues over and above the existing situation.

#### Representations

10.31 4 representations have been received raising the following concerns:

Serious and adverse impact on her quality and standard of living  
*Officer comment: see residential amenity section of this report in relation to overbearing/overlooking impacts.*

Visually overbearing, inappropriate scale and design for the area  
*Officer comment: this has been considered in the visual amenity section of this report.*

Building would be totally out of keeping with the existing properties  
*Officer comment: this has been considered in the visual amenity section of this report.*

The proposed development does not respect the local context, street pattern and building line of neighbouring properties  
*Officer comment: this has been considered in the visual amenity section of this report.*

Harm amenity enjoyed by occupiers of neighbouring residential properties  
*Officer comment: this has been considered in the residential amenity section of this report.*

Drastically restrict access to front and rear of no.17.

*Officer comment: this is not a material planning consideration.*

Development would alter fabric of the area and amount to serious cramming

*Officer comment: this has been considered in the visual amenity section of this report.*

Very little space for landscaping and overdevelopment of the site

*Officer comment: this has been considered in the visual amenity section of this report.*

Would lead to a loss of valuable space

*Officer comment: this has been considered in the visual amenity section of this report.*

Drainage issues/ contamination – public drain inspection chamber under where the proposed development is to be built

*Officer comment: this is not a material planning consideration.*

Drain issues encountered before (drains are shared) – discussion regarding payment of unblocking drains

*Officer comment: this is not a material planning consideration.*

Overhanging gutters/eaves on to airspace- if gutters poorly maintained then this would cause unnecessary damage to her property

*Officer comment: this is not a material planning consideration.*

Boundary dispute if applicant claims right of way for eaves and foundations

*Officer comment: this is not a material planning consideration.*

Overshadowing issues given close proximity of development to no. 17 – regularly enjoys daylight at the front and rear and this would be reduced (photograph provided)

*Officer comment: a loss of light has been considered in the residential amenity section of this report.*

No. 17 is the southwest of the application site – if extension goes ahead, no natural light would come in and occupiers would be sitting in darkness.

*Officer comment: a loss of light has been considered in the residential amenity section of this report.*

Loss of view and personal circumstances mean occupier cannot leave the house for the foreseeable future

*Officer comment: this is not a material planning consideration.*

Occupier of no. 17 would not feel comfortable in her own home where she lives alone – would not feel safe

*Officer comment: this is not a material planning consideration.*

Proposal will reduce parking – this will lead to vehicles being parked on the road. No. 19 already has 2 cars on the drive and one on the road, it will cause difficulty for other households in accessing their own driveways

*Officer comment: highways safety and parking provision has been assessed in this report. A condition has been recommended to provide a second car parking space on site.*

Road width would be reduced and would place a burden on the highway

*Officer comment: highways safety has been assessed in this report.*

Road will be busy and congested and may adversely affect residential amenity of surrounding properties.

*Officer comment: highways safety has been assessed in this report.*

Loss of privacy and affect right to peaceful enjoyment of property

*Officer comment: this has been covered in the residential amenity section of this report.*

Proposed development would not comply with NPPF guidance – development would not improve or enhance the area in any way.

*Officer comment: the proposal has been assessed against the relevant NPPF and UDP policies (see officer report)*

If application approved, conditions relating to hours of operation and other restrictions should be imposed. Consideration should also be given to how and when construction vehicles would gain access to the site without causing noise and disturbance.

*Officer comment: problems arising from the construction period can be addressed through Environmental Health legislation.*

Window is there to allow a view and let natural light in – occupier of no. 17 will not be able to watch the sunset

*Officer comment: a loss of light has been considered in the residential amenity section of this report. Watching the sunset is not a material planning consideration.*

Why should someone feel alienated in their own home? If applicant's house is not big enough, move to a bigger house. Do not impose on others.

*Officer comment: this is not a material planning consideration.*

Will not be in keeping with the rest of the street regardless of materials and would lead to urban sprawl.

*Officer comment: this has been covered in the visual amenity section of this report.*

Security shutter is totally unnecessary and not in keeping with residential statement.

*Officer comment: amended plans have been sought to remove this feature.*

Friends visiting have difficulty parking outside our home as it occupied by taxis parked for long periods.

*Officer comment: this is not a material planning consideration.*

## **11.0 CONCLUSION**

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

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

## **12.0 CONDITIONS**

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Material to match existing dwelling
4. Notwithstanding the requirements of condition 3, the area labelled on the front elevation of the approved plans shall be constructed of render which harmonises with the colour of the stone walls hereby approved.
5. No new door or window openings other than those expressly authorised by this permission shall be constructed in the external side walls of the extensions at any time.
6. Provision of 2 car parking spaces required (including permeable surfacing)
7. The development shall not be occupied until the shower room window in the southwestern elevation of the extension hereby approved have been obscure glazed.

### **Background Papers:**

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/90542>

Certificate of Ownership – Certificate A signed to certify that the land within the red line is within the applicant's ownership.

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## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

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

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

18 MAY 2017

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Planning Application 2016/93053

Item 17 – Page 79

Erection of extension to function hall and change of use of attached dwellings (C3) to ancillary prayer room and formation of additional parking

Former Ravensthorpe WMC, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3ET and land opposite 486 Huddersfield Road

#### RECOMMENDATION

The wording of the recommendation is amended as follows:

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

1. Await the expiration of the publicity period (2 June 2017)

#### 7.0 PUBLIC/LOCAL RESPONSE:

Additional information in the form of a Car Park/Traffic Management Plan was received through the course of the application and re-advertised by site notice, neighbour notification letter and press advert. As a result of this, to date 9 additional representations have been received. These reiterate the concerns raised in the original representations.

#### ADDITIONAL INFORMATION

The applicant submitted an updated Management Plan on 17 May 2016. This comprises three parts:

- The Business Operation
- Traffic Management
- Supporting Appendices

With regard to the business operation, the Management Plan sets out how the business operates with regard to a typical wedding format and timetable. The Plan includes information regarding the Client Contract and subsequent measures for reducing the impact upon the residential amenity of occupiers of the adjacent residential properties (such as the non-return of the client's deposit should there be any breach of the contract with regard to the restriction of fireworks, behaviour of car drivers and the timetable of dinner service).

Officers consider that the updated Management Plan would on balance mitigate the impact of the development upon residential amenity and is also acceptable from a Highways perspective. The operation of the development in accordance with these submitted details could not be secured by condition due to the explanation set out below.

In addition to the above, the applicant has submitted a letter requesting that members give consideration to amending the recommending hours of opening and have put forward the wording for a suggested condition:

*The use hereby permitted, shall not be operated Monday to Friday within the Kirklees School Term Time or outside the hours of 11am to 11pm Monday to Friday within the Kirklees School Holiday Period and 11am to 11pm on Saturdays and Sundays. The use shall be operated in total accordance with the Management Plan dated 16<sup>th</sup> May 2017 and shall be done so for the life of the use hereby permitted.*

It is the opinion of Officers that such a condition would not be enforceable because of the potential of significant highway users of the development entering and exiting the site at the evening peak hours which in part is the reason for condition. However this suggestion is put forward to Members at the request of the applicant.

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**Planning Application 2016/92558**

**Item 18 – Page 89**

**Temporary Permission for the erection of single storey linked modular units**

**Masjid-E-Noor Education Centre, Lees Hall Road, Thornhill Lees, Dewsbury, WF12 9HF**

The agent for the application has recently provided an additional proposed site plan showing the provision of 7 parking spaces on Charlesworth Street (which is an unadopted road) and a letter from the owners of the Bakery who own the land to state that they would be willing to allow the Education Centre to use the parking when the bakery staff are not working.

In this instance the hours of use for the education centre have not been stated by the applicant nor have the details of the hours of operation for the bakery. It is possible that the use of Charlesworth Street for parking would constitute a material change of use and therefore need including within the red line boundary and description of the application which may also generate a requirement for further publicity of the application. Therefore insufficient information exists to establish whether the additional parking provision put forward by the applicant would represent a viable solution to the highway safety concerns.

**Erection of two dwellings (within a Conservation Area)**

**42-44, Low Town, Kirkburton, Huddersfield, HD8 0SB**

**10.0 APPRAISAL**

Highway issues

As set out in paragraph 10.23 of the main report (on page 106) in the agenda, an amended plan re-positioning the detached garage was awaiting submission.

Officers can confirm that the amended plan setting the detached garage back by 2.0m from Low Town was received on 10 May 2017.

Following consultation with Highways Development Management (HDM), the amended plan is considered acceptable from a highway safety perspective, providing satisfactory sight lines and is considered to comply with the aims of policy T10 of the UDP. The set back of the garage is also considered acceptable from a visual amenity and heritage perspective, in accordance with policies BE1, BE2, and BE5 of the UDP as well as chapters 7 and 12 of the NPPF.

**Erection of 6 industrial starter units**

**adj, California Inn, Oxford Road, Gomersal, Cleckheaton, BD19 4HQ**

**10.0 APPRAISAL**

Representations

As a point of clarification with regard to points 7 and 9 of paragraph 10.20 of the main report (set out on page 121) in the agenda, the Transport Statement and addendum already submitted by the applicant, is considered by officers to satisfactorily address how the new development would operate safely and efficiently with existing businesses.

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**Erection of detached dwelling (modified proposal)**

**Plot 2, Land to rear of, 59, Far Bank, Shelley, Huddersfield, HD8 8HS**

The application was advertised by neighbour letter, site notice and press notice. The final date for all representations was 12<sup>th</sup> May, prior to the publication of the final agenda. No representations have been received.

The applicant has provided a further supporting statement:

**Information requested in support of Planning application**  
**Ref:2017/91074, Plot 2 to rear of 59 Far Bank Shelley.**

**Request to consider sedum roof covering.**

This suggestion would certainly be a consideration if the topography of the site dictated the proposal was built into a hillside and a natural drainage and watering system could be incorporated. However this site is almost level, is not overlooked and the very real possibility of drought, (a result perhaps of global warming and the reason this application is so important) would necessitate the use of an irrigation system which is an unnecessary use of a precious natural resource.

**To provide calculations for Passivhaus**

Definitive PHPP calculations have not been confirmed to date until the construction method has been defined. However the maximum 15Kwm2/annum energy consumption is achievable using Velox System. This system of insulated shuttering and poured concrete has successfully been used for a £1m plus project in Halifax. Ref: Calderdale Planning 14/00738. This project is a contemporary dwelling sited alongside traditional stone built dwellings within a conservation area. Approved cladding materials are unaffected by choice of construction as is the overall appearance. Definitive calculations can be provided as a condition of approval. These calculations will be a necessary step in the course of obtaining a Passivhaus certificate.  
14.05.2017

**Erection of extensions**

**19, Churchill Grove, Heckmondwike, WF16 0BW**

Consultation response received from Health and Safety Executive (paragraph 8.1). The Health and Safety Executive “do not advise against, on safety grounds, against the granting of planning permission in this case”.

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