

# Public Document Pack



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

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Wednesday 14 June 2017

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Huddersfield Area)**

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 22 June 2017**.

(Please note that the Chair of the Planning Committee has agreed to undertake site visits on an earlier date to ensure that there will be sufficient time available at the meeting to consider in full all of the scheduled applications. A coach will leave the Town Hall, Huddersfield on Wednesday 21 June 2017 at 10.00am to undertake site visits referred to on the agenda.)

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 (Huddersfield Area) members are:-**

### **Member**

Councillor Terry Lyons (Chair)  
Councillor Donna Bellamy  
Councillor James Homewood  
Councillor Christine Iredale  
Councillor Bernard McGuin  
Councillor Mohammad Sarwar  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor Sheikh Ullah  
Councillor Rob Walker  
Councillor Linda Wilkinson

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

### **Substitutes Panel**

#### **Conservative**

B Armer  
J Dodds  
V Lees-Hamilton  
N Patrick  
G Wilson

#### **Green**

K Allison  
A Cooper

#### **Independent**

C Greaves

#### **Labour**

E Firth  
S Hall  
C Scott  
S Pandor

#### **Liberal Democrat**

J Lawson  
A Marchington  
A Pinnock

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# Agenda

## Reports or Explanatory Notes Attached

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### Pages

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**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 - 8

To approve the Minutes of the meeting of the Committee held on 20 April 2017.

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**3: Interests and Lobbying**

9 - 10

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

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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: Public Question Time**

The Committee will hear any questions from the general public.

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## **SITE VISITS TO BE UNDERTAKEN ON WEDNESDAY 21 JUNE 2017.**

### **7: Site Visit - Application No: 2017/91235**

Change of use to mixed use dwelling and catering 29 Clay Butts Birkby.

Estimated time of arrival at site: 10:10am

Contact Officer: William Simcock, Planning Services

**Wards**

**Affected:** Greenhead

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### **8: Site Visit - Application No:2017/90642**

Erection of rear and side extensions 46 Meltham Road Honley.

Estimated time of arrival: 10:40am

Contact Officer: Nick Hirst, Planning Services

**Wards**

**Affected:** Holme Valley North

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### **9: Site Visit - Application No: 2017/90201**

Variation of planning conditions Hagg Wood stone quarry, Woodhead Road Honley.

Estimated time of arrival: 10:55am

Contact Officer: Glenn Wakefield, Planning Services

**Wards**

**Affected:** Holme Valley South

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### **10: Site Visit - Application No: 2016/90477**

Conversion of outbuilding to holiday accommodation 1 Wheat Close Holmbridge.

Estimated time of arrival 11:25am

Contact Officer: Teresa Harlow, Planning Services

**Wards**

**Affected:** Holme Valley South

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## **11: Site Visit - Application No: 9016/92203**

Erection of 2 dwellings/demolition of existing dwelling 65 Colders Lane Meltham.

Estimated time of arrival 11:55am

Contact Officer: William Simcock, Planning Services

### **Wards**

**Affected:** Holme Valley North

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## **12: Local Planning Authority Appeals**

11 - 38

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: Teresa Harlow, Planning Services

### **Wards**

**Affected:** Dalton; Golcar; Holme Valley North; Holme Valley South

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## **Planning Applications**

39 - 42

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 register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 19 June 2017.

To pre-register, please contact [richard.dunne@kirklees.gov.uk](mailto:richard.dunne@kirklees.gov.uk) or phone Richard Dunne on 01484 221000 (Extension 74995)

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

## **13: Planning Application - Application No: 2016/90477**

43 - 74

Conversion of outbuilding to holiday accommodation 1 Wheat Close Holmbridge.

Contact Officer: Teresa Harlow, Planning Services

### **Wards**

**Affected:** Holme Valley South

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<b>14:</b>	<b>Planning Application - Application No: 2016/92203</b>	75 - 90
	Erection of 2 dwellings/demolition of existing dwelling 65 Colders Lane Meltham.	
	Contact Officer: William Simcock, Planning Services	
	<b>Wards</b> <b>Affected:</b> Holme Valley North	
<b>15:</b>	<b>Planning Application - Application No: 2017/90201</b>	91 - 112
	Variation of planning conditions Hagg Wood stone quarry, Woodhead Road Honley.	
	Contact Officer: Glenn Wakefield, Planning Services	
	<b>Wards</b> <b>Affected:</b> Holme Valley South	
<b>16:</b>	<b>Planning Application - Application No: 2017/91235</b>	113 - 124
	Change of use to mixed use dwelling and catering 29 Clay Butts Birkby.	
	Contact Officer: William Simcock	
	<b>Wards</b> <b>Affected:</b> Greenhead	
<b>17:</b>	<b>Planning Application - Application No: 2017/90642</b>	125 - 134
	Erection of rear and side extensions 46 Meltham Road Honley.	
	Contact Officer: Nick Hirst, Planning Services	
	<b>Wards</b> <b>Affected:</b> Holme Valley North	
<b>Planning Update</b>		135 - 138

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

Contact Officer: Richard Dunne

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

**Thursday 20th April 2017**

Present:

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

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

There were no substitutions of membership.

#### **2 Minutes of previous meeting**

Subject to noting that Councillor Musarrat Khan had given her apologies for being unable to attend the 9 March meeting, that the minutes of the meeting held on 9 March 2017 be approved as a correct record.

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

Members declared identified planning applications on which they had been lobbied as follows:

Councillors Bellamy and Walker declared they had been lobbied on applications 2016/94061 and 2017/90819.

Councillor Bellamy declared she had been lobbied on application 2016/92830.

Councillor Lyons declared he had been lobbied on application 2017/90375.

**4 Admission of the Public**

All items on the agenda were taken in public session.

**5 Deputations/Petitions**

No deputations were received. In relation to planning application 2016/94061 a petition was presented by Councillor Nicola Turner from local residents of the Scapegoat area which asked the Baptist Church to keep Scapegoat Hill Burial Ground for future generations.

**6 Public Question Time**

No questions were asked.

**7 Site Visit - Application No: 2017/90375**

Site visit undertaken.

**8 Site Visit - Application No: 2016/91900**

Site visit undertaken.

**9 Site Visit - Application No: 2016/94061**

Site visit undertaken.

**10 Site Visit - Application No: 2017/90819**

Site visit undertaken.

**11 Local Planning Authority Appeals**

That the report be noted.

**12 Review of Planning Appeal Decisions**

That the report be noted.

**13 Planning Application - Application No: 2017/90375**



The Sub-Committee gave consideration to Planning Application 2017/90375 Alterations and extension to convert public house to 6 no. self-contained apartments Newsome Tap, 1a, St Johns Avenue, Newsome, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Mr. S. Smith (Applicant). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Andrew Cooper (Local Ward Member).

**RESOLVED –**

Delegate approval to the Head of Development Management in order to complete the list of conditions contained within the considered report and issue the decision including:

1. A 3 year time limit for commencement of development.
2. An Electric vehicle charging point.
3. Boundary treatment.
4. Bin storage details.
5. The formation and retention of parking.
6. Retention of high level windows with obscure glazing.
7. Roof lights to be flush with the roof.
8. Dormers to be clad in slates to match the main roof.
9. Provision of bat box.
10. Withdrawal of Permitted Development rights for any openings to side elevations.

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

For: Councillors Calvert, Homewood, Iredale, Kaushik, Khan, McGuin, Sawar, Ullah, Walker and Wilkinson (10 Votes).

Against: Councillor Sokhal (1 vote)

Abstained: Councillors Bellamy and Lyons.

**14 Planning Application - Application No: 2016/91900**

The Sub-Committee gave consideration to Planning Application 2016/91900 Change of use and alterations from B2 (general industrial) to B8 (storage or distribution) The Pink Link Ltd, Crosland Road, Oakes, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Catherine Hoy (Objector).

**RESOLVED –**

1. 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 contained within the considered report including:

1. Development in accordance with the approved plans.

2. Development in accordance with the approved night-time noise management plan.
3. Details of the layout and surfacing of the car park for visitors and staff to be submitted within 4 weeks of approval and provided within four weeks following approval of the details.
4. Details of a turning area for 16.5 metre long service vehicle to be submitted within 4 weeks of approval and provided within 3 weeks of approval of details.

2. Secure a S106 Obligation (Unilateral Undertaking) for a financial contribution towards the upgrade of front facing bedroom windows within 11 Crosland Road.

3. that, pursuant to (2) above, 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.

In addition it was also agreed that a report would be submitted to the Committee in 6 months' time to assess adherence to the terms of the permission.

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

For: Councillors Bellamy, Calvert, Homewood, Iredale, Kaushik, Khan, Lyons, McGuin, Sawar Sokhal, Ullah, Walker and Wilkinson (13 Votes).

Against (0 Votes).

## **15 Planning Application - Application No: 2016/94061**

The Sub-Committee gave consideration to Planning Application 2016/94061  
Erection of two dwellings Land at Old Lane/ Taylor Lane, Scapegoat, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Glennis Lennon (objector) and Jamie Pyper (Agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Nicola Turner (Local Ward Member).

### **RESOLVED –**

That the application be refused.

Contrary to the Officer's recommendation, the Committee considered that despite the proposed road improvements to widen Old Lane and Taylor Lane these would not outweigh the highway safety concerns associated with the narrow highway infrastructure in the area.

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

For: Councillors Bellamy, Homewood, Iredale, Kaushik, Khan, McGuin, Sawar, Sokhal, Ullah, Walker and Wilkinson (11 Votes).

Against: (0 Votes).

Abstained: Councillors Calvert and Lyons

**16 Planning Application - Application No: 2017/90819**

The Sub-Committee gave consideration to Planning Application 2017/90819 Prior notification for erection of 15m monopole telecommunications antennae and installation of 2no. dishes and 4no. ground based equipment cabinets (within a Conservation Area) Marsden Football Club, 6 Carrs Road, Marsden, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Warren Copland and Peter Toon (Objectors) and Edward Senior (Agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Nicola Turner (Local Ward Member).

**RESOLVED –**

Delegate approval of siting and appearance and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions contained within the considered report including:

1. Prior approval for siting and appearance subject to works being undertaken in accordance with restrictions and conditions outlined in Part 16 Class A. This includes the development being completed in accordance with the plans and commencement time.

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

1. A motion to refuse the application

For: Councillors Bellamy, McGuin, Walker and Wilkinson (4 Votes).

Against: Councillors Homewood, Kaushik, Khan, Lyons, Sawar, Sokhal, and Ullah (7 Votes).

Abstained: Councillors Calvert and Iredale.

2. A motion to accept the Officer recommendation.

For: Councillors Homewood, Kaushik, Khan, Lyons, Sawar, Sokhal, and Ullah (7 Votes).

Against: Councillors Bellamy, Walker and Wilkinson (3 Votes).

Abstained: Councillors Calvert, Iredale and McGuin.

**17 Planning Application - Application No: 2016/92830**

The Sub-Committee gave consideration to Planning Application 2016/92830 Reserved matters application pursuant to permission 2015/92205 for outline application for erection of one dwelling Land off, Round Ings Road, Outlane, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Andrew Keeling (Agent).

**RESOLVED –**

Delegate approval of the reserved matters and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions contained within the considered report including:

1. Development in accordance with approved plans.
2. Samples of materials to be provided.
3. Packaged sewage treatment plant to be installed and operated as approved.
4. Development to be done in accordance with approved Noise Report

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

For: Councillors Bellamy, Calvert, Homewood, Iredale, Kaushik, Khan, Lyons, McGuin, Sawar, Sokhal, Ullah, Walker and Wilkinson (13 Votes).  
Against (0 Votes).

**18 Planning Application - Application No: 2017/90438**

The Sub-Committee gave consideration to Planning Application 2017/90438 Formation of car park and erection of security cameras and lighting Acre Mill, Acre Street, Lindley, Huddersfield.

**RESOLVED –**

Delegate approval and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions contained within the considered report including:

1. A 3 year temporary time limit condition.
2. Development in accordance with the approved plans.
3. An Operation / usage time limit condition.
4. A Scheme for lighting.

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

For: Councillors Bellamy, Calvert, Homewood, Iredale, Kaushik, Khan, Lyons, McGuin, Sawar, Sokhal, Ullah, Walker and Wilkinson (13 Votes).  
Against (0 Votes).

**19 Planning Application - Application No: 2017/90423**

The Sub-Committee gave consideration to Planning Application 2017/90423  
Erection of two storey extension to side and rear (modified proposal) 82, Heaton  
Road, Paddock, Huddersfield.

**RESOLVED –**

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  
contained within the considered report including:

1. A 3 year time limit permission.
2. The development to be carried out in complete accordance with the approved plans.
3. Materials to comprise coursed natural stone to the ground floor, render to the first floor and red flat profiled tiles for the roof covering.
4. Removal of PR Rights for window and door openings.

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

For: Councillors Bellamy, Calvert, Homewood, Iredale, Kaushik, Khan, Lyons, McGuin, Sawar, Sokhal, Ullah, Walker and Wilkinson (13 Votes).  
Against (0 Votes).

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## KIRKLEES COUNCIL

### DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

#### LOBBYING

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

Signed: .....

Dated: .....

## NOTES

### Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

### Lobbying

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



**Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)**

**Date: 22 JUNE 2017**

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

The purpose of the report is to inform Members of planning appeal decisions received in the Huddersfield 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>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>  <b>Is it also signed off by the Assistant Director - Legal Governance and Monitoring?</b>	<b>Paul Kemp</b> <b>13 June 2017</b>  <b>No financial implications</b>  <b>No legal implications</b>
<b>Cabinet member portfolio</b>	<b>Economy, Skills, Transportation and Planning (Councillor McBride)</b>

**Electoral wards affected: Dalton; Golcar; Holme Valley North; Holme Valley South;**

**Ward councillors consulted: No**

**Public or private:**

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## 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 2016/62/93166/W - Erection of single storey rear extension with rooms in roofspace at 14, Standiforth Road, Dalton, Huddersfield, HD5 9HD. (Officer) (Dismissed)

- 2.2 2016/62/93117/W - Erection of two storey rear extension at 5, Round Wood Avenue, Waterloo, Huddersfield, HD5 9XS. (Officer) (Dismissed)
- 2.3 2016/60/93322/W - Outline application for erection of one dwelling (within a Conservation Area) Adjacent to, 38, Dodlee Lane, Longwood, Huddersfield, HD3 4TZ. (Officer) (Dismissed)
- 2.4 2016/60/93321/W - Outline application for erection of two detached dwellings (within a Conservation Area) Adjacent to, 18, Dodlee Lane, Longwood, Huddersfield, HD3 4TZ. (Officer) (Dismissed)
- 2.5 2015/62/90582/W - Erection of 2 detached dwellings with integral garages and 2 detached garages to nos 18 and 20, and formation of turning head adj 18, & 20 Marsh Platt Lane, Honley, Huddersfield, HD9 6JZ. (Sub-Committee contrary to officer recommendation) (Allowed)
- 2.6 2017/62/90175/W - Erection of side dormer and alterations to rear elevation (modified proposal) at 12, Woodroyd Avenue, Honley, Holmfirth, HD9 6LG. (Officer) (Dismissed)
- 2.7 2016/62/92406/W - Erection of extensions and alterations to existing detached garage to form dwelling with associated access, parking and curtilage areas adj 10, Cherry Tree Walk, Scholes, Holmfirth, HD9 1XG. (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. Service Director responsible**

Paul Kemp

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## 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/17/3170909**  
**14 Standiforth Road, Huddersfield HD5 9HD**

- 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 G Ison against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/93166/W dated 20 September 2016, was refused by notice dated 19 December 2016.
  - The development proposed is the erection of a single storey rear extension with rooms in the roofspace.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the host dwelling and the surrounding area.

### Reasons

3. The appeal proposal relates to a semi-detached dwelling faced with render on a stone plinth. The property is single storey with a bay window to the front elevation. To the rear elevation the property extends outwards on the western side with a single storey kitchen measuring about 4m x 2.9m and with a lean-to entrance porch attached to it.
4. The submitted plans provide for an extension across the rear of the property with a pitched roof over to accommodate rooms in the roof. The rear extension would project some 4m from the rear elevation with an overall height of some 5.6m and an eaves height of some 2.7m. The roof would extend above the height of the existing ridge line by some 0.4m where it is proposed for a triangular glazed panel to be installed measuring some 0.94m<sup>2</sup>. The proposed extension would be set in 0.9m from the shared boundary with the adjoining bungalow 16 Standiforth Road to the east. The extension would be finished with a stone plinth course with some render and cedar boarding.
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 and BE14 are relevant in this case. The NPPF is a material consideration in this case.

6. At my visit I saw that the property lies within a residential area where there are both bungalows and two storey dwellings. The original built form of the bungalows on Standiforth Road is similar although not entirely uniform in style and appearance as many have been altered with a variety of rear extensions and roof alterations reflecting individual tastes and needs. The Appellant considers the proposal to be well designed and would meet family needs in terms of room sizes and configuration. I disagree for a number of reasons.
7. Firstly, the overall height and mass of the extension would create an overpowering and dominant feature in relation to the existing dwelling. The scale and bulk of the extension would not form an appropriate addition to this modest bungalow. Secondly, the pitched roof of the extension would not be tied into the original roof but set at a higher level extending 0.4m above the existing ridge line. The extension would therefore appear disjointed from the host dwelling creating a dominant feature from the east and west elevations and obliquely when viewed from Standiforth Road. Thirdly, the extension would appear out of keeping with other properties within the vicinity. The other properties in the vicinity are true single storey dwellings when viewed from the front even where dormers may have been added to the rear. The scale and height of the appeal proposal would therefore be an incongruous feature.
8. Given the overall height of the extension and the roof design, the appeal proposal would result in an incongruous and dominant feature which would not be in keeping with the character and appearance of the host dwelling and the surrounding area. I conclude on the main issue that the proposal would be contrary to Policies D2 (vi and vii), BE1 (i and ii), BE2 (i), BE13 (iii) and BE14 of the UDP and to section 7 of the NPPF which requires good design. On the main issue I conclude that the appeal must fail.
9. I have taken into account all other matters raised. I acknowledge that the window within the western elevation would result in some overlooking at ground floor level onto a window at 12 Standiforth Road. However, I find that this would not cause significant harm to the living conditions at that property and could be dealt with by means of a planning condition. Subject to this the proposal would be acceptable in terms of residential amenity in that it would not adversely impact on the privacy, outlook or daylight of neighbours and would not offend aforementioned policies in this regard. There would be no detriment to highway safety from the proposals.
10. Reference is made to other properties within the wider area where extensions have been approved by the Council. 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

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## Appeal Decision

Site visit made on 18 April 2017

**by D Guiver LLB(Hons) Solicitor**

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

**Decision date: 15<sup>th</sup> May 2017**

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**Appeal Ref: APP/Z4718/D/17/3168839**

**5 Round Wood Avenue, Waterloo, Huddersfield HD5 9XS**

- 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 Ms Vikki Corcoran against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93117/W, dated 8 September 2016, was refused by notice dated 19 December 2016.
  - The development proposed is a two storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The effect the proposed development would have on the living conditions of the occupiers of the neighbouring property at 7 Round Wood Avenue.

### Reasons

3. The development site at 5 Round Wood Avenue is the end house of a short terrace of four properties. The proposed development is a two-storey extension that would run along the boundary with No 7, projecting approximately three metres from the rear elevation of No 5. The rear elevation of No 7 has a ground floor kitchen window, a rear door and two first-floor windows. The first-floor window closest to the boundary with No 5 is identified as a bedroom window.
4. The appellant said that the rear of the property is south facing and receives sunlight throughout the day. I visited the site in the morning and the rear elevation of Nos 5 and 7 were both in shadow and the front elevations were in direct sunlight. The appellant also said that there is existing overshadowing of No 7 from the properties at 1 and 3 Round Wood Avenue. At the time of my visit these buildings did cast a shadow but it did not reach the boundary of No 7. I take account of the fact that any shadow will change throughout the day and at different times of the year. However, it was clear to me that the orientation of the terrace is such that the rear elevation receives some late afternoon sunlight, by which time any overshadowing from Nos 1 and 3 would be on the side elevation of No 5 and not the rear elevation of No 7.
5. The proposed development would rise to approximately the same height as the roof of No 7 and would therefore be higher than No 7's first-floor windows.

Given the orientation of the property, the proximity of the extension to the boundary is likely to result in a substantial loss of direct afternoon sunlight to the rear elevation of No 7, and specifically to the first-floor bedroom window. This would cause significant harm to the living conditions of the occupiers of No 7 and would be contrary to saved policies D2 and BE14 of the Kirklees Unitary Development Plan 2007, which seek to ensure that development does not have a detrimental effect on the occupiers of neighbouring properties.

6. The appellant also states that a single storey extension would have the same effect on the living conditions of the occupiers of No 7 and would be permitted development. Whether such a structure would be permitted development is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. However, I am satisfied that the effect of the proposed development would be significantly more detrimental to the living conditions of the occupiers of No 7, in terms of loss of direct afternoon sunlight, than a single storey structure would.
7. The scale and height of the proposed development would also affect the outlook from No 7. The current outlook is across a short space towards buildings of similar height and design to the proposed extension. Therefore, I conclude that the impact of the extension would be unlikely to be significantly harmful. However, the fact that the extension would not be harmful to the outlook from No 7 is insufficient to overcome the harm caused by overshadowing.

### **Other Matters**

8. The appellant states that the extension is required to accommodate a growing family, which is a matter that I give significant weight. However, I also have regard to the fact that the extension would remain long after the appellant's personal circumstances changed. I conclude that the need for additional accommodation does not outweigh the harm to the living conditions of the occupiers of No 7 that would arise from the proposed development.

### **Conclusion**

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

*D Guiver*

INSPECTOR

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## Appeal Decision

Site visit made on 27 April 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3168416**

**Land next to 38 Dodlee Lane, Longwood, Huddersfield, West Yorkshire, HD3 4TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr J Wimpenny & Mr D Wimpenny against Kirklees Council.
  - The application Ref 2016/60/93322/W, dated 30 September 2016, was refused by notice dated 16 December 2016.
  - The development proposed is for the erection of one detached dwelling (within a conservation area).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all matters (access, layout, appearance, landscaping and scale) reserved for later approval. I have therefore dealt with the appeal on this basis, with submitted plans as indicative of the development which could be undertaken.

### Main Issues

3. The main issues are:
  - whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - the effect on the openness of the Green Belt and the purposes of including land within it;
  - whether the proposed development would preserve or enhance the character or appearance of the Longwood Edge Conservation Area; and,
  - if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal site comprises a sloping area of undeveloped land between existing dwellings and curtilage to the south-west and north-east of Nos. 38 & 40

Dodlee Lane respectively. The land currently forms part of a large field which extends behind the existing development on the north-west side of Dodlee Lane, with further open land beyond. The boundary with Dodlee lane is defined by a stone wall. Dodlee Lane also defines the Green Belt boundary, with properties and dwellings on the western side being located within, but those on the eastern side being without.

*Whether inappropriate development*

5. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The listed exceptions in paragraph 89 of the Framework include *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. In this instance, both the Council and appellant have directed me to the first element of this exception as a basis for assessment.
7. The appellant contends that the existing dwellings on the western side of Dodlee Lane form part of Huddersfield in the absence of any policy or physical terms which dictate otherwise. This conclusion is opposed by the Council on the basis that the Green Belt boundary is positioned along Dodlee Lane, with the properties on the eastern side considered to be set within the settlement, whilst those within the Green Belt on the western side should not be considered in the same manner, but as ribbon development not part of a settlement.
8. I have carefully considered this point but note that neither party has placed any definitive evidence before me regarding current or previous established settlement limits or boundaries. I would agree that settlements can quite clearly be established within the Green Belt itself, and whilst in this instance the physical characteristics of the western side of Dodlee Lane would reasonably support the Council's contention of ribbon development, I have no compelling reason to exclude the existing development on the western side of Dodlee Lane from the settlement given it is contiguous with development on the eastern side of the same road.
9. I have carefully considered the proposal against the wording of paragraph 89 of the Framework. Whilst I have concluded that the western side of Dodlee Lane would be regarded as within the settlement, I am mindful that the exception refers to *limited infilling in villages*. In this respect, I have been referred to the general absence of definition of the terms 'limited infilling' and 'village' within the evidence placed before me, as well as by the appellant to a recent dismissed appeal decision at Hall Bower Lane in Huddersfield for outline residential development, where the Inspector considered broadly the same points.
10. I have had regard to the previous appeal decision, and accept that in the absence of agreed definitions, that it is the judgement of the decision-maker which should be relied upon, and that it would be appropriate for the



Development Plan to guide how development should be assessed. In this respect, I would conclude that the indicative proposal for a single dwelling would fit within a reasonable definition of limited, and also that the site could be argued to be largely surrounded by development as required by saved Policy D13(ii) of the Kirklees Unitary Development Plan 2007 (the UDP). However, whilst I am mindful that there is another proposal for outline residential development also being considered at appeal on land adjacent to No. 18 Dodlee Lane, the western side of Dodlee Lane cannot as a consequence be considered to be an otherwise continuously built-up frontage as required by saved Policy D13(i) of the UDP.

11. In this respect, the proposal would be contrary to saved Policy D13 of the UDP as it would not meet the requirement for infill development to be situated within an otherwise continuously built-up frontage. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development.

*The effect on the Green Belt and the purposes of including land within it*

12. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
13. Whilst it would be my judgement that the addition of a single dwelling in this circumstance would not in itself result in any significant contribution towards the unrestricted urban sprawl of built-up areas, the proposal would in my view represent a limited encroachment of development into the countryside on this otherwise open and undeveloped site. Whilst I acknowledge that the indicative form of development would not be dissimilar to that found elsewhere in the area, I find the appeal site makes a positive and significant contribution towards the openness of the Green Belt at this point. As a consequence, the proposal would result in a permanent loss of openness to the land within the Green Belt, and would represent an encroachment into the countryside. This would be contrary to the third purpose of including land within the Green Belt set out at paragraph 80 of the Framework.

*Conservation area*

14. In exercise of planning functions, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
15. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

16. I have carefully considered the Council's contention that the development of the appeal site would result in a failure to preserve or enhance the character of the Longwood Edge Conservation Area, having particular regard to value of the gap in the developed frontage in providing views to open countryside beyond, and the impact on the existing boundary stone wall.
17. In this respect, I am mindful that the proposed scheme is in outline only at this stage, with all matters reserved. Nevertheless, I am satisfied that even allowing for the indicative nature of the proposed layout of development as submitted, the development of a dwelling on the appeal site would undoubtedly result in at least the partial loss of views towards the countryside. However, whilst the development would result in a change to the existing character and appearance of the site, I have no detailed evidence before me to support the Council's contention regarding the importance of the views in defining the significance of the heritage asset. I have noted the reference made in the submitted evidence to Appendix 1 of the UDP as the latest character assessment of the conservation area, but this does not highlight the importance of the views to the conservation area, but concentrates on the function and importance of the link provided by the stone-settled street to cottages on the hillside. I am satisfied that the proposed development would, in this respect, accord with existing opportunities on Dodlee Lane to view the countryside beyond, and as such would preserve the character of the conservation area.
18. The Council has also assessed that the proposed development would result in the loss of the existing stone boundary wall from the front of the appeal site. Whilst I am mindful that the proposals have been submitted with all matters reserved at this stage, I note that the indicative proposed plan is annotated to highlight that the existing stone wall would be rebuilt. It is on the basis of this plan that it would appear that there would be the opportunity to avoid the removal of the entire wall to provide access, with in excess of 50% of the wall shown as rebuilt, which from existing development in the vicinity, would not be a departure from breaks in dry stone and stone walling achieved in order to facilitate access.
19. I have also had regard to the Council's reference to the nearby Grade II Listed Buildings at Nos. 40 & 42 Dodlee Lane, and am mindful that in determining this appeal, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the setting of the listed building. However, I have noted the Council's contention that despite the outline nature of the proposals, a two-storey dwelling in this location could potentially have an adverse effect on the setting of the listed building. Nevertheless, I consider that the principle of the development of the site for a dwelling of appropriate detailed design and scale would be likely to be acceptable and not detract from the setting. I am satisfied that the significance of the heritage asset would not therefore be diminished by the outline proposal.
20. I conclude that the proposal would preserve the character and appearance of the Longwood Edge Conservation Area and would therefore accord with the

requirements of s72(1) of the Act. The proposal would not conflict with saved Policy BE5 of the UDP as identified by the Council, which seeks to ensure that development preserves or enhances the character or appearance of the conservation area. In addition, given the great importance of the heritage asset, the proposal would not be contrary to paragraph 132 or the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

*Other considerations*

21. It is indicated that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development. However, in this respect, footnote 9 to paragraph 14 applies, and identifies that land designated as Green Belt to be one of the exceptional criteria where the '*tilted balance*' under the first limb of the second bullet-point of the decision-taking section of paragraph 14 does not apply. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.*
22. In this instance, the provision of a single additional dwelling to the local housing stock would have only a very limited impact on meeting any shortfall of supply of deliverable housing sites, and would therefore not weigh significantly in favour of the proposals. Nevertheless, the provision of a single dwelling would have the potential to bring economic benefits in terms of the provision of jobs for local builders, and it is also likely that the addition of a family or other occupants would result in support for locally accessible businesses and services. Whilst I acknowledge that these are factors which are likely to weigh in support of the proposals, I am not persuaded that these would attract anything more than limited weight in this respect.
23. I have also carefully considered the appellant's contention that the proposed dwelling would have the potential to improve upon the existing architectural quality of the street, and as a consequence enhance the area. Whilst I accept that any design or architecture of the dwelling would at reserved matters stage be read in the context of the conservation area, this does not necessarily guarantee an enhancement and therefore a benefit from the proposals, as preservation would also be acceptable. I have not therefore attached any significant weight to this point.
24. I have noted the Council's conclusions in respect of impact on the living conditions of existing occupiers, highway safety, biodiversity, and air quality. However, these would be neutral factors and would not weigh in support of the proposal.

*Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations*

25. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development

means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would result in some limited harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework.

26. Notwithstanding the harm identified above, I have had careful regard to the benefits of the development as advocated by the appellant, and accept that these must carry some limited weight in favour of the proposals. Nevertheless, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

### **Conclusion**

27. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

*M Seaton*

INSPECTOR

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## Appeal Decision

Site visit made on 27 April 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3168419**

**Land adjacent to 18 Dodlee Lane, Longwood, Huddersfield, West Yorkshire, HD3 4TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr J Wimpenny & Mr D Wimpenny against Kirklees Council.
  - The application Ref 2016/60/93321/W, dated 30 September 2016, was refused by notice dated 16 December 2016.
  - The development proposed is for the erection of a residential development (within a conservation area).
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all matters (access, layout, appearance, landscaping and scale) reserved for later approval. I have therefore dealt with the appeal on this basis, with submitted plans as indicative of the development which could be undertaken.

### Main Issues

3. The main issues are:
  - whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - the effect on the openness of the Green Belt and the purposes of including land within it;
  - whether the proposed development would preserve or enhance the character or appearance of the Longwood Edge Conservation Area; and,
  - if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal site comprises a sloping area of undeveloped land between existing dwellings and curtilage to the south-west and north-east of Nos. 18 & 36

Dodlee Lane respectively. The land currently forms part of a large field which extends behind the existing development on the north-west side of Dodlee Lane, with further open land beyond. The boundary with Dodlee lane is defined by a stone wall. Dodlee Lane also defines the Green Belt boundary, with properties and dwellings on the western side being located within, but those on the eastern side being without.

*Whether inappropriate development*

5. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The listed exceptions in paragraph 89 of the Framework include *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. In this instance, both the Council and appellant have directed me to the first element of this exception as a basis for assessment.
7. The appellant contends that the existing dwellings on the western side of Dodlee Lane form part of Huddersfield in the absence of any policy or physical terms which dictate otherwise. This conclusion is opposed by the Council on the basis that the Green Belt boundary is positioned along Dodlee Lane, with the properties on the eastern side considered to be set within the settlement, whilst those within the Green Belt on the western side should not be considered in the same manner, but as ribbon development not part of a settlement.
8. I have carefully considered this point but note that neither party has placed any definitive evidence before me regarding current or previous established settlement limits or boundaries. I would agree that settlements can quite clearly be established within the Green Belt itself, and whilst in this instance the physical characteristics of the western side of Dodlee Lane would reasonably support the Council's contention of ribbon development, I have no compelling reason to exclude the existing development on the western side of Dodlee Lane from the settlement given it is contiguous with development on the eastern side of the same road.
9. I have carefully considered the proposal against the wording of paragraph 89 of the Framework. Whilst I have concluded that the western side of Dodlee Lane would be regarded as within the settlement, I am mindful that the exception refers to *limited infilling in villages*. In this respect, I have been referred to the general absence of definition of the terms 'limited infilling' and 'village' within the evidence placed before me, as well as by the appellant to a recent dismissed appeal decision at Hall Bower Lane in Huddersfield for outline residential development, where the Inspector considered broadly the same points.
10. I have had regard to the previous appeal decision, and accept that in the absence of agreed definitions, that it is the judgement of the decision-maker which should be relied upon, and that it would be appropriate for the

Development Plan to guide how development should be assessed. In this respect, I would conclude that the indicative proposal for two dwellings would fit within a reasonable definition of limited, and also that the site could be argued to be largely surrounded by development as required by saved Policy D13(ii) of the Kirklees Unitary Development Plan 2007 (the UDP). However, whilst I am mindful that there is another proposal for outline residential development also being considered at appeal on land adjacent to No. 38 Dodlee Lane, the western side of Dodlee Lane cannot as a consequence be considered to be an otherwise continuously built-up frontage as required by saved Policy D13(i) of the UDP.

11. In this respect, the proposal would be contrary to saved Policy D13 of the UDP as it would not meet the requirement for infill development to be situated within an otherwise continuously built-up frontage. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development.

*The effect on the Green Belt and the purposes of including land within it*

12. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
13. Whilst it would be my judgement that the addition of a two dwellings in this circumstance would not in itself result in any significant contribution towards the unrestricted urban sprawl of built-up areas, the proposal would in my view represent a limited encroachment of development into the countryside on this otherwise open and undeveloped site. Whilst I acknowledge that the indicative form of development would not be dissimilar to that which flanks the appeal site, I find the appeal site makes a positive contribution towards the openness of the Green Belt at this point. As a consequence, the proposal would result in a permanent loss of openness to the land within the Green Belt, and would represent an encroachment into the countryside. This would be contrary to the third purpose of including land within the Green Belt set out at paragraph 80 of the Framework.

*Conservation area*

14. In exercise of planning functions, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
15. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

16. I have carefully considered the Council's contention that the development of the appeal site would result in a failure to preserve or enhance the character of the Longwood Edge Conservation Area, having particular regard to value of the gap in the developed frontage in providing views to open countryside beyond.
17. In this respect, I am mindful that the proposed scheme is in outline only at this stage, with all matters reserved. Nevertheless, I am satisfied that even allowing for the indicative nature of the proposed layout of development as submitted, the development of two dwellings on the appeal site would undoubtedly result in at least the partial loss of views towards the countryside. However, whilst the development would result in a change to the existing character and appearance of the site, I have no detailed evidence before me to support the Council's contention regarding the importance of the views in defining the significance of the heritage asset. I have noted the reference made in the submitted evidence to Appendix 1 of the UDP as the latest character assessment of the conservation area, but this does not highlight the importance of the views to the conservation area, but concentrates on the function and importance of the link provided by the stone setted street to cottages on the hillside. I am satisfied that the proposed development would, in this respect, accord with existing opportunities on Dodlee Lane to view the countryside beyond, and as such would preserve the character of the conservation area.
18. I have also noted the reference to the loss of the dry stone wall, but would agree with the Council's assessment that the impact from the removal of the wall would be reduced given that it would not be lost in its entirety. I do not regard this to be a departure from elsewhere within the vicinity where breaks in dry stone and stone walling have been achieved in order to facilitate access.
19. I conclude that the proposal would preserve the character and appearance of the Longwood Edge Conservation Area and would therefore accord with the requirements of s72(1) of the Act. The proposal would not conflict with saved Policy BE5 of the UDP as identified by the Council, which seeks to ensure that development preserves or enhances the character or appearance of the conservation area. In addition, given the great importance of the heritage asset, the proposal would not be contrary to paragraph 132 or the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

#### *Other considerations*

20. It is indicated that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development. However, in this respect, footnote 9 to paragraph 14 applies, and identifies that land designated as Green Belt to be one of the exceptional criteria where the '*tilted balance*' under the first limb of the second bullet-point of the decision-taking section of paragraph 14 does not apply. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for*



*traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.*

21. In this instance, the provision of two dwellings to the local housing stock would have only a very limited impact in meeting any shortfall of supply of deliverable housing sites, and would therefore not weigh significantly in support of the proposals. Nevertheless, the provision of two additional dwellings would have the potential to bring economic benefits in terms of the provision of jobs for local builders, and it is also likely that the addition of families or other occupants would result in support for locally accessible businesses and services. Whilst I acknowledge that these are factors which are likely to weigh in support of the proposals, I am not persuaded that these would attract anything more than limited weight in this respect.
22. I have also carefully considered the appellant's contention that the proposed dwellings would have the potential to improve upon the existing architectural quality of the street, and as a consequence enhance the area. Whilst I accept that any design or architecture of the dwellings would at reserved matters stage be read in the context of the conservation area, this does not necessarily guarantee an enhancement and therefore a benefit from the proposals, as preservation would also be acceptable. I have not therefore attached any significant weight to this point.
23. I have noted the Council's conclusions in respect of impact on the living conditions of existing occupiers, highway safety, biodiversity, and air quality. However, these would be neutral factors and would not weigh in support of the proposal.

*Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations*

24. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would result in some limited harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework.
25. Notwithstanding the harm identified above, I have had careful regard to the benefits of the development as advocated by the appellant, and accept that these must carry some limited weight in favour of the proposals. Nevertheless, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

## **Conclusion**

26. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

*M Seaton*

INSPECTOR

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## Appeal Decision

Site visit made on 9 May 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

**Decision date: 26 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3169900**

**Land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ**

- 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 F Eaton against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/90582/W, dated 24 February 2015, was refused by notice dated 12 December 2016.
  - The development proposed is described as the erection of 2 dwellings, replacement garaging to existing dwellings and formation of a turning head.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head at land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ in accordance with the terms of application Ref 2015/62/90582/W, dated 24 February 2015, subject to the conditions set out in the attached schedule.

### Procedural Matter

2. The Council changed the description of application Ref 2015/62/90582/W from that contained on the application form to 'the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head'. This is a more accurate description of the development proposed which I have therefore used in this decision.

### Main Issue

3. The main issue is the effect of the proposed development on highway and pedestrian safety.

### Reasons

4. The appeal site comprises a roughly rectangular area of land containing a number of mature trees and is located between No 16 Marsh Platt Lane to the west and Nos 18 and 20 to the east. The proposed access would be off Marsh Platt Lane which is an unadopted road that is surfaced for most of its length and which the Council suggests provides existing access to ten dwellings. The road is also the route of a public right of way but is a cul-de-sac for vehicular traffic. It has no footways, is relatively narrow in parts and other than existing entrances to residential properties it has few passing places.

5. The proposed development would involve the construction of two detached dwellings and the construction of two detached garages to serve Nos 18 and 20 located to the east. The proposed dwellings would have sufficient space for the off-road parking of three vehicles. In addition, a wide turning head is also proposed for all users of the road which would facilitate the turning of service vehicles. An additional visitor car parking bay is also proposed close to the turning head.
6. As a consequence of the narrow width of Marsh Platt Lane the speed of vehicles using it is low. Whilst there are no formal passing places, there is sufficient space at intervals along the road to allow vehicles to pass. Other than in the vicinity of a sharp bend near No 14, pedestrian and vehicular indivisibility is adequate and the road width is sufficient for pedestrians to seek refuge either on the road, or on the verge, to avoid any conflict with traffic. Given the quiet, semi-rural nature of the area, even in the position where the road bends any traffic in the vicinity can be heard.
7. Owing to the cul-de-sac nature of the road and the small number of residential properties served from it, the road is lightly trafficked. The limited number of additional vehicles associated with a development of two dwellings would not materially impact on the overall volume of traffic using the road to the extent that highway and pedestrian safety would be compromised.
8. I have no evidence of any accidents associated with the use of the road and I note that the Council's Highway Engineer raised no objections to the proposed development. I have also attached significant weight to the benefit of the provision of the turning head. This would assist in reducing the reversing movements of large vehicles along a considerable length of the road which currently occur as a consequence of the limited opportunity to turn and thereby provide some improvement to the existing highway and pedestrian safety conditions.
9. Taking the above factors into account, the proposed development would not cause demonstrable harm to the interests of highway and pedestrian safety of an extent to warrant the dismissal of this appeal. Consequently, there would be no conflict with Saved Policies D2 and T10 of the Kirklees Unitary Development Plan (2007). These policies seek, amongst other things, to ensure that new development does not create or add to highway safety problems.

*Other matters*

10. I have taken into account the concerns of local residents regarding the long term use of the proposed turning head and the perceived lack of any swept path analysis. Whilst I recognise the concerns that the future occupiers of the proposed dwellings may have a desire to encompass the turning head into their domestic curtilage, an appropriate planning condition can be imposed to ensure that this facility is only used for the manoeuvring of vehicles. I have no evidence that a swept path analysis has been produced but equally I have no evidence to suggest that the proposed turning head would not be suitable for the manoeuvring of vehicles. Consequently, the lack of any swept path analysis would not be a sufficient sustainable reason to dismiss the appeal.

## Conditions

11. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used, details of the proposed building and site levels, details of boundary treatment, the implementation of a scheme of landscaping and the protection of trees.
12. In order to protect the living conditions of the occupants of the proposed dwellings and the occupants of properties to the west and east, with particular regard to privacy, a condition is necessary requiring the provision of obscure glazing in the windows in the side elevations of the proposed dwellings. For the same reason, I also agree that a condition limiting the insertion of any additional windows in the side elevations is also necessary. However, I have amalgamated the Council's suggested conditions relating to these matters into one condition.
13. The National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given and no other evidence is provided that would provide any justification for such condition to be considered appropriate.
14. In the interests of highway and pedestrian safety I agree that a condition is necessary requiring the provision of the turning head and parking arrangements prior to the occupation of the dwellings. For the same reason and to minimise to risk of on-road parking, a condition requiring that the proposed attached garages are retained for such use is also necessary and reasonable. Also, given the narrow nature of the road and similarly in the interests of highway and pedestrian safety, a condition is necessary requiring details of the parking of vehicles associated with the construction of the development and the delivery of materials within the site is necessary.
15. In order to encourage the use of more sustainable vehicles than those using an internal combustion engine I agree that a condition requiring the provision of electric vehicle charging points is reasonable and necessary.
16. Given the semi-rural nature of the site, in the interests of mitigating the effects of the proposed development on ecology, conditions are necessary relating to the undertaking of surveys for the presence of protected species. Given the degree of statutory protection afforded to such species these surveys are required to be undertaken prior to the commencement of development. In the interest of protecting the habitat of nesting birds I have imposed a condition that restricts vegetation clearance to a period outside of the bird nesting season.
17. I note that the Council's Highway Engineer did not suggest a condition relating to the submission of a pre and post development condition survey of Marsh Platt Lane. I do not consider that the Council's suggested condition relating to this matter is reasonable, enforceable, necessary or related to planning matters, particularly as other development recently has occurred on Marsh Platt Lane and there would be some difficulty in identifying which development

caused any alleged damage. There are other powers available to deal with extraordinary damage to the road as a consequence of construction work contained within other legislation and I have therefore deleted the suggested condition.

**Conclusion**

18. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

## **CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Drawing Nos 2232 -01; 2232-03B; 2232-04C; 2232-05C; 2232-06; 2232-07; 2232-08B; 2232-09A; 12525/SR.
- 3) No development above foundation level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) The finished floor and ground levels shall be no higher than those shown on the approved plans and these shall be thereafter retained as such.
- 5) All side facing windows in the new dwellings shall be fitted with obscure glazing (minimum grade 4) before the dwellings are first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) windows of this type shall thereafter be retained and no additional windows shall be formed in the side elevations of either of the new dwellings at any time.
- 6) Timber fencing shall be erected along the full length of all side boundaries in accordance with the details shown on the approved plans before the dwellings are first occupied and shall thereafter be retained.
- 7) All of the parking and turning arrangements both for the new dwellings and the existing dwellings, shown on the approved plans, including the provision of the shared turning head within Marsh Platt Lane, shall be provided in accordance with the details shown on the approved plans and shall be laid out with a hardened and drained surface, before either new dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) these areas shall be thereafter retained, kept clear of all obstructions and shall only be used for the parking and manoeuvring of vehicles. The turning head shall be used for no purpose other than for the manoeuvring of vehicles traveling on Marsh Platt Lane.
- 8) Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the integral garages shall be retained as such and shall not to be converted to living accommodation.
- 9) One electric vehicle recharging point shall be installed within the dedicated parking area or integral garage for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a

minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

- 10) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority identifying the measures to ensure that the safety of the users of the public footpath network is not compromised during the construction period. The measures identified in the approved scheme shall be implemented prior to the commencement of the development works and shall thereafter be retained for the duration of construction works.
- 11) An Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted to and approved in writing by the Local Planning Authority, which shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. No works shall be carried out on site except in accordance with the approved Method Statement, for the duration of the construction works.
- 12) In the event of additional tree works being required during the construction process other than those identified within the approved Arboricultural Method Statement, full details of these shall be submitted to and approved in writing by the Local Planning Authority prior to such works being carried out. The additional tree works shall not be carried out other than in accordance with the approved details.
- 13) Before development commences, a schedule of means of access to the site for construction traffic including construction deliveries and the parking of construction workers' vehicles within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall come into effect before the commencement of the development and shall be maintained in accordance with the details agreed for the duration of the construction works.
- 14) Prior to the commencement of development a badger survey shall be undertaken and the report of the survey including (where applicable) any mitigation measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the requirements of the approved report.
- 15) Prior to the commencement of the development any mature or semi-mature trees scheduled for removal shall be inspected to confirm bat roost potential by a qualified ecologist and a report of the survey, including any mitigation and enhancement measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. Any enhancement measures (artificial bat roost features) recommended in the report shall be installed before either of the two new dwellings is first occupied and shall thereafter be retained.
- 16) Any vegetation clearance shall be undertaken outside of the bird breeding season (March to August inclusive), or else shall be preceded by a nesting bird check by a qualified ecologist and any nests shall be protected until such time that the young have fledged.

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## Appeal Decision

Site visit made on 31 May 2017

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 1 June 2017**

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**Appeal Ref: APP/Z4718/D/17/3172298**

**12 Woodroyd Avenue, Honley, Holmfirth, HD9 6LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Lynda Wood against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90175/W, dated 17 January 2017, was refused by notice dated 14 March 2017.
  - The development proposed is a side dormer and alterations to rear elevation.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the extension upon the character and appearance of the host building and the surrounding area.

### Reasons

3. Woodroyd Avenue is characterised by dwellings with low eaves and steeply pitched roofs with gables at the front and rear. The appeal house is of this design. It has a large dormer to one roof slope and the proposal is to install a similar dormer to the other roof slope. In addition, the rear elevation, which can be seen from the fields to the rear, would be built up, significantly increasing the rear eaves height.
4. This would result in the rear of the house having a shallow roof which would look squat and disproportionate to the height of the walls. It would also be out of character with the low-eaved design of the dwelling and those surrounding it. Furthermore, it is unclear from the plans how the dormers would tie in with the built up rear elevation and I have concerns about how this might look, especially from the side view which can be glimpsed from Woodroyd Avenue. I appreciate that other properties in the road have been extended but my attention has not been drawn to any extensions quite like the proposed one.
5. Overall, the extension would be unsympathetic and incongruous to the design of the host building which would, in turn, harm the character and appearance of the house and wider area. Consequently, I find conflict with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan which, in combination, seek to protect visual amenity and ensure that development is in keeping with any surrounding development in respect of its design.



Furthermore, it would conflict with Chapter 7 of the National Planning Policy Framework which encourages good design.

6. I have considered all other matters raised, but none outweigh the conclusions I have reached.
7. Therefore, I dismiss the appeal.

*Siobhan Watson*

INSPECTOR

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## Appeal Decision

Site visit made on 31 May 2017

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 6 June 2017**

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**Appeal Ref: APP/Z4718/W/17/3170264**

**10 Cherry Tree Walk, Scholes, Holmfirth, HD9 1XG**

- 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 and Mrs Hough against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/92406/W, dated 13 July 2016, was refused by notice dated 10 October 2016.
  - The development proposed is the re-use and adaptation of the existing garage to form a dwelling with associated access, parking and curtilage areas.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed dwelling upon the character and appearance of the area.

### Reasons

3. Cherry Tree Walk is characterised by dwellings which are set back from the road by generous and well-landscaped front gardens. The area has a spacious and open feel to it with the fronts of the houses looking directly onto the street.
4. The proposed 2-storey dwelling would be very close to the highway and would lack garden space between it and the road. Furthermore, the gable elevation facing the road would be plain and boring as it would have no windows or doors. The chimney stack would provide insufficient visual interest to make the appearance of the gable acceptable. The combination of these factors would result in the proposed dwelling appearing obtrusive and incongruous within the street-scene. This would be in spite the proposed use of traditional materials and the land level being slightly lower than the land level of the houses opposite.
5. I note the appellants' reference to other dwellings in the area which have gables close to the road, but these are on different sites with different visual characteristics to that of the appeal site.
6. I therefore conclude that the proposed dwelling would harm the character and appearance of the area. Consequently, it would conflict with Policies BE1, BE2 and D2 of the Kirklees Unitary Development Plan which, together, seek to ensure that development respects visual amenity and is of a good design which

is in keeping with the design and layout of surrounding development. It would also conflict with Paragraph 64 of the National Planning Policy Framework which has similar objectives.

### **Other Matters**

7. I appreciate that the proposal would provide a dwelling in a sustainable location and that the Council cannot demonstrate an up to date five year housing land supply. However, the tiny contribution of one dwelling to the supply of housing would not outweigh the demonstrable harm to the character and appearance of the area, and the consequent conflict with development plan policies.
8. I have had regard to all other matters raised, including the representations from interested parties, but none outweigh the conclusions I have reached.

### **Conclusion**

9. Due to the environmental harm that would arise as a result of the development, the proposal would not represent sustainable development and the appeal is dismissed.

*Siobhan Watson*

INSPECTOR

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

## **PLANNING POLICY**

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

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

The Council 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: Teresa Harlow

Tel: 01484 221000

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Jun-2017

Subject: Planning Application 2016/90477 Alterations to convert outbuilding to holiday accommodation adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL

### APPLICANT

D Trueman

### DATE VALID

11-Jan-2017

### TARGET DATE

08-Mar-2017

### EXTENSION EXPIRY DATE

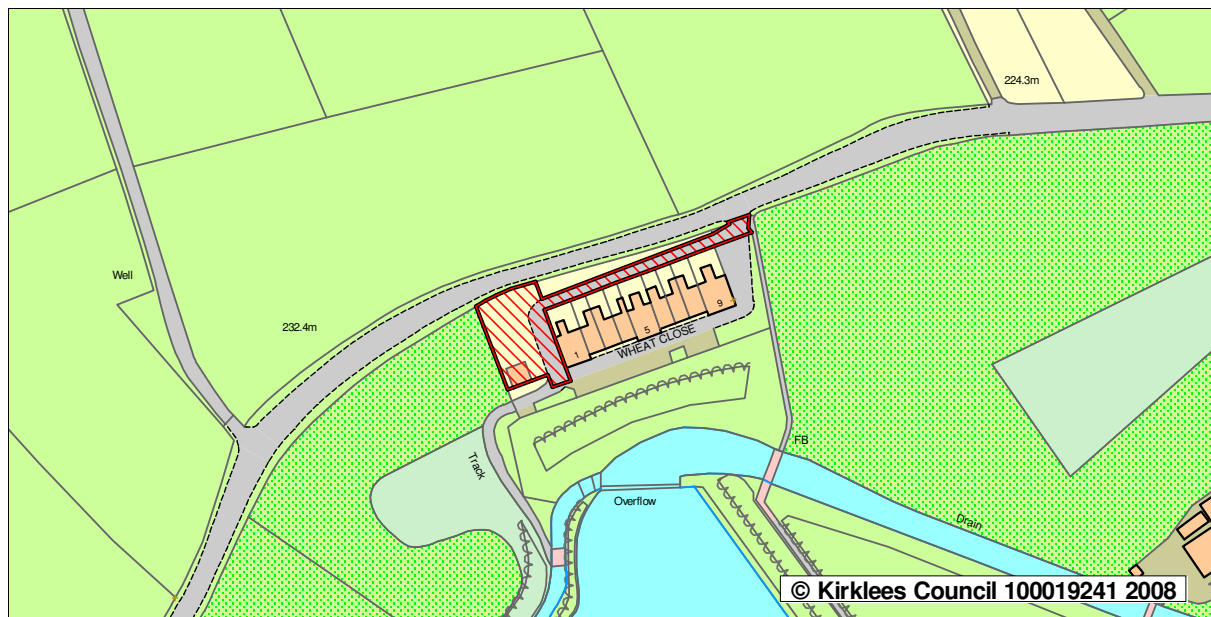
27-Apr-2017

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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: Holme Valley South**

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 Strategic Investment in order to complete the list of conditions including those contained within this report and subject to the Section 106 Obligation (unilateral undertaking) to be lodged by the applicants to:

- 1) The property will not be used as a holiday let in the months of November, December and January;
- 2) The occupancy of the outbuilding as a holiday let will be limited to a maximum of 28 days at a time to individual residents with a requirement to have a minimum of 14 days no return between bookings; and
- 3) A register of occupation will be maintained by the owner which can be requested by the local planning authority at any given time upon reasonable notice.

**1.0 INTRODUCTION:**

1.1 The application reference no. 2016/90477 was first reported to the Huddersfield Sub-Committee on the 30<sup>th</sup> June 2016 under the Delegation Agreement at the request of Councillor Donald Firth for the following reasons:-

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

1.2 At that meeting members resolved to approve the application in line with the officer recommendation stated below:-

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

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;*
- 2. Impose all necessary and reasonable conditions; and*

3. *Subject to there being no material change in circumstances, issue the decision”.*
- 1.3 Following the meeting on 30<sup>th</sup> of June, complaints were made by a local resident and ward councillors that information relevant to the determination of the application was not included in the committee report and that the discussion at the meeting did not clearly identify the enforcement planning history. Officers considered that these issues warranted returning this application to the sub-committee to ensure that the decision made by the sub-committee is robust and based upon knowledge of all relevant planning matters. Due to the complaints made, the application was also reviewed by the then Director of Place. Whilst it was initially scheduled to be reported to sub-committee on 4<sup>th</sup> August 2016 it was deferred at the request of officers, to allow the review, concluding that the application should be reported back to planning committee, to be completed.
- 1.4 The application was then reported back to committee on 27<sup>th</sup> October 2016 for Members to reconsider the application taking into account the enforcement history of the site and a more detailed account of a letter of neighbour representation which was not fully summarised within the original report (this includes a number of photographs submitted with the representation) and other letters of neighbour representations received since the sub-committee meeting on 30<sup>th</sup> June.
- 1.5 At that meeting of 27<sup>th</sup> October 2016 Cllr Sims presented an extract from a Land Registry document stating that an incorrect certificate of ownership had been submitted with the application. Given this the application was once again deferred to allow this matter to be further investigated. The agent was asked to verify whether a correct ownership certificate had been completed with the application. In response it was stated that notice had not been served on all those that were owners of any part of the land to which the application relates at the time the application was submitted. As such the application was, at that time, declared invalid.
- 1.6 On 1<sup>st</sup> December 2016 a revised ‘certificate B’ was submitted to accompany application no. 2016/90477. This served notice on the occupiers of 2-9 Wheat Close as owners of part of the application site at the date certificate B was completed. An amended set of plans was submitted on 11<sup>th</sup> January 2017 and the application re-publicised by neighbour notification letter on 23<sup>rd</sup> January 2017, site notice posted on 30<sup>th</sup> January 2017 and press notice in the Huddersfield Examiner on 10<sup>th</sup> February 2017. The Parish Council were given 21-days to comment on the application and KC Highways formally consulted on the application.
- 1.7 The application reported to sub-committee on 30<sup>th</sup> June and 27<sup>th</sup> October 2016 was declared invalid as it had been submitted with an incorrect certificate of ownership. Consequently this means there can be no valid ‘resolution’ related to the application as submitted at that time. Therefore the report below is a revised report and recommendation for members to consider. This is based on the revised ownership certificate received on 1<sup>st</sup>

December 2016 and the plans received on 11<sup>th</sup> January 2017. This however includes all representations originally received together with those received since the 'new' application no. 2016/90477 was validated and publicised.

- 1.8 Officers have discussed this matter with the chair of sub-committee and it has also been agreed that a further site visit will be undertaken.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site measures approximately 0.05 hectares and currently comprises a single storey detached outbuilding constructed in stone with a gable roof finished in grey slate. It features a timber store and dog pen to the front (east) elevation. The building is located to the south of the application site and to the north is some timber decking and sheds.
- 2.2 The site is currently in use in association with the dwelling at no. 1 Wheat Close. It is surrounded by a small woodland to the west, open undeveloped fields to the north, a row of nine terraced properties to the east and Brownhill Reservoir to the south. Properties on Wheat Close, along with the outbuilding, share a common access point from Woodhead Road. Access to the outbuilding from Woodhead Road is shown via a private drive running to the rear of properties along Wheat Close and to the west of no. 1 Wheat Close. A public footpath (Hol/88/10) runs off Woodhead Road from the access point to the far east of the site. It is separated from the site by the existing terraced dwellings and access road.
- 2.3 The surrounding area is of rural character and it is allocated as Green Belt land within the UDP. To the south east of the site, in front of nos. 1-8 Wheat Close, engineering operations have been undertaken to form areas of hardsurfacing, utilised as parking areas, and some extended garden areas.

## **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for alterations to convert the existing outbuilding into holiday accommodation.
- 3.2 The proposal would involve the removal of the existing store and dog pen to the front of the building and the conversion of the resultant outbuilding into a 1-bed holiday accommodation. No additional extensions are proposed to the building and the only external alterations would be the addition of new windows and doors. The unit would contain a single bedroom, living space, kitchen and shower room. It would provide internal floor space of approximately 28.9 square metres. Externally there would be a new window formed in the west elevation (to serve the bedroom), alterations to form a pedestrian door and window in the east elevation (kitchen), a large fixed window and existing door converted into a second window the south elevation. A new flue to serve a stove would project above the south west corner of the roof.

- 3.3 Access to the holiday accommodation would utilise the common access point off Woodhead Road, and one parking space would be provided to serve the accommodation in front of the building.

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

- 4.1 2000/92801 - outline application for the erection of 1 detached dwelling on this site was refused on the following grounds:-

1. The site lies within an area which has received approval as Green Belt within which it is intended that new development be severely restricted. The proposal would be unrelated to any existing settlement and extend an existing isolated group of dwellings and injuriously affect the rural character of this area of high landscape value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan, such development is neither appropriate to the Green Belt nor are there any special reasons why it should be permitted in this case.
2. The formation of a new vehicular access, together with the associated removal of stone walling, formation of adequate visibility splays and loss of existing landscaping would be detrimental to the appearance and openness of the Green Belt and an Area of High Landscape Value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan.
3. The site lies in an isolated rural location outside walking distance of a regular bus service and the proposal is therefore considered unsustainable taking into account the advice contained in PPG13 Transport Para 3.2 relating to the avoidance of sporadic housing development in the countryside.

- 4.2 2012/91536 – erection of single storey extension and double ‘underground’ garage with garden terrace above was refused on the following grounds:

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

#### **4.3 Enforcement History**

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

1. During that time, it appeared that the land in question may have been used for residential purposes for a period of more than 10 years preceding 2001; as such, permitted development rights would apply; and
  2. Given the established residential use of the land, planning permission was not required for the construction of the detached double garage as it complied with the guidelines for permitted development set out in the Town and Country Planning (General Development) Order 1995 (as amended) at that time.
- 4.5 The investigation concluded that there was no breach of planning control subject to the height of the garage not exceeding 4 metres in height. On this basis it was considered to be 'permitted development'. As such, there were no grounds for enforcement action to be taken during the time the enforcement issue was raised to the Local Planning Authority.
- 4.6 The complainant was informed in writing on 06 November 2001 that the investigation was being closed and the reasons for this (stated above).
- 4.7 It is noted that this view differs from that set out in the 30<sup>th</sup> June Committee Report on the original application and reported to members which considered the building in question would probably not be considered a curtilage building but was immune from Enforcement action by reason of time. Members are advised that the earlier assessment from 2001, that the construction of the building under Permitted Development Rights was lawful, should be used as the starting point in the determination of the application.
- 4.8 In 2009, a noise complaint was logged to Environmental Services which included a query with regards to the lawfulness of the garage building. The complainant stated that the building had been fitted out as a bar, pool room and dog shelter. It was stated that the structure did not have planning permission. This query was forwarded on to Planning Enforcement and no action was taken as the building did not require planning permission and it remained ancillary in terms of use to the host property at no. 1 Wheat Close. In addition Ward Members have previously stated that further complaints have been raised to planning enforcement with regards to the lawfulness of the building and its use. The Clerk to the Parish Council was asked to contact Planning regarding the garage and its use in March 2016. In April 2017 a noise complaint was logged to Environmental Services regarding a party in the garden. Environmental Services did not visit, so this is deemed an 'unsubstantiated complaint' but when they rang the complainant later the same evening the noise had gone. This complaint did not involve and was not forwarded to Planning.
- 4.9 As a response to these issues it is important to make reference to The Town and Country Planning General Permitted Development Order (England) 2015 (as amended). This allows, in Schedule 2, Part 1, Class E for the provision and alteration of any building for a purpose 'incidental' to the enjoyment of the dwellinghouse.

- 4.10 In this case it is alleged that the building is occupied by the son of the occupiers of the host property – 1 Wheat Close . In these circumstances the judgment in *Uttlesford District Council v Secretary of State for the Environment and White [1991]* is relevant. This case and later case law has established that planning permission is not required to convert a garage in a residential curtilage to an annexe capable of independent accommodation, provided both it and the existing dwelling remain in the same planning unit. As there has been no information submitted alluding to the use of the building as a separate planning unit, the occupation of the garage in this manner would not require planning permission.
- 4.11 For clarity Section 171b of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control consisting in the carrying out without planning permission of building operations, no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. In the case of any other breach of planning control, which in this case would be the material change of use of land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- 4.12 In this case the garage was completed around the end of 2001 and the enforcement officer who investigated the complaint in 2001 considered that the ‘garden’ area associated with no. 1 Wheat Close may have already been used for residential purposes for 10 years and the building comprised permitted development at the time. On this basis, the building operations were considered to be carried out under Permitted Development Rights and any material change of use of land to create the garden area would have been immune from enforcement action. The use as of the garage as an annex incidental to the principal dwelling would also not require planning permission.
- 4.13 Objections have been submitted which questions why this land is considered to be within the curtilage of no. 1 Wheat Close. This was first assessed when the Enforcement Officer considered the complaint regarding the erection of the garage in 2001. At that time it was considered that the land formed one parcel with the host property at no. 1. It was evident that it had been used as garden for the preceding 10 years. The Land Registry plan provided by the applicant since this time also shows that no.1 Wheat Close, its yard, access to the north, access running to the west and garden area to the west of the host dwelling are all within one land registry parcel. This indicates the functional use, past and present, as curtilage as an integrated unit of land. ‘Garden’ use is not synonymous with ‘curtilage’. Curtilage is a legal term describing the relationship of land to a building; it is not a use of land for planning purposes. It is accepted that the size of curtilage can change over the years. Based on the facts of the case in 2001 although the garage area is separated by a track this isn’t an unusual situation and would not lead to the ‘garden’ area being excluded from the ‘curtilage’ of the associated dwelling. The access isn’t public or adopted so there is no functional split between the dwelling and its garden to the west. This area is considered to be intimately associated with the host dwelling and serving the purpose of the dwelling within it in some reasonably necessary or useful manner.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 It was originally proposed that the existing store and dog pen structure to the front of the building be replaced by an extension to facilitate the conversion. However, amended plans were sought to remove the proposed extension so that the proposal would not result in greater impact on the openness of the green belt in comparison to existing development on site. (plan refs now Tru.15/06d and 07d).
- 5.2 The siting of the parking space was modified during the course of the application to address concerns raised by K.C. Highways Development Management that its previous location would obstruct an access track to the adjacent reservoir, south west of the site, and beyond. In addition this land has now been omitted from the red line application site plan (proposed topo/site plan ref Tru.15/08c and location plan Tru.15/01b).
- 5.3 The size of the building would not offer a good standard of amenity for future occupants were it to be permanently occupied as a residential dwelling, however is considered acceptable for temporary occupancy as a holiday let. In addition, the use of the building for permanent residence could lead to pressure for it to be extended which would adversely affect the openness of the green belt. Thus it is considered necessary to secure a legal obligation, in the form of a Unilateral Undertaking, to limit the occupation to holiday accommodation. The applicant submitted a draft section 106 obligation by way of unilateral undertaking on 26<sup>th</sup> October 2016, amended 7<sup>th</sup> June 2017, to covenant with the council that:
- a) The property will not be used as a holiday let in the months of November, December and January;
  - b) the occupancy of the outbuilding as a holiday let will be limited to a maximum of 28 days at a time to individual residents with a requirement to have a minimum of 14 days no return between bookings; and
  - a) A register of occupation will be maintained by the owner which can be requested by the local planning authority at any given time upon reasonable notice.
- 5.3 As set out in paragraphs 1.5-1.7, an incorrect ownership certificate was completed with the original submission. This was amended on 1<sup>st</sup> December 2016 and an amended suite of plans submitted on 11<sup>th</sup> January 2017.
- 5.4 Further amended plans ref Tru.15/06d and 07d to delete a door in the southern elevation of the building and to replace this with a window were received 7<sup>th</sup> June 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). 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.

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

BE1: Design Principles  
BE2: Quality of Design  
EP6: Development and Noise  
D12A: Re-use of Buildings in the Green Belt  
T10: Highway Safety

### **6.3 Kirklees Publication Draft Local Plan: Submitted for examination April 2017**

The site is designated Green Belt in the local plan.

The site is also part of a much larger designation as a Local Wildlife Site 'Yateholme Reservoirs and Plantation'.

Policies:

PLP10 Supporting the rural economy  
PLP21 Highway safety and access  
PLP24 Design  
PLP32 Landscape  
PLP 30 Biodiversity and Geodiversity  
PLP 52 Protection and improvement of environmental quality  
PLP 60 Green Belt: the re-use and conversion of buildings

### **6.4 National Planning Guidance**

National Planning Policy Framework  
Core planning principles  
Part 1: Building a strong, competitive economy  
Part 3: Supporting a prosperous rural economy  
Part 6: Delivering a wide choice of quality homes  
Part 7: Requiring good design

Part 9: Protecting green belt land

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

Part 11: Conserving and enhancing the natural environment.

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

7.1 The originally submitted application (including a front extension) was publicised by a press and a site notice and letters to neighbouring residents in March 2016; three letters of neighbour representations (one from the registered owner of nos. 2, 3 and 8 Wheat Close) were received raising, in summary, the following matters:-

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

7.2 When amendments were made to the scheme, removing the front extension, the application was re-advertised by neighbour notification letter in April 2016 and two further letters of neighbour representation (one from the registered owner of nos. 2, 3 and 8 Wheat Close) were received. In addition on 19<sup>th</sup> September 2016 a further petition with 4 signatures (all residents of Wheat Close) was received raising, in summary, the following matters:-

- The application is on land that has already been refused several times before
- The garage was initially built without planning permission in the first instance and should never have been allowed
- Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house
- Proposal would give rise to highway safety issues/add to already congested parking problems
- An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason
- This is a private close with costs of repair falling to the residents of Wheat Close so access and parking issues directly affect residents.
- If all the parking spaces within the Close are taken, parking takes place on the A6024 Woodhead Road. If there are more visitors than more cars would be parked on the A6024 and the risk of accidents would be increased, and visibility from Wheat Close reduced.
- The parish council rejected the application and the council should do too
- Spoil enjoyment of our homes
- The garage is surrounded by land owned by Yorkshire water
- It is next to green belt and a row of quiet residential homes

- 7.3 In the report to sub-committee on 30<sup>th</sup> June one letter of neighbour representation was not fully summarised within the "Representations" section of the report. As such, when the application was reported back to Members on 27<sup>th</sup> October the representation was set out in more detail for members' information, as was a response to the further issues raised, the petition received on 19<sup>th</sup> September and queries raised by Jason McCartney MP. This section of that report, with the representations/queries set out in Italics with response to each point in turn is set out in full below:-

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

Response: The planning application history of the site has previously been acknowledged within the report submitted to members (please see section 4 of this report) However it is recognised that the Enforcement History of the site was not fully set out in the 30<sup>th</sup> June 2016 report.

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

Response: The location of the proposed parking area for the holiday let was amended to ensure that the development would not obstruct this access road (please see section 5 of this report).

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

Response: It is recognised that the concerns of local residents and ward councillors as to the creation of a dwelling in this location has been tried previously but in this instance as the original outbuilding is lawful, and the internal fit out of the building is not within the control of the planning system, the assessment of the application has to be based upon this starting point. The planning history and enforcement history of the site has been considered; however, the application has been determined on its own merits and if it is approved measures would be taken via a legal obligation to ensure that the unit is not used a residential dwelling (please see paragraphs 10.34-35 of this report).

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

Response: The matters relating to impact of the proposal on the character of the area, parking and highway safety has been assessed within the full report previously submitted to committee (please see section 10 of the current report). Given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed holiday let which has its own parking space would, even with it receiving visitors, be significant or cause demonstrable harm that would warrant a reason for refusal.

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

Response: Pre-application consultations are not a requirement to validate planning applications and as such this is not a material planning consideration to the determination of this application. [The issue of formal notification of owners of land included in the application site has been addressed in paragraphs 1.5 and 1.6 of this report]. Given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

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

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

7.10 The objector also raised further issues in their correspondence with Officers post 30<sup>th</sup> June sub-committee which is outlined below.

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

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

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

*and gardens, then congestion and hazards would be even worse than now for residents.*

Response: Officers do agree that such a scenario as described by the complainant would reduce the amount of available parking spaces serving the dwellings along Wheat Close and potentially give rise to highway safety issues. However, the existing outbuilding is not located within the strip of land identified [and did not provide any parking provision for the host property at no 1 Wheat Close at 27<sup>th</sup> October 2016. The removal of a hot tub now provides one parking space in front of the building]. As stated in the report submitted to committee on the 30<sup>th</sup> of June, the outbuilding has been domesticated and the hardstanding area to the front of building has been occupied by the timber store and dog pen along with a wooden hot tub [hot tub now removed]. It is only quite recently that a parking space has been reformed to the front of the building. In terms of the parking for the proposed holiday let, the application proposed to remove the wooden tub, timber store and dog pen to accommodate one parking space for the holiday let. This, as mentioned with the original report submitted to committee, is sufficient for the development proposed. As such, in the event of the scenario mentioned above, sufficient parking would be retained for the proposed development. Furthermore, as previously stated within this report given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

- 7.13. Jason McCartney MP (who was the Member of Parliament for the area at the time) was contacted by a resident and sought confirmation that correct procedures are being followed and was informed of the handling of the application as detailed earlier within this report. He sent the following text on behalf of the resident:

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

As for the matters raised relating to the planning history of the site in terms of the 2000 application for a dwelling and the impact of the proposal on the character of the area, these have been addressed within the report previously submitted to committee and also within this report. The other application referred to was submitted in 2012 under application ref: 2012/91536 seeking planning permission for the erection of single storey extension and double 'underground' garage with garden terrace above in front of the dwelling at no. 1 Wheat Close. This was refused, (as set out in paragraph 4.2). The reason for this refusal cannot be applied to this application as it relates to the re-use of an existing building and would not comprise any engineering operations. The re-use of an existing building in the Green Belt to alternative uses can form an acceptable form of development in the Green Belt.

7:14 A petition with four signatures (residents of Wheat Close) was also received following the 30<sup>th</sup> of June committee raising objections to the application for the following reasons:-

7.15 *Proposal would add to our already congested parking problems*

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

7.16 *Spoil enjoyment of our homes*

Response: The matters relating to impact of the proposal on residential amenity has been assessed within the full report (please see section 10 of report below).

7.17 *The garage should never have been allowed*

Response: The planning and enforcement history relating to the erection of the garage has been addressed within this report (please refer to section 4). When the garage was erected, it was considered, in accordance with planning regulations at the time, that it comprised development that did not require planning permission.

7.18 *The garage is surrounded by land owned by Yorkshire water*

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

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

Response: The planning history of this site was considered in the report previously submitted to committee along with this report (see paragraph 7.11 and section 10 of this report)

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

Response: The application has been considered against green belt policies, and impact of the development on the surrounding residential properties has also considered.

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

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

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

The Parish Council have since provided further objections on the following matters:

(1) Contravenes the number of properties off one drive.

The impact of the development on highway safety, is addressed in section 10 'highway safety'.

(2) Contrary to NPPF for conversion in Green Belt.

See section 10 principle of development'. The development would accord with Green Belt policy for the re-use of a building.

7.22 Following the Sub-Committee meeting of 27<sup>th</sup> October, correspondence was received questioning the submitted certificate of ownership. Since that time a revised certificate of ownership has been submitted as referred to in paragraphs 1.5-1.7.

7.23 From 1<sup>st</sup> December 2016 to the time of writing this report a further 11 letters of representation objecting to the development, some with photographs, have been received. Seven of these objections are either directly from, or on behalf of, owners/occupants of property along Wheat Close.

The issues raised are summarised below:



#### 7.24 Green Belt

- in 2000 planning permission was refused for a dwelling as being contrary to Green Belt policy and therefore injurious. The garage later erected did not have permission, it is the Green Belt and should have been refused for the same reason as the dwelling.

*Response: see paras 7.11 and 7.6.*

- The garage is not within the curtilage of no. 1 as there is a communal driveway separating it from this dwelling. There is no policy to state that new build in the Green Belt is justified by land having been previously 'domesticated' 'The only thing there before the garage was a dog kennel so don't see how it is classified domesticated'.

*Response: see para 4.3*

- Material Change of use is inappropriate in the Green Belt, see the Fordent Ltd case in 2013 states it can be deemed inappropriate as not being within the list of exceptions to inappropriate development set out in paragraphs 89-90 of the NPPF.

*Response: This application seeks the re-use of an existing building which is 'appropriate' in the Green Belt as set out within para 89 of the NPPF. The Fordent Ltd case involved the change of use of land, not the re-use of a building.*

- No NPPF or UDP policies cite holiday lets as a special reason to grant planning permission for conversion of buildings in the Green Belt. There is no need for 1-bed holiday accommodation in the area.

*Response: see para 10.4 'principle of development'. 'Appropriate' development in the Green belt does not have to be justified by very special circumstances'.*

#### 7.25 Access and Parking (see paragraphs 10.24-10.31 for assessment of highway safety and parking issues save for those where a direct response is included in Italics below)

- Access onto the main road has poor visibility and an increase in traffic would be dangerous including to cyclists and walkers.
- Entrance to Wheat Close narrow and blockage would prevent emergency vehicles entering.
- Increase in numbers and speed of traffic within Wheat Close poses risk to residents, including elderly residents.
- Could be 18 residents cars here in future (9 dwellings) and there was originally no parking provision. Only now possible to park because of rented strip in front of houses, which YW could take back at 3 months' notice. If happened would further impact on parking, including carers' parking. There would then only be one parking space per dwelling This land is used by no. 1 Wheat Close and affects the application site as they also park on this land and could pose significant problems for

householders (photos of parking along the frontage of Wheat Close and around the outbuilding provided and will be shown at committee).

- Para 39 of the NPPF requires councils to take account of 'local car ownership levels'

*Response: this is only if setting local parking standard for residential and non-residential development in a local plan rather than the assessment of individual planning applications.*

- The red line boundary doesn't include all the land required for the informal/unofficial 'one-way system' vehicles use to access/egress Wheat Close and that without using this system access is difficult with the left turning from the rear to the front of the houses tight, but if going the opposite way 'almost impossible' if in a large vehicle. The rear lane is narrow.
- There is an unofficial one way system in the close, drive along back lane, park front and exit. No pavements and have to drive close to front doors to avoid parked cars. If aren't aware of adopted practices then causes chaos or speeding. Three less able, elderly residents at risk from drivers speeding or unaware of the road layout as there is no separate pedestrian zones and limited space between doors and the driveway.
- The holiday let has a parking space but visitors could drive past the parked cars of residents and in front of the owners front doors.
- Yateholme Angling Club wish to ensure that access to the north shore of the reservoir is not blocked (south of the application site). Ask that a planning condition is imposed to this effect

*Response: A planning condition would not meet the six-tests and the land in question is beyond the application site boundary.*

- NPPF para 69 is quoted which states that development 'should be safe and accessible, containing clear and legible pedestrian routes...' not met in this application.

*Response: The sentence goes on to state: "...and high quality public space, which encourage the active and continual use of public areas". Pedestrian routes are not being altered and the traffic and parking generated by the development is assessed in the Highway Issues section of the appraisal (paragraphs 10.24-10.31)*

## 7.26 Design/Visual amenity

- photo from across Brownhill Reservoir presented objecting to the impact of the building.

*Response: The site visit will include looking at the site across Brownhill Reservoir from Brownhill Lane.*

- Para 64 of the NPPF states that development should be refused if of poor design. Considers proposed scheme does not respond to the character, history or identity of its surroundings. In particular the scale and size of windows, doors and the timber cladding proposed bearing no relationship to the style and character of properties along Wheat Close. Wouldn't be visually attractive in the GB and when viewed from Brownhill Lane will have the appearance of an inappropriate single storey structure with no visual reference to the Waterboard houses and no element of quality, innovation or imagination in its design as mitigation.

*Response: The site visit will include looking at the site across Brownhill Reservoir from Brownhill Lane.*

- Any increase in the building will spoil the area and it is inappropriate, incongruous design

*Response: see paragraphs 10.10 to 10.12: Urban design and landscape issues.*

#### 7.27 Residential Amenity

- Potential disruption the development would cause to elderly residents (including access and parking)

*Response: see paragraphs 10.28-29*

#### 7.28 Enforcement issues

- Letter from the Chief Planning Officer and a Ministerial Statement to the House of Lords in 2015 highlighting that 'intentional unauthorised development' should be a material planning consideration where development has been undertaken in advance of obtaining planning permission. Considers this could cover the history of the double garage. Furthermore the statements in 2015 stated that 'effective enforcement is important as a means of maintaining public confidence in the planning system'. This is the expectation here and should also consider the 'long term intent of this application'.

- Concerns regarding the history of the building.

*Response: See Enforcement history in Section 4 and paragraph 7.6. This existing development is considered lawful and the current application does not seek retrospective planning permission. For these reasons the letter and statement are not material planning considerations in the assessment of this application.*

#### 7.29 Red line boundary of application site.

- Query ownership of strip of land forward of Wheat Close
- New submission has corrected the access to the field gate but holiday makers could not use the rear access for coming in and leaving the close because of the informal one-way system. Considers the boundary should include all access at the rear and front of the properties as there is only the width available for one car so can't go in opposite directions.

*Response: The red line boundary of the application site meets the mandatory requirements for planning applications as it includes access to the public highway and, as now amended, notice has been served on owners of the land. The application has been assessed on the basis of the submitted information and the assessment on highway safety considers access as shown, purely using the rear access of the site.*

- The strip of land owned by Yorkshire Water and used by 1 Wheat Close for parking should be shown as not belonging to no. 1 and amended in the current plans.

*Response: this land is not included in the red line application site boundary. It is not necessary to mark this land as not in the ownership of the property and the implications of the loss of this land, in terms of parking and highway safety, is fully assessed within the report.*

#### 7.30 Curtilage

There is a communal driveway separating the house at no. 1 and the garden and therefore the garage can't be deemed as being within the curtilage and should have had planning permission (court case Burdle quoted stating the land is 'physically and functionally separate' because of the driveway which separates the house from the areas in question) . Photo from the 1970s provided indicating there was an access road to the A6024 across the land. No. 1 used to be rented and the access to A6024 was in used until the wall was infilled. When sold by Yorkshire Water with no. 1 land was grassland and had no domestic use.

*Response: see paragraph 4.13*

#### 7.31 Non Material Planning Consideration

- Rights of access issues within the deeds of the properties of Wheat Close are a civil matter that cannot be assessed as part of the application.
- Reasoning as to why an objector is taking up objection to the scheme on behalf of other residents in the row. Sets out that has negotiated retention of peppercorn rent for Yorkshire Water parking strip; obtained compensation from Yorkshire Water for 3 years of disruption from spillway rebuilding; persuaded Yorkshire Water to install a characterful footway across the new spillway which added additional cost to the scheme but appropriate for the green belt; 30 years ago member of campaign committee to ensure the water treatment plant was partly underground and landscaped because area demanded a quality, environmentally sensitive scheme.

*Response: the points highlighted are commendable. The current application has, however, to be determined on its own merits taking into account material planning considerations.*

**Holme Valley Parish Council** – (latest comments) Object to the application on the following grounds

- (1) Contravenes the number of properties off one drive.
- (2) Contrary to NPPF for conversion in Green Belt.

*Response: see paragraph 7.21.*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways Development Management - No objections subject to conditions on the amended scheme (with parking space sited to east of the building).

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

**None**

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The NPPF provides a presumption in favour of sustainable development and policies set out in the framework taken as a whole constitute the Government's view of what sustainable development means in practice.
- 10.2 In part 9, the NPPF identifies protecting green belt land as one of the elements which contribute towards sustainable development. It states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; as such, it regards the construction of new buildings and other forms of development in the green belt as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90.

- 10.3 Paragraph 90 of the NPPF permits the re-use of buildings provided that the buildings are of permanent and substantial construction, subject to the development not prejudicing the openness of the green belt or the purposes of including land within it. Following a site inspection, the existing outbuilding appears to be in good condition and of substantial and permanent construction capable of conversion. The building is constructed in stone and designed with a slate gable roof. The alterations proposed would not prejudice its structural integrity and the elements which were not of substantial construction (timber store and dog pen) would not form part of this proposal. The development proposed would result in the reduction in scale of the existing building due to the proposed removal of the existing dog pen and store to the front elevation, reducing the impact on openness of the green belt when compared to the existing development on site. The site, excepting the shared access, has been in use in association with and as part of the curtilage of land serving the dwelling at no. 1 Wheat Close for a period of over ten years. The land to the north of the outbuilding comprises timber decking and sheds. Given the domesticated nature of the site, it is not considered that the proposed use, despite being commercial in nature, would result in greater impact upon the openness of the green belt. Given these considerations, it is opined that this proposal constitutes appropriate development within the green belt in accordance with paragraph 90 of the NPPF.
- 10.4 In a recent Court of Appeal judgement, *Lee Valley Regional Park Authority v Epping Forest DC* 22 April 2016, the Judge outlined that “development that is not, in principle, “inappropriate” in the Green Belt is...development “appropriate to the Green Belt”. The judge commented that, on a sensible contextual reading of paragraphs 79 to 92 of the National Planning Policy Framework, appropriate development is not regarded as inimical to the fundamental aims or purposes of green belt designation. On that basis, he noted, appropriate development does not have to be justified by very special circumstances. In light of this, it is considered that by reason of its appropriateness in line with Paragraph 90 of the NPPF, the development proposed is not contrary to the aims and function of the green belt.
- 10.5 The NPPF also encourages the planning system to support sustainable economic growth in general and in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This proposal would result in an income generating venture which, albeit on a minor scale, would contribute to the local economy. The venture would have limited impact on the character of the countryside given the domesticated nature of the existing site and the removal of the dog pen and store to the front would reduce the visual impact of building when considered from the wider open undeveloped land to the south of the site. The site is located in very close proximity to the Brownhill Reservoir thus can also support tourism in this location.

- 10.6 The proposal comprises development that is appropriate within the green belt and would encourage sustainable economic growth. Its location in the rural area means the proposal would support rural economy; however, the application site is relatively isolated from established residential areas and has no service provision. It is likely that the occupiers of the holiday accommodation would rely on the surrounding urban areas for provision of goods and services and therefore would be principally reliant on motor vehicles which would mean that the development would not contribute to mitigating climate change. Despite this given its very limited size the number of people and vehicles likely to use it would be low. Furthermore the structure is existing and the re-use of a substantially complete building is sustainable.
- 10.7 The introduction of the NPPF however does not change the statutory status of the development plan as the starting point for decision making. The application seeks planning permission for the change of use of an existing outbuilding within the green belt to a holiday accommodation. Policy D12A of the UDP states that when planning permission is granted for the re-use of buildings in the green belt conditions will be imposed removing permitted development rights from specified areas within the associated land holding where the erection of structures permitted under the general permitted development order would prejudice the openness and established character of the green belt.
- 10.8 The UDP, through Policy D12A, thus does not restrict the re-use of buildings provided that permitted development rights are removed where necessary and wherever possible to preserve the openness of the green belt. This application seeks change the use of an existing outbuilding into a holiday accommodation. Holiday accommodation is within the same use class C3 as residential dwellings. While a legal obligation can secure the use of the property as holiday accommodation which is not permanently occupied, it does not restrict permitted development rights afforded to building by virtue of its C3 use. As such, it is considered to be reasonable and necessary to restrict erection of further extensions or outbuildings on this site in order preserve the openness of the green belt and ensure that the development would not result in greater impact upon the openness of the green belt.
- 10.9 It is acknowledged that the proposal would give rise to unsustainable travel patterns for the resultant occupiers of the proposed holiday accommodation. However, subject to controlling occupation to this use, the proposal would result in the reuse of an existing building, the provision holiday accommodation, would promote economic growth and a prosperous rural economy on a small scale, and comprises development that is acceptable within the green belt and would not compromise the existing character of the countryside. On balance, the scheme comprises of development that is not contrary to the overarching intentions of the NPPF as a whole and the benefits to be had from this proposal and its appropriateness is considered to significantly and demonstrably outweigh the harm which would result from unsustainable travel patterns. Accordingly, subject to appropriately addressing other planning matters, this proposal is acceptable in principle.

### Urban Design/Landscape issues

- 10.10 Apart from removing the existing timber store and dog pen to the front of the existing building, the proposal would not result in any significant alterations to the building that would alter its existing character. The elements to be removed would improve the visual amenity of the building and reduce its scale and prominence within its countryside setting. The removal of the store/pen would involve the alteration of the east elevation to form a window with a section of stonework below and the pedestrian door into the building; the existing window on the east elevation with a section of timber cladding below would remain as existing. The size and appearance of these alterations would not be harmful to visual amenity.
- 10.11 The only alterations that would be clearly seen from the south (across the reservoir) would be the insertion of a large window in the southern elevation and a slim flue to serve the stove. Viewed in context with the terrace of properties along Wheat Close, these alterations would not appear overly prominent or incongruous. Many of the properties along Wheat Close have altered/replaced the windows and there is a variety of styles and colours evident. Some properties have also inserted rooflights which further add to the variety of window styles existing.
- 10.12 Given the above it is considered that this proposal would not harm the openness or character of the green belt, the rural character of the area or visual amenity. The proposal is considered to be compliant with Policies BE1 and BE2 of the Kirklees Unitary Development Plan and the guidance contained within Chapter 7 and 9 of the NPPF.

### Residential Amenity

- 10.13 Objections have been raised that the proposal is paramount to a new dwelling within the green belt. This matter has been carefully considered given that accepting the principle of holiday accommodation in this location would mean accepting a Class C3 (dwelling house) use. The level of accommodation provided is small but acceptable for holiday accommodation as it would not be permanent home of the occupants and they would occupy the unit for a short period of time. However, as permanent accommodation the unit would offer a poor standard of amenity to future occupiers.
- 10.14 The council does not have space standards for dwellings but in 2015 the government provided a document titled "Technical housing standards – nationally described space standard" which set out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy. It states that a one bedroomed property serving one person should at least have the floor space of at least 37 square metres and a one bedroomed property serving two persons should at least have the floor space of at least 50 square metres.



- 10.15 The proposed unit would have internal floor space of approximately 28.9 square metres. While space standards are purely guidance, they provide a good indication that the unit would not provide a good standard of amenity for permanent occupants. Part of the core planning principles outlined within the NPPF is the requirement for planning to always seek a good standard of amenity for all existing and future occupants of land and buildings. In addition, the use of the building for permanent residence could lead to pressure for the building to be extended which would affect the openness of the green belt. On this basis, the applicant (through the agent) has agreed to a legal agreement which will ensure that the building will stay in use solely as holiday accommodation and thus would not be used as a dwelling. The legal agreement would limit the periods of occupation for the building and excluding certain months of the year. The obligation would also require the applicant to maintain a register of occupation.
- 10.16 The nearest dwelling to the proposed holiday accommodation is the host property at no. 1 Wheat Close located approximately 10.5 metres to the east of the site. The proposed holiday accommodation would directly face a section of the side gable of this property which does not include any habitable room windows. The new east facing window on the holiday accommodation would also not comprise habitable room windows as the kitchen is separated from the living space. As such, there will be no adverse overlooking or overbearing impacts to the occupiers of the existing dwelling or future occupiers of the proposed holiday accommodation.
- 10.17 The holiday accommodation would include a habitable room window to the rear (west) which would retain a separation distance of approximately 1.5 metres to the boundary shared with the undeveloped adjacent land to the west. This is acceptable in the case as the land comprises a woodland and is within the green belt; thus, the likelihood of it becoming built upon are relatively slim. It is therefore considered that on balance, in this case, the reduced distances are acceptable.
- 10.18 As previously outlined within the “General Principle / Policy” section of this report, the existing building is small in scale and would provide very limited internal space for the occupants. However, on the basis that the proposal is for holiday accommodation and would not be a permanent home for the occupants, the size of the accommodation proposed is considered to be acceptable. As previously discussed, a legal agreement will secure the use of the building solely as holiday accommodation.
- 10.19 Concerns have been raised within the letters of neighbour representation that the proposal would give rise to noise levels in the area. When considering the scale of the development proposed, it is likely that only a small number of people would be accommodated in the holiday home at any given time. As such, the proposal is unlikely to give rise to significant material increase in noise levels that would unreasonably harm the living conditions currently enjoyed by the occupiers of neighbouring properties.

- 10.20 Concerns have also been raised regarding the impact on amenity of residents through the activities associated with the occupation of the properties spoiling the enjoyment of homes. If granted most planning approvals are likely to interfere, to some extent, with adjoining occupiers' enjoyment of their property. However the test is whether this is proportionate. In this case given the limited size of the accommodation and the proposed restrictions in its occupation, and all the other matters that are assessed in this appraisal, it is considered that there would not be an unduly adverse effect on the amenities of adjoining occupiers.
- 10.21 The disruption and potential health and safety issues of access and parking arrangements to residents, including elderly residents, is assessed in 'highway issues' below. This concludes that the very limited activity and the low speeds of traffic would not result in a materially adverse impact to residents.
- 10.22 Given the above considerations, this proposal would not adversely affect the amenities of the occupiers of existing properties within the vicinity and the level of amenity provided for the use proposed is acceptable subject to a legal obligation to limit its occupation. The proposal thus complies with Policies BE1, EP4 of the UDP and core planning principles contained within paragraph 17 of the NPPF.

#### Housing issues

- 10.23 The holiday accommodation, whilst considered Class C3, would not be suitable to provide a suitable level of amenity for permanent occupation. For the reasons set out in this report it would not be appropriate to extend the property either because of the impact on the Green Belt. It is therefore not considered to add to the housing stock of the district.

#### Highway issues

- 10.24 The development consists of the conversion of an existing outbuilding to a 1 bedroom holiday accommodation with 1 associated vehicle parking space adjacent to 1 Wheat Close. The existing site and building are used as an annex and store/dog kennel. The rear access to Wheat Close is well surfaced and maintained but it is not an adopted highway, the access within the red line serves as rear access to all the properties on Wheat Close and is accessible by car.
- 10.25 The site is situated south off Woodhead Road (A6024). This section of Woodhead Road connects Holmbridge to Holme Lane and is subject to a 60-mph speed limit and has street lighting along its length.

- 10.26 The access to and from the development is good and there are no underlying road safety issues at the junction of Wheat Close and Woodhead Road. Visibility from Wheat Close onto Woodhead Road is acceptable. There is a bus stop just to the east of Wheat Close and a public footpath links Wheat Close to Brownhill Lane to the south of the site.
- 10.27 In regards to the internal layout of the site 1 parking space and internal turning has been provided and shown on the plans (drawing number. Tru.15/08c) this complies with recommended standards. The amended location of the parking space is away from the existing unadopted highway and would have minimal impact on existing parking provision or access. Until recently there was no parking associated with the annex and it is only since the hot tub has been removed that a single parking space has been available. Taken in isolation the development has an acceptable level of parking to serve it that would not materially displace parking associated with the host building 1 Wheat Close. Furthermore due to the size and location of the development these proposals should not cause any intensification to the public highway.
- 10.28 Significant objection has been received regarding the suitability of the access arrangements for the proposed development and the impact of its use. The application site boundary includes the rear access along Wheat Close terminating in the parking area for the building and land that would provide turning for vehicles using that space. Adequate provision for cars to access, park and egress the site can be made using these arrangements. It is acknowledged that the track is single width and that it would be inconvenient to meet other vehicles along the access track. However, given the low speed of vehicles and the limited vehicle movements associated with the development it is considered that this would not result in material harm to highway safety, residents, cyclists or users of the public footpath. Reference has been made to an informal/unofficial one-way system that exists in Wheat Close, where vehicles enter the site using the rear access and leave by using the track to the front of the properties. No material weight can be given to this as there is no legal requirement for these arrangements. Residents and visitors to any of the properties could chose to arrive or leave by using either or both the front and rear accesses. Given this the land included in the red line boundary is sufficient to consider the access arrangements to the development.
- 10.29 The level of parking available to serve the residents of Wheat Close, and the implications of a future decision of Yorkshire Water to take back land at the front of the dwellings, has formed the basis of objections. Photographs have more recently been provided with some objections to show cars parked to the front of properties, in front of the outbuilding and the northern access to the reservoir. These will be shown at committee. A response to the implications of the loss of the additional land provided by Yorkshire Water (which allows 2 parking spaces per property if engineering operations had been undertaken to form the spaces) is set out in paragraph 7.12 of the report. Officers do agree that such a scenario would reduce the amount of available parking spaces serving the dwellings along Wheat Close (to one per dwelling) and potentially give rise to highway safety issues. However, the existing outbuilding is not

located within the strip of land identified and a single parking space to serve the development would be provided which does not include this land either. As such, in the event of the scenario mentioned above, sufficient parking would be retained for the proposed development, notwithstanding it appearing that it has more recently been in use since the removal of the hot tub. Furthermore, given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

10.30 As set out in paragraphs 10.27 and 10.28 it is considered that the access arrangements to serve the building are acceptable. The small scale of the development would not have a material impact on visibility to Woodhead Road or the likelihood of blockages to the access that would adversely affect residents. Traffic speeds along both the front and rear access of Wheat Close are low given the proximity to the junction with Woodhead Road, and the nature and width of the track.

10.31 Subject to conditions, the proposal would not give rise to any highway safety issues and would comply with Policies T10 and T19 of the Kirklees Unitary Development Plan.

#### Drainage issues

10.32 Foul drainage is indicated to connect to the main sewer and surface water drainage to be dealt with via soakaway. As no alterations are proposed to the shell of the building that would affect these issues, subject to the surfacing of the parking space being in accordance with Communities and Local Government and Environment Agency guidance, there are no objections to drainage proposals.

#### Representations

10.33 The matters raised within the letters of representations have been carefully considered and have been addressed in Section 7 and throughout section 10.

#### Planning obligations

10.34 Unilateral Obligation

10.35 Due to the size of the building, as originally reported to committee on 30<sup>th</sup> June 2016 and as set out earlier in section 10, it would not offer a good standard of amenity for future occupants were it to be permanently occupied as a residential dwelling, however is considered acceptable for temporary occupancy as a holiday let. In addition, the use of the building for permanent residence could lead to pressure for it to be extended which would adversely affect the openness of the green belt. Thus it is considered necessary to secure a legal obligation, in the form of a Unilateral Undertaking, to limit the

occupation to holiday accommodation. A draft Undertaking was submitted shortly before the committee meeting on 27<sup>th</sup> October. The general terms of this are set out in points 1-3 below. These are acceptable but in respect of clause 2 it was recommended that the further restriction in *Italics* be added. An amended draft Undertaking has been submitted with this wording included.

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

#### Other Matters

#### 10.36 Air Quality

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

#### 10.38 Footpath

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

### **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, the NPPF, the draft local plan and other material considerations. It is considered that the development would constitute sustainable development. The proposal is considered not to have a materially adversely impact on the character of the area, the openness or character of green belt, highway safety or residential amenity. It 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 Strategic Investment)**

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

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

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

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

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

**Background Papers:**

Application and history files.

2016/90477

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90477>

2000/92801

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2000%2f92801>+

2012/91536

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f91536+>

Certificate of Ownership Certificate B dated 1<sup>st</sup> December 2016 – Notice served on:

The Occupier 2 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 3 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 4 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 5 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 6 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 7 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 8 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016  
The Occupier 9 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

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Originator: William Simcock

Tel: 01484 221000

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Jun-2017

**Subject: Planning Application 2016/92203 Demolition of existing dwelling and erection of 2 detached dwellings with integral garages 65, Colders Lane, Meltham, Holmfirth, HD9 5JL**

#### APPLICANT

Colders Lane  
Developments Ltd

#### DATE VALID

05-Jul-2016

#### TARGET DATE

30-Aug-2016

#### EXTENSION EXPIRY DATE

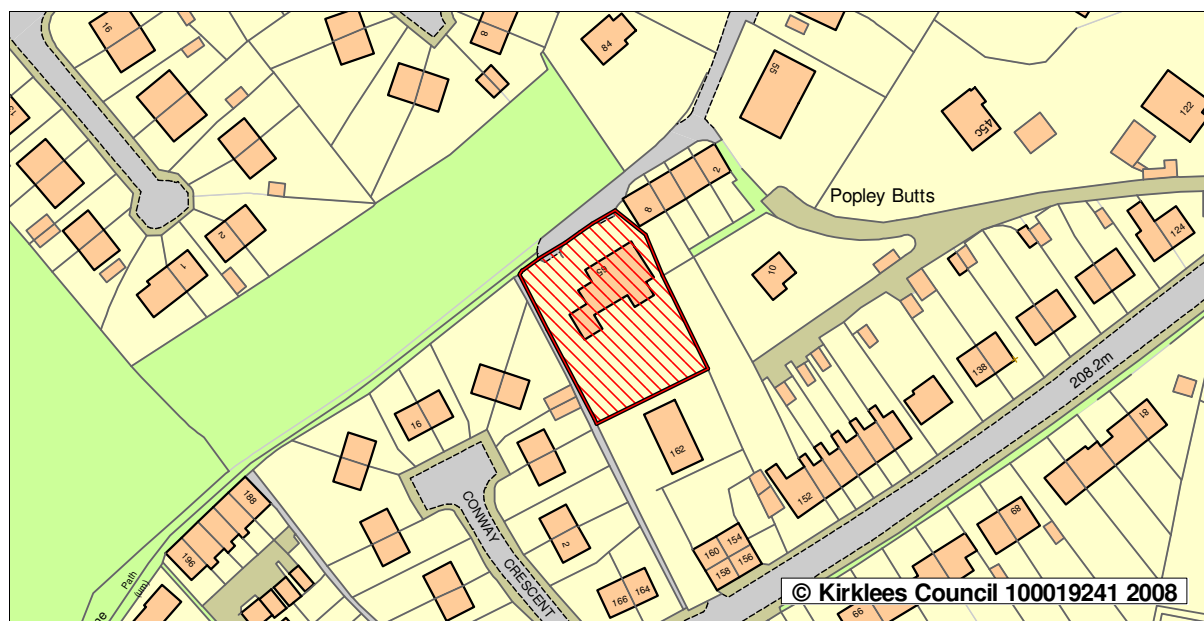
28-Jun-2017

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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:    HOLME VALLEY NORTH**

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 Strategic Investment in order to complete the list of conditions including those contained within this report.

**1.0    INTRODUCTION:**

- 1.1    This application is brought to Sub-Committee for determination at the request of Ward Councillor Edgar Holroyd-Doveton for the following reason:

“The development is likely to have:

[a] impact upon a regularly used and cited footpath. Formerly designated by Kirklees and consists of one of the main published routes in promotion of the town and gains heavy pedestrian traffic.

[b] The proposed development plan would significantly increase traffic flow in this narrow and congested area.

Cllr Holroyd-Doveton also requests a site visit.

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

**2.0    SITE AND SURROUNDINGS:**

- 2.1    65 Colders Lane is a bungalow built mainly in brick with a tile roof. Its front elevation faces north-west towards Colders Lane, an unadopted tarmac vehicular track of variable width which continues to the north-east where it joins the adopted highway near the junction with Bracewell Road, and to the south-west where it narrows and becomes a footpath. Colders Lane carries the route of a Public Right of Way (footpath Mel/45/20) which also continues up the south-west side of the plot. The bungalow has most of its garden space to the rear (south-east). The land rises to the north-west where there is a

substantial grassed area and to the south-west, and falls to the north-east along Colders Lane. The surrounding development is of mixed style – medium-sized semi-detached houses to the north and south-east (Bracewell Road and Conway Crescent), a row of 4 small terraced cottages immediately to the north-east and larger individually-designed houses further down Colders Lane and behind no. 65.

### **3.0 PROPOSAL:**

- 3.1 The proposal is for the demolition of the existing dwelling and the erection of 2 new dwellings in its place with integral garages. The original proposal was for the erection of 3 detached dwellings – this has been reduced to 2 because of officer concerns about the degree of intensification of an unadopted lane. The dwellings would be sited side by side near the middle of the site, set back 12m from the boundary with Colders Lane with a driveway and amenity space at the front, and a larger amount of garden space at the rear.
- 3.2 The dwelling on Plot 1, the eastern plot or the left-hand one as viewed from Colders Lane, would be 11.5m wide, the dwelling on Plot 2 would be 10.0m wide. Apart from this the two dwellings would be of similar design, having a rectangular plan with a 3.5m projection at the rear forming a kitchen and bedroom, and a 1m projection at the front. Each would provide 5 bedrooms including one in the attic. The current plans indicate they would have a single integral garage plus one external parking space each. The roof of each dwelling would be half-hipped, 8.7m high, with the hipped part of the roof facing existing development. The application form states that a mix of stone and render would be used; the agent has subsequently confirmed that they are to be entirely in coursed stone.

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

- 4.1 2010/91265 – Outline application for erection of detached dwelling (in the garden of no. 65 and retaining the bungalow), all matters reserved. Conditional outline permission. No reserved matters application was made and the permission has now expired.

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

- 5.1 30-Aug-2016 – Additional highways information submitted  
23-Nov-2016 – Amended site plan with 2 dwellings instead of 3  
06-Dec-2016 – Amended elevations and sections  
24-Jan-2017 – Further amendments to drawings (with half-hipped roof)  
27-Apr-2017 – Amended elevations, with lower roof pitch  
22-May-2017 – Sectional drawing submitted, also amended elevations / floorplans to comply with the layout shown on the site plan.

## 6.0 PLANNING POLICY:

- 6.1 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.

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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE11** – External facing materials
- **BE12** – Space about buildings
- **T10** – Highway safety
- **T19** – Parking standards
- **R13** – public footpaths

### 6.3 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is without allocation in the local plan.

Policies:

PLP21 Highway safety and access  
PLP22 Parking  
PLP24 Design  
PLP31 Strategic green infrastructure network  
PLP52 Protection and improvement of environmental quality

National Planning Guidance:

#### 6.4 National Planning Policy Framework.

- Section 6 – Delivering a wide choice of high-quality homes
- Section 7 – Requiring good design
- Section 10 – Meeting the challenges of climate change flood risk and coastal change
- Section 11 – Conserving and enhancing the natural environment – biodiversity should be preserved and where possible enhanced.

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

- 7.1 The application was publicised by the posting of 1 site notice in the vicinity of the site, the mailing of 7 neighbourhood notification letters and advertisement in the local press. As a result of publicity, 17 people living in the vicinity of the site (12 different properties) have made representations, all objecting to the application or expressing concerns.

The issues raised are summarised below:

- Scale of development is excessive in terms of height and footprint;
- Lack of clarity about materials – stone and render would not be in keeping.
- Overlooking of windows (4 Popley Butts and 162 WHR)
- Two 5-bedroomed houses will generate more traffic than the existing 2-bedroom bungalow, thus intensifying the use of an unadopted road carrying a public right of way with increased dangers to users. The number of parking spaces provided (4 per dwelling) indicates that a high level of traffic generation is expected. The swept path for vehicles manoeuvring to or from these parking spaces would encroach on to the public footpath.
- Difficulties for refuse collection and emergency vehicles not addressed, even with the latest amendment – carry distance to Popley Butts where refuse collection vehicles stop is in excess of the standard 25m carry distance and the swept path of the fire appliance encroaches on the driveway to Plot 1.
- We were not allowed to build within 3m of a sewer. This is likely to be directly below Plot 2. When 162 Wessenden Head Road was built in 1999 we found out that the sewer was 6m east of its suggested location, and so if it continues in a straight line it is likely to be directly below Plot 2.
- There has been an increase in the number of bats observed in our garden (162 Wessenden Head Road) recently. Has the developer been required to carry out an environmental assessment including a bat survey?
- Congestion at the bottom of Colders Lane and Mill Moor Road.

- Impact of construction traffic on the lane and possible damage to wall adjacent to site. If permission is granted, developers must make allowance for access for existing properties and keep disturbance to a minimum.
- Noise from traffic as the driveway is alongside bedroom window in adjacent property.
- No visitor parking provision.

## 7.2 Meltham Town Council comments – Support the application

## 7.3 Councillor Edgar Holroyd-Doveton:

“If you are minded to approve the above application, can I ask that it goes to committee and that there is a site visit. The essential planning reasons is that the development is likely to have:

[a] impact upon a regularly used and cited footpath. Formerly designated by Kirklees and consists of one of the main published routes in promotion of the town and gains heavy pedestrian traffic.

[b] The proposed development plan would significantly increase traffic flow in this narrow and congested area.”

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

There were no statutory consultees.

### 8.2 Non-statutory:

- Highways Development Management – The principle is acceptable, subject to improvements to layout.
- Environmental Health – No objection subject to conditions.
- Public Rights of Way – Do not formally object but have concerns over the intensification.

## 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 As the Council cannot currently demonstrate a 5-year supply of housing land, in accordance with NPPF paragraph 49, “relevant policies for the supply of housing should not be considered up to date”. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14.
- 10.2 The principle of residential development has already been accepted in the recent past, with outline permission being granted for the erection of a single detached dwelling in addition to the existing bungalow.
- 10.3 The site is located within a predominantly built-up area, is close to Meltham Local Centre and within walking distance of bus routes with a regular service to Huddersfield. As it would make efficient use of land it is therefore considered to be sustainable development in principle subject to an assessment of design, amenity, environmental and highways issues, to be assessed in detail later in the report.
- 10.4 Policies of particular relevance within the NPPF are:
- Core Planning Principles – in particular that planning decisions should seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - Requiring good design – planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments;
  - Meeting the challenges of climate change flood risk and coastal change – opportunities should be taken to reduce the causes and impacts of flooding, and prevent new and existing development from being put at unacceptable risk from, or contributing to unacceptable levels of, pollution or land instability;
  - Conserving and enhancing the natural environment – biodiversity should be preserved and where possible enhanced.
- 10.5 A number of UDP Policies are also relevant. Policies BE1 and BE2 require that development should respect visual and residential amenity, contribute to a sense of local identity, take into account the topography of the site, and incorporate existing or proposed landscaping features as part of the development. New dwellings should also adhere to the minimum distance standards in Policy BE12 unless other considerations such as changes in level indicate that these can be relaxed. Policy T10 requires that development should not be allowed to create or materially add to highway safety problems,

while Policy T19 states that development should provide parking in accordance with UDP (appendix 2) standards unless they can be reduced without highway safety being affected. Finally R13 specifies that proposals should take into account the convenience of users of the public right of way.

#### Urban Design issues

- 10.6 The surroundings of the site are notable for their steep topography, with land rising to the north-west, south-west, and south-east, and falling to the north-east. The site is elevated compared to 8 Popley Butts but low-lying compared to other surrounding properties and land.
- 10.7 The surrounding development does not display a strong coherence in style or layout. 2-8 Popley Butts comprise a row of 19<sup>th</sup> Century vernacular terraced houses but most of the surrounding development is 20<sup>th</sup> Century or later.
- 10.8 In this context it is considered that the erection of 2 no. 2-storey dwellings of the scale layout shown on the plans would not amount to overdevelopment. The fact that they would be sited at the bottom of a dip, and set approximately 1m below existing ground levels, further helps to ensure that they would not dominate their surroundings. In terms of house to plot size ratio, the new dwellings are not considered excessive and it is considered that they would allow a satisfactory amount of amenity space both at front and rear. Roof pitch has already been reduced from 35 to 30 degrees, which is typical of most other dwellings in the area.
- 10.9 The proposed dwellings would have some non-traditional features, including the roofs being hipped at one end but not the other and the extensive use of glazing. Given the range of building styles in the locality, and since they would be set back a considerable distance behind the front elevation of 2-8 Popley Butts, it is considered that their design would not be detrimental to visual amenity. The agent has confirmed that stone is to be used for exterior walling – this would harmonise with the dwelling immediately to the rear, no. 162 Wessenden Head Road, and also with 2-8 Popley Butts, although it is noted that a range of materials including brick are used in the vicinity of the site.
- 10.10 In conclusion it is considered that the proposed dwellings would respect the appearance of surrounding development and would accord with the aims of Policies BE1 and BE2, subject to a condition that all stone is regularly coursed and a sample of stone being submitted and inspected for approval before work on the exterior commences.

#### Residential Amenity

- 10.11 The proposed dwellings would both have their main outlook to the front (NW) and rear (SE). The front elevations of the proposed dwellings would be a minimum of 15m from undeveloped land on the other side of Colders Lane, which would comply with Policy BE12. To the rear, the distance from the window of the nearest rear-facing bedroom (bedroom 1) would be 13.5m and 17.2m to the rear curtilage boundary and the facing window respectively in



no. 162 Wessenden Head Road. For Plot 2 the relevant distances would be 12.7m and 17.2m respectively. According to the plans under which this house was built (99/90164), this room is to the breakfast area attached to a kitchen. If this is classed as a habitable room, the arrangement would not meet the 21m standard. But existing window itself is clearly short of the normally required distance of 10.5m from a habitable room window to the boundary with adjacent undeveloped land, being only 4.4m from the plot boundary with 65 Colders Lane. Furthermore no. 162 has its main habitable rooms facing west and east, away from the application site. In addition, no. 162 is set significantly higher than the proposed dwellings owing to the natural topography; the survey drawing submitted with the application indicates that ground level at the rear boundary of the site is 3.5m higher than the proposed ground floor level in the new dwellings. It is considered that it would not give rise to any material reduction in privacy for this property and it would therefore be difficult to justify refusal on these grounds.

- 10.12 The only side-facing windows in the new dwellings would be non-habitable except for a small secondary bedroom window in the dwelling on Plot 2. These include bathrooms, WCs, landings, utility rooms and kitchens. All of these can be fitted with obscure glazing and be non-opening, or in the case of the ground floor kitchen windows can be screened. In summary it is concluded that subject to suitable conditions on the provision of obscurely-glazed, non-opening windows where appropriate, and boundary fencing, no significant adverse impacts on privacy would occur.
- 10.13 Any potential for other adverse impacts on residential amenity must also be considered, especially with regard to the cottages at Popley Butts, in particular no. 8 which shares a boundary to the site to the north-east and is also at a lower level. The new side wall would be no closer than the side wall of the existing bungalow. The new dwelling would be higher than the existing dwelling, being two-storey with a bedroom in the roof, but it is noted that proposed ground floor level would be approximately 1m lower than existing ground level to the front and rear of the existing bungalow. Furthermore it has been designed with a hipped roof on no. 8's side which would reduce its impact. In terms of its potential to obstruct direct sunlight, it is unlikely that it would be materially different from the present situation. There might be some additional overshadowing of no. 8's rear garden in the afternoons owing to the increased height, but it is unlikely to result in any additional loss of direct sunlight to no. 8's windows as the increased height would be counterbalanced by its being set further away (further south-east) and the changed siting might even result in improved ability to receive sunlight late afternoon and early evening.
- 10.14 With regard to other dwellings bordering the application site, these are all set at a higher level and consequently the new dwellings would not give rise to overbearing impact on them.

- 10.15 Given the close relationship with 8 Popley Butts it is considered that permitted development rights should be withdrawn for extensions and outbuildings on Plot 1; this is not considered necessary for Plot 2 because the neighbouring dwellings are higher.
- 10.16 In summary, it is considered on balance that the proposed development would not give rise to adverse impacts on residential amenity subject to the conditions on privacy measures and removal of permitted development rights as detailed above.

#### Landscape issues

- 10.17 It is considered that given the scale of the development, and it being sited within an established built-up area, it would not have any significant impact on the wider landscape.

#### Housing issues

- 10.18 The Council is currently unable to demonstrate a 5-year supply of housing land. In these circumstances, in accordance with NPPF paragraph 49, “relevant policies for the supply of housing should not be considered up to date”. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. The two new dwellings will make a small contribution towards meeting the housing supply which even though a small addition is still given weight in the assessment of this application and adds to the benefits of the scheme when considering the planning balance.

#### Highway issues

- 10.19 The south-western extent of Colders Lane (west of the junction with Colders Drive up to the application site) is unadopted and is of substandard design. It already provides vehicular access to over 10 residential properties and carries the route of a Public Right of Way, footpath Meltham 75. It is therefore not ideally suited to serve further development. Highways Development Management initially recommended refusal of the scheme as the erection of 3 dwellings in place of one was considered to amount to an unacceptable intensification.
- 10.20 In the assessment of the previous outline application for development on this site, 2010/91265, the Highways Officer judged the proposal acceptable as it would create a turning area for private motor vehicles and it was granted approval. This would have created one further dwelling in addition to the one already present on site. So had the proposal been implemented the number of dwellings served by the lane would have been the same as is now proposed. This permission has now expired but is a material consideration as it would have been assessed against the many of the same UDP policies that are now in force.

- 10.21 It is acknowledged that the erection of two 5-bedroomed houses might give rise to more car journeys than the scenario of retaining the existing modest-sized bungalow plus one further dwelling within the curtilage. But it is considered that the likely difference in traffic generation between the two scenarios would not be material and it would be difficult to justify a refusal on this basis.
- 10.22 Under UDP parking standards, 3 parking spaces per dwelling should be considered for new houses with a gross floor area of over 140 sqm. The latest site plan, Rev D, shows an increased parking area. The annotation on the plans states that there would be 3 external parking spaces per dwelling, although the configuration of the parking spaces for Plot 2 might make it difficult in practice for 3 vehicles to park externally and still allow the garage to be used. The arrangement however provides a minimum of 3 spaces each including the integral garage.
- 10.23 In addition there would be a turning head which would be available to both new dwellings and would be sufficient for a fire appliance. This represents an improvement on the existing situation and the 2010 approval for which only the provision of a turning head for private vehicles was conditioned. It would not be big enough to allow a refuse vehicle to turn within the site but there would be a shared bin collection area on the site frontage. At present, refuse vehicles picking up from the western part of Colders Lane have nowhere to turn. It is generally recommended that refuse collection workers should not have to carry bins more than 25m from their collection point. According to the Highways Officer and one local resident who has made representations on the application, refuse vehicles currently travel down Colders Lane as far as Popley Butts at the eastern end of the terrace, 2-8 Popley Butts, but no further, although the agent has disputed this, claiming in a telephone conversation with the case officer that they travel as far as the western end of the terrace. It is considered on balance that even if the bin storage area shown on the drawings is more than the standard 25m away from the nearest point the refuse collection vehicle can reach, it would be difficult to justify refusing the application on this issue alone, especially given the previous outline approval which did not explicitly make provision for refuse collection. The turning head would occupy some of the space that is also to be used as the private driveway to Plot 1, but subject to a suitable condition that the turning head is kept free of all obstructions to its use, this should not be a problem. It is considered, especially taking into account the provision of a turning head suitable for fire engines, that the proposal would not create or materially add to highway safety problems and would accord with the aims of Policies T10 and T19.
- 10.24 The Public Rights of Way Officer has not formally objected to the proposal but has raised some specific concerns. These include: that the partial footway across the site is not linked to any footway elsewhere, it is broken up by the driveways to the properties, it is likely to attract parking and that there is no proposal to bring the access up to adoptable standards. In response to this, the Highways Officer and Planning Officer's view is that given the history of the site and the very modest intensification caused by replacing one dwelling

with two, an upgrade of the lane to adoptable standards or the provision of a footway is not necessary. The site plan appears to show a footway across part of the site; this would be of limited use except as a refuge but this is not in itself considered problematic. It is considered, in summary, that the development would not have any adverse impact on the safety or convenience of pedestrians using the public right of way.

- 10.25 The proposal would not involve carrying out works to the lane itself. It is recommended as a precautionary measure however that a scheme for the parking and unloading of construction vehicles during development, and protection of public path users during development works, should be submitted and approved so as to avoid any short-term safety risks or inconvenience to footpath users. This is considered a sufficient precautionary measure to comply with the aims of Policy R13.

#### Drainage issues

- 10.26 The site is not within an area which is known to be at risk of flooding. Disposal of surface water is to be via mains sewer. This is not the most sustainable method of drainage but as the development is only for 2 units, and since the existing dwelling is presumably connected to mains drainage already, the implications for surface water drainage are not a major concern. Furthermore given the scale of development issues related to drainage would be assessed as part of any allied Building Regulations application.

#### Representations

- 10.27 Concerns relating to visual and residential amenity and highway safety have been addressed in the main part of the report but are highlighted here together with other issues raised and officer responses.

Scale of development is excessive in terms of height and footprint;

*Response:* This issue has been addressed earlier in the Assessment: "Urban design issues" and it is considered that the scale of development would not be excessive.

Lack of clarity about materials – stone and render would not be in keeping.

*Response:* The agent has clarified this, confirming that the dwellings are to be externally faced in stone.

Overlooking of windows (2 Popley Butts and 162 WHR)

*Response:* This issue has been addressed earlier in the Assessment: "Residential amenity issues" and it is considered that subject to suitable conditions it would not give rise to a loss of residential amenity though loss of privacy.

Two 5-bedroomed houses will generate more traffic than the existing 2-bedroom bungalow, thus intensifying the use of a narrow unadopted road carrying a public right of way with increased dangers to users. The number of parking spaces provided (4 per dwelling) indicates that a high level of traffic generation is expected. The swept path for vehicles manoeuvring to or from these parking spaces would encroach on to the public footpath.

*Response:* It is considered that the overall level of traffic generation would not be materially different than that which would have occurred had the 2010 permission been implemented, which also did not contain separate internal turning provision for each dwelling and so would also have involved similar manoeuvres.

Difficulties for refuse collection and emergency vehicles not addressed, even on the latest amendment – carry distance to Popley Butts where refuse collection vehicles stop is in excess of the standard 25m carry distance and the swept path of the fire appliance encroaches on the driveway to Plot 1.

*Response:* These issues have been addressed in paragraph 10.22 above and it is considered that the refuse collection arrangements shown on the plans are acceptable.

We were not allowed to build within 3m of a sewer. This is likely to be directly below Plot 2. When 162 Wessenden Head Road was built in 1999 we found out that the sewer was 6m east of its suggested location, and so if it continues in a straight line it is likely to be directly below Plot 2.

*Response:* According to information held by Kirklees Council, the position of the sewer would be under the footpath adjacent to the south-west of the existing dwelling and that a 3m easement would therefore be retained in relation to the dwelling on plot 2. If it turns out that this is incorrect then the developer will have to apply to Yorkshire Water for a diversion or a build-over agreement and if material changes to the scheme are required this could result in a revised planning application being required.

There has been an increase in the number of bats observed in our garden (162 Wessenden Head Road) recently. Has the developer been required to carry out an environmental assessment including a bat survey?

*Response:* The site is not within the bat alert layer and the site in general appears to have low ecological value, so on this occasion no ecological or bat survey was requested.

Congestion at the bottom of Colders Lane and Mill Moor Road.

*Response:* It is considered that the scale of the development – 2 dwellings – is not such as would materially increase congestion elsewhere on the highway network

Impact of construction traffic on the lane and possible damage to wall adjacent to site. If permission is granted, developers must make allowance for access for existing properties and keep disturbance to a minimum.

*Response:* It is considered that given the scale of the development, the prospect of any damage occurring to the surface of the lane is very remote, but any such damage that might occur would normally be treated as a private civil matter. A scheme for the parking of contractors' vehicles and their loading and unloading can be imposed as a condition. The standard footnote on hours of work recommended by Environmental Health can be added to the Decision Notice if planning permission is granted.

Noise from traffic as the driveway is alongside bedroom window in adjacent property.

*Response:* It is considered that the level of noise disturbance generated would not be such as would amount to a material loss of residential amenity.

No visitor parking provision.

*Response:* Under UDP standards, the provision of visitor parking provision should be considered for any housing development served by an “informal road” at the rate of one for every four units. As the proposal is for two dwellings, a net gain of one, this is not considered necessary in this case. Given the size of the site and the length of the frontage, it would in any case be difficult to provide a visitor parking space in addition to the external parking spaces and a turning head, and again officers did not deem this necessary at the time of the 2010/91265 application.

Meltham Town Council’s support for the application is noted.

Councillor Edgar Holroyd-Doveton’s comments:

The development is likely to have:

[a] impact upon a regularly used and cited footpath. Formerly designated by Kirklees and consists of one of the main published routes in promotion of the town and gains heavy pedestrian traffic.

[b] The proposed development plan would significantly increase traffic flow in this narrow and congested area.

*Response:* It is noted that Colders Lane carries the route of a public right of way but for reasons set out in detail above in paragraphs 10.19-10.25 it is considered that the intensification of the route caused by the development would not be materially harmful to pedestrian safety.

#### Other Matters

10.28 The site is not within the bat alert layer, there are no mature trees on site, and it is considered that the existing house and garden have, at most, very limited ecological value. For these reasons, no ecological survey work has been requested.

10.29 Air Quality: NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution.” On small to medium sized new developments this can be achieved by promoting green sustainable transport through the installation vehicle charge points. This would also comply with the West Yorkshire Low Emissions Strategy Planning Guidance. This can be secured by a planning condition requiring one electric vehicle charging point per dwelling.

10.30 It is noted that the proposed section, drawing number 05, does not accord with the elevations as it still shows a floor to ridge height of 9.4m. This is presumably an oversight by the agent. In the interests of clarity, the case officer has requested an amended sectional drawing from the agent showing the height reduced to 8.7m as shown on the elevations.

## **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, the NPPF, the draft local plan and other material considerations. It is considered that the development would constitute sustainable development. The proposal is considered not to have a materially adversely impact on the character of the area, highway safety or residential amenity. It 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 Strategic Investment)**

1. Standard 3-year deadline for commencement of development
2. Development in accordance with approved plans.
3. Samples of facing and roofing materials to be inspected and approved.
4. All side facing windows in the new dwellings to be obscurely glazed and non-opening except for the kitchen windows which can be screened.
5. No additional windows to be formed in the side elevations of the dwelling on Plot 1
6. Details of boundary treatment for side boundaries to be submitted and provided before first occupation.
7. Removal of permitted development rights for extensions or outbuildings on Plot 1.
8. All the parking and turning arrangements, for the new dwellings, shown on the site plan, to be formed before either new dwelling first occupied and thereafter retained without obstruction
9. Parking spaces to have permeable surfacing
10. Shared bin collection point to be provided
12. Garages not to be converted to living accommodation.
13. Provision of electric vehicle charging points.
14. A scheme for the parking and unloading of construction vehicles and protection of public path users during development works to be submitted to and approved in writing before development commences.

### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92203>

Certificate of Ownership – Certificate A signed.

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Originator: Glenn Wakefield

Tel: 01484 221000

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date: 22-Jun-2017**

**Subject: Planning Application 2017/90201 Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate Hagg Wood Stone Quarry, Woodhead Road, Honley, Holmfirth, HD9 6PW**

#### **APPLICANT**

Allan Pogson, Abacus  
Stone Sales Ltd.

#### **DATE VALID**

19-Jan-2017

#### **TARGET DATE**

16-Mar-2017

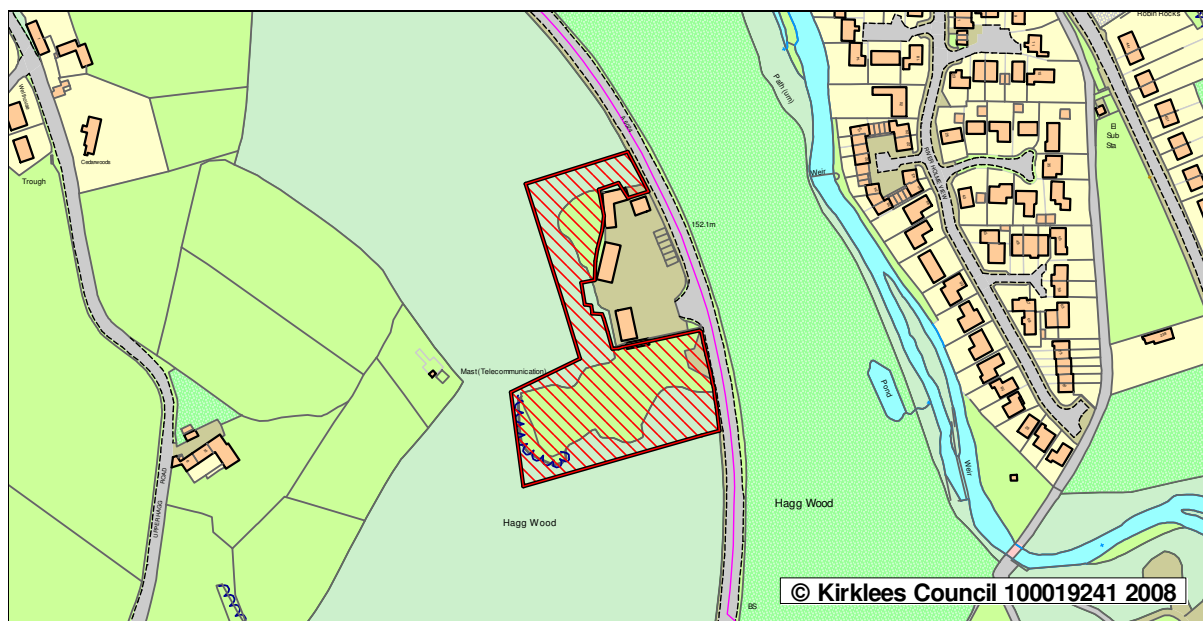
#### **EXTENSION EXPIRY DATE**

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

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

## LOCATION PLAN



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

**Electoral Wards Affected:** Holme Valley South.

Yes

Ward members notified

### **RECOMMENDATION:**

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

### **1.0 INTRODUCTION:**

This application is brought to the sub-committee for determination following a request from Cllr N Patrick (Ward member for Holme Valley South). For the following reasons:

*“...given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:*

- *Impact on Ancient Monument*
- *Impact on Protected Trees*
- *Impact on Ancient/ Semi Natural Woodland*
- *Impact on amenity of neighbouring properties*
- *Impact on Protected Species*
- *Road Safety*
- *Ongoing enforcement issues at site”...*

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

## **2.0 SITE AND SURROUNDINGS:**

The application site is located approximately 0.25km to the west of the centre of Brockholes, 1.7 kilometres south of Honley village and is situated on the edge of a large area of woodland known as Hagg Wood. The application site occupies an area of approximately 8600m<sup>2</sup> and forms part of what was originally a quarry void. The site comprises two main areas one to the south, which is currently used for the storage and dressing of stone and includes a number of buildings and associated plant. The other area which lies to the north is, at present unused although benefiting from planning permission for stone storage and dressing. These areas are linked by a strip of land which runs behind another stone processing operation which occupies the remainder of the quarry void. The immediate wider area surrounding the site has a rural wooded character with isolated residential properties to west and a concentration of residential properties to the east at Brockholes.

- 2.1 The site is located within a wider area designated as a site of scientific interest (SSI) in the Unitary Development Plan, is included within an area of ancient woodland, is immediately adjacent to a scheduled ancient monument (NHLE 1018555 and is located within the Green Belt.

## **3.0 PROPOSAL**

- 3.1 The applicant has submitted a planning application under Section 73 of the Town and Country Planning Act 1990 to vary condition 2, 4, 8, 12, 13 and 17 of a previously granted planning permission (2001/90843) which was for the use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m high palisade fence. The aforementioned conditions state:

*(2) No development shall take place until samples of all facing and roofing materials has been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.*

**Reason:** *In the interests of visual amenity and to accord with policy BE2 of the Unitary Development plan*

As development has commenced on site, the applicant has requested that this condition should be reworded to reflect this but in such a way to ensure the approved building cannot be constructed until materials have been approved.

*(4) No activity shall take place on the premises outside the hours of 07.00 hours and 18.00 hours Monday –Friday unless otherwise agreed in writing by the Local Planning Authority.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant has indicated that in order to keep up with the demand for the stone they supply they would like to amend the current approved hours of operation to include the following:

Saturdays 07:00 to 15:00

Sundays 09:00 to 14:00

The applicant has indicated that operations on a Sunday would be to facilitate maintenance of machinery, clearing and tidying and general site maintenance.

*(8) There shall be no retailing of redressed stone, reclaimed materials or any other associated materials from the site.*

**Reason:** *In the interests of the free and safe use of the highway and to accord with Policies T10 and T19 of the Unitary Development Plan*

The applicant has indicated that varying this condition would allow limited retail activity in line with the how the site operates. This involves some limited collection of orders by customers at the site.

*(12) Trees within or on the boundary of the site shall be neither felled, topped or lopped except with the prior written approval of the Local Planning Authority, nor shall they be damaged or killed by fire or by the application of toxic or injurious substances.*

**Reason:** *In order to ensure the protection of trees in Hagg Wood and to accord with policy NE9 of the Unitary Development Plan.*

The applicant contends that variation of this condition would facilitate the creation of the access between stone storage area 1 and 2 and to remove trees from stone storage area 2 to allow its efficient use.

*(13) There shall be no activity or storage on, or any vehicular access to or over, those areas of the site coloured yellow on the approved plans unless otherwise agreed in writing by the Local Planning Authority.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant indicates that varying this condition would allow the formation of the access between the two stone storage areas.

*(17) Unless otherwise agreed in writing by the Local Planning Authority stone storage on site shall not exceed 3m height.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant wishes to vary the condition by indicating that the 3m height restriction would best be measured from the height of the surrounding land as this would allow additional storage.

- 3.2 Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the existing planning conditions and update, revise, add to or delete redundant conditions as part of the assessment of the planning application. Since the granting of planning permission 2001/90843 a number of conditions have been discharged, are now redundant or require updating and it is therefore proposed to amend the following conditions to reflect this:

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

Delete - proposal has been implemented.

*3) No development shall take place until details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls have been approved in writing by the Local Planning Authority. The approved walls/fences shall be erected before the development hereby approved is occupied/brought into use and shall thereafter be maintained.*

Delete - A satisfactory boundary fence has now been erected

*(5) The areas to be used by vehicles including parking, loading and unloading areas shall be surfaced, sealed and drained before the development is occupied/brought into use and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word - the hard surfaced areas used by heavy goods vehicles within the site described as 10m turning circle, concrete/tarmac hard standing as shown on amended plan received on 8 January 2003 and approved under planning application ref: 2001/90843, shall be retained and kept free from all other obstructions for the duration of the development

*(6) No development shall take place until provision has been made for the parking, loading and unloading of contractors` plant and equipment and the parking of vehicles of the workforce within the site.*

Delete: The requirements of this condition duplicate condition 5 and therefore this condition would be redundant.

*(9) The existing stone wall piers, in the positions marked 'X` and 'Y` on the approved plans, shall be reduced to a maximum height of one metre above road carriageway level before the use hereby approved is first commenced. These wall piers shall thereafter be so retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – Require the works to be carried out within 2 months of the permission being granted as the use has commenced on site.

*(10) The drop crossing to Woodhead Road shall be extended for the full width of the site entrance before the use hereby approved is first commenced and shall thereafter be so retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – The drop crossing to Woodhead Road which has been extended for the full width of the site entrance shall be retained for the duration of the development.

*(11) Details of the type, design and position of traffic warning signs to alert drivers to the site entrance shall be submitted to, and agreed in writing by, the Local Planning Authority and the approved signs shall be installed before the use hereby approved is first commenced unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – Require the works to be carried out within 2 months of the permission being granted as the use has commenced on site.

*(14) Details of any proposed hard surfacing of the site and of any alterations to existing ground levels, including details of any access ramps, shall be submitted to, and approved in writing by, the Local Planning Authority before the use hereby approved is first commenced.*

Delete – these works have been completed any further changes to ground levels would require a fresh grant of planning permission.

It is therefore proposed to retain conditions 7, 15 and 16 as worded on the original planning permission.

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

75/6107 – Erection of site cabin for WYMCC (Approved 23 January 1976)

80/2401 – Storage compound for gas cylinders – (Approved 12.5.80)

96/90931 – Outline application for workshop and improved access (Refused 17 July 1996)

97/92231 – erection of PRU (gas control) building by Transco (Approved 8 January 1998)

2001/90843 - Use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate (within a site of special scientific interest and ancient monument). Approved 16 April 2003

2007/93104 - Use of existing stone yard for waste facility including site offices, hardstanding and landscaping works – Withdrawn

2017/91676 – Formation of new access from existing stone yard and adjacent storage area including excavation/engineering works. This application is under consideration at present and will be determined by the Strategic Planning Committee.

#### **4.2 Enforcement History**

4.3 The site was first investigated in 2001 following reports of activity on the former Council salt stocking yard. During these investigations it was found the owner was preparing the ground for storage and dressing of stone. This investigation led to the submission of the 2001 planning application ref: 2001/90843 and subsequent approval on the 16 April 2003.

4.4 Site was investigated again by officers in 2004 following further works carried out pursuant to the 2003 planning permission. The site had been further prepared for the storage and dressing of stone, including completion of the access gates/walling and a degree of surfacing over the site. Officers investigating at the time were satisfied that the site was operating as a stone yard as described and approved.

4.5 The site operated thereafter without objection being received by the local planning authority until January 2016. The local authority received reports of the erection of a fence through the adjacent woodland, formation of “ramps” to gain access onto the upper level of the former quarry and encroachment into areas outside of the original planning permission. Further concern was raised regarding works within a site of an ancient scheduled monument within the woodland.

- 4.6 Initial visits to the site in January 2016 confirmed a number of trees had been removed in the adjacent woodland. These were protected trees and legal proceedings were pursued with respect to this matter.
- 4.7 These site visits also confirmed the site was largely operating within the terms of the 2003 planning permission. No evidence was obtained of any recent encroachments into any areas outside the 2003 permission and the “ramp” was not considered to amount to an operation requiring planning permission. It was noted there had been a small encroachment to the left of the access that was being used for storage. However, from aerial photographs held by the authority this it was clear this area had been used for a significant number of years without major concern for the local authority. Historic England attending the visit did not raise any significant concern over works within the vicinity of the ancient scheduled monument. Notwithstanding this, the owner was advised of planning requirements should any works be carried out. The complainant was notified that no recent breaches of planning control had been identified in January 2016.
- 4.8 The local planning authority received further reports in February 2016 alleging an intensification of the site including lack of turning facilities for vehicles and removal of material to expand into the rear (northern area) of the site. Officers concluded that the area currently unused of the rear northern area of the stone yard benefitted from the 2003 planning permission and that based upon information obtained operations were not in breach of the 2003 planning permission.
- 4.9 Further reports in April 2016 from a second complainant alleged disturbance was being experienced through dust and noise pollution. It was also alleged operations were being carried out over the weekend. If substantiated this weekend activity would be in breach of condition 4 attached to the 2003 planning permission. However, it was noted that two adjoining stone yards operating independently both had conditions restricting weekend operations. Further evidence would have to be obtained to establish whether one or both stone yards were in breach of respective planning conditions.
- 4.10 Subsequent information obtained and received between the period of May and December 2016 demonstrated some weekend working was taking place on both stone yards. However, little evidence of substantial prolonged nuisance or harm caused could be verified. Under these circumstances and in accordance with National Planning Policy Guidance, the local planning authority would normally seek to resolve such matters through the submission of an application as opposed to the taking of formal action. As a result of contact with the owner, the applicant requested advice on how to review the planning conditions attached to the 2003 planning permission to allow extended working arrangements. The meeting led to the submission of this application to amend planning conditions.



## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Following discussions with the applicant and their agent on site it became clear that the proposals to implement the access from stone area A to stone area B could not be achieved without significant engineering works. As a consequence the applicant was advised that this issue and subsequent tree loss would need to be assessed via a separate planning application. A separate application (2017/91676) has now been received and is under consideration.

## **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 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.

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

EP4 – Noise generating development

B1 – Employment needs of the district

BE1 – Design principles

BE2 – Quality of design

NE3 – Development affecting Sites of Scientific Interest

NE5 – Development involving land identified as a wildlife corridor on the proposals map

BE9 – Development affecting archaeological sites

T10 – highway safety

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

Section 1 – Building a strong, competitive economy

Section 9 – Protecting Green Belt Land

Section 10 – Meeting the challenge of climate change, flooding and coastal change

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

#### 6.4 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

Whilst the majority of the site has not been allocated for any specific purpose in the emerging local plan, the area identified as Abacus Stone Area B and small areas on the eastern and southern boundaries of the site fall within an area identified as a local wildlife site (LWS57). Furthermore a small area on the eastern boundary of the site falls within an archaeological site (SM 31504) which is a scheduled ancient monument.

Policies:

PLP24 – design

PLP52 – protection and improvement of environmental quality

PLP3 – location of new development

PLP35 – historic environment

PLP30 – biodiversity and geodiversity

PLP33 - trees

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

7.1 This application was publicised by the erection of 3 site notices in the vicinity of the site and the mailing of 5 neighbourhood notification letters. 82 representations have been received with regard to this proposal and the issues raised can be summarised as follows:

- The loss of trees associated with this development would have a detrimental impact on the area.
- The enjoyment of users of the wood would be adversely affected by this proposal
- The proposal would have a detrimental impact on local ecology
- The extension of operating hours would be detrimental to the amenity of residents living in the area.
- Existing planning conditions have not been satisfactorily enforced
- The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed

- The storage of stone at the height suggested by the applicant would be unsafe without support
- The formation of the access between the two stone storage areas would involve the excavation of a significant amount of stone from the original quarry face which is not described in this application
- The proposal would have a detrimental impact on a scheduled ancient monument.
- Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected
- Allowing retail sales at the site would exacerbate existing highway safety problems due to lack of parking on site.
- Protected trees have already been illegally felled by the applicant.
- Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal
- Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further
- The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.
- Widening the entrance at the site would create a highway safety hazard
- The erection of a building on site would be visually detrimental
- The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.
- The current use of the site is contrary to Green Belt policy
- Activities at the site result in the generation of dust which and the problems associated with dust in the vicinity will be exacerbated by this proposal.
- Allowing this proposal would result in increased noise nuisance

7.2 Home Valley Parish Council was consulted on this proposal and responded as follows:

“Cllr J G Cropper declared a disclosable pecuniary interest and left the meeting.

Cllr J Roberts declared a personal interest.

Object to the application as variation of conditions unacceptable on the following grounds: Condition 4 (Opening Hours) – Saturdays 8am to 1pm acceptable but should not be open on Sundays. Condition 12 (Trees) – Reject removal of this condition and concern that some with TPO's in Hagg Wood have already been removed. Condition 17 (Storage Height) – Materials too high and detrimental to visual impact; should be kept below ground height. Condition 8 (Retailing), would be acceptable. Support noise control measures recommended by Kirklees Council.

Support Historic England advice on safeguarding the site and the adjacent Scheduled Monument. Improved access and sight lines would be welcomed. “

- 7.3 Cllr Nigel Patrick (Holme Valley South ward member) indicated in an e-mail dated 1 February 2017 that he considered that “ .... given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:

- Impact on Ancient Monument
- Impact on Protected Trees
- Impact on Ancient/ Semi Natural Woodland
- Impact on amenity of neighbouring properties
- Impact on Protected Species
- Road Safety
- Ongoing enforcement issues at site

- 7.4 Cllr C Greaves (Home Valley North member which is the adjacent ward) also requested that this application be brought to committee for determination in an e-mail dated 14 February 2017 and indicated the following:

“...The reasons for referral are that development has occurred outside of existing permissions and this application has been submitted as a response to enforcement action - and that in my view the decision to ease planning restrictions should be determined by committee.

I have particular concerns around any easing of the restriction against retail activity, early operating times on a Saturday, any works at all on a Sunday, stacking of material (3m still seems appropriate) and any removal of trees or further incursion into the rock face/woodland - all of which are against current permissions and which appear to be taking place.”

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K C Highways DM – Object on the basis that that in order to overcome highway safety concerns the following is required:

- additional off street customer car parking provision
- internal turning facilities
- improvements to sight lines

Historic England - No objection subject to no works taking place in the area of woodland included in the scheduled monument.

## 8.2 **Non-statutory:**

K C Environmental Health – recommend that condition 4 is amended to allow working on site between the following hours:

0700 and 1800 Monday to Friday and 0800 to 1300 Saturdays.

No activities to take place on Sundays or Bank Holidays

With regard to condition 13, it is recommended that it be varied as follows:

There shall be no vehicular access/movements other than on the level of the existing quarry floor/area to be cleared (to the same quarry floor level) to access Abacus Area B.

K C Ecology Unit – Object to the proposal on the basis that although there are a number of ecological constraints an ecological impact assessment has not been provided in support of the application.

K C Trees Officer – Object as it is considered that it is unclear what tree work is to be conserved as part of the variation and there's no information provided with the application to show the level of tree work needed or to justify why tree works are now necessary.

Forestry Commission – Standard advice provided which stresses that this proposal must be considered in accordance with para. 118 of the NPPF. Bullet point 5 of para. 118 states:

*“...planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;...”*

West Yorks Archaeology – Proposed condition variations have no apparent impact on adjacent heritage asset but WYAAS suggest that Heritage England should be consulted.

## **9.0 MAIN ISSUES**

- Principle of development
- Assessment of the variation/removal of conditions
- Representations

## **10.0 APPRAISAL**

### **10.1 Principle of development**

The application site falls within a wider area identified as Green Belt in the adopted Unitary Development Plan. However, it is considered that the principle of using the site as a stone storage and processing area within the Green Belt was established at the time the original planning permission was granted in 2003.

- 10.2 As indicated above the application site falls within an SSI and parts of the site fall within an area designated as ancient woodland and a scheduled ancient monument. Consequently the implications of varying the above conditions on these designations will need to be assessed. However, it is considered the variation of certain conditions included with this application will not have any direct effect on these designations. It is therefore proposed to consider the implications of varying each condition including on the aforementioned designations separately below:

### **Assessment of the variation/removal of conditions**

- 10.3 Condition 2 - This condition deals with materials to be used in connection with a building previously approved but not erected. Varying this condition as suggested by the applicant would defer agreement of the materials to be used in the construction of this approved building. It is therefore considered that the variation of this condition as suggested would not have any significant impact on the amenity of the area or the designated areas in the immediate vicinity of the site and would accord with UDP policy BE2. Consequently it is considered that the variation of condition 2 as described can be supported.
- 10.4 Condition 4 - This condition controls hours of operation at the site. The current planning permission precludes working at the site on Saturdays and Sundays and the applicant has requested that this be relaxed to allow working from 07:00 to 15:00 on Saturday and 09:00 to 14:00 on Sundays.
- 10.5 Relaxing the approved hours of operation could have an adverse impact on the amenity of residential properties in the vicinity as a result of activities on site. These activities include the dressing of stone involving the use of mechanical hand held saws. Complaints have been received in the past by the Council regarding disturbance caused by such activities at this site. However, following investigations by the Council's Pollution and Noise control team no statutory nuisance has been observed. Whilst it is accepted that allowing a relaxation of this condition could result in an adverse impact it is considered that this would not be significant if it only involved allowing

activities to take place at the site for a limited period on Saturdays when background noise levels would be similar to those during the week. Having said this it is considered that some respite at weekend should be afforded to the closest residents. Officers therefore consider that relaxing this condition to allow working on Saturday until 13:00 hours would be acceptable. This would be consistent with the approach taken with regard to other commercial development within the district and would accord with UDP policy EP4 and Section 11 of the NPPF. Furthermore Officers consider that relaxing this condition would not have a direct impact on the above described site designations in this vicinity.

- 10.6 Condition 8 - This condition precludes any retail activities at the site. The applicant has indicated that the only retail activity associated with the current use of the site involves the occasional collection of orders from the site and has requested that condition 8 be reworded to reflect this.
- 10.7 Whilst the activities described by the applicant are limited with regard to traditional retail activities, they do have implications for highway safety. It is considered that, bearing in mind the position of this site, relaxing condition 8 without the measures previously outlined by highways in their consultation response, could have a detrimental impact on highway safety in the vicinity of the site. It is therefore considered that this condition should remain effective.
- 10.8 Condition 12 - This condition precludes the felling or pruning of trees within the boundary of the site and the applicant has requested that permission be granted to remove a number of trees to facilitate the implementation of an access from the current operational area A to the unused area B on drawing (0-) 01 Revision D. This access was approved under the current extant planning permission but has never been formed.
- 10.9 However, following discussions with the applicant on site it became apparent that in order to provide the aforementioned access, significant engineering works would be required beyond those described in this application. The applicant has therefore been advised that such works and the associated tree loss would need to be considered under a fresh planning application. It is therefore considered that this condition should remain in force until such time it might be amended should there be a subsequent grant of planning permission to create the access.
- 10.10 Condition 13 - This condition requires that no activities take place within specific areas within the site and was imposed to safeguard the amenities of the area, the surrounding wildlife corridor, the SSI and the nearby scheduled ancient monument. The applicant seeks to relax this condition as the land required to facilitate the above described access falls partly within this area.
- 10.11 As previously outlined, it is considered that the creation of the access would need to be implemented under the provisions of a separate planning permission and any encroachment into the restricted area would be better considered as part of that proposal. It is therefore considered that this

condition should remain in force until such time it might be amended should there be a subsequent grant of planning permission to create the access..

10.12 Condition 17 - This condition restricts the height of stone storage on site to 3 metres. The applicant contends that the by allowing stone storage to a height of 3m from surrounding ground level, stone storage would take up less space within the site.

10.13 At present stone on site is stored in an unorganised way in piles prior to dressing. The current operational area of this site is constrained and therefore this unorganised stone storage renders significant parts of the site unusable. Having said this increasing the height of stone storage as requested could have a detrimental impact on visual amenity and on the setting of the ancient monument as storage piles would project above the ground level of adjacent land. It is therefore considered that relaxing condition 17 to allow stone storage up to a height of 3m or up to the level of adjacent land whichever is higher would allow some flexibility with regard to storage provision but would minimise the impact as stored stone would be kept below the level of surrounding land or at a height which is currently allowed.

#### 10.14 Representations

82 representations have been received with regard to this proposal, the issues raised and associated responses are summarised as follows:

The loss of trees associated with this development would have a detrimental impact on the area.

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council with regard to their pruning or removal.

The enjoyment of users of Hagg wood would be adversely affected by this proposal.

**Response:** The wood is privately owned and does not have public rights of way crossing the site consequently members of the public currently have no rights to use the wood in the vicinity of the site.

The proposal would have a detrimental impact on local ecology

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council for their pruning or removal. Furthermore it is proposed not to vary condition 13 as requested which would see areas within the site currently protected from development being made available for use by the applicant.

The extension of operating hours would be detrimental to the amenity of residents living in the area.

**Response:** This issue has been addressed in section 10 of this report.



Existing planning conditions have not been satisfactorily enforced

**Response:** Allegations of breaches of planning conditions have been made and details of the enforcement history are outlined in Section 4 of this report. It should be noted that this application was submitted by the applicant to try and address breaches of existing planning conditions.

The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed

**Response:** It is not proposed to relax condition 13 as requested under this application and encroachment beyond the current operational area could not therefore occur.

The storage of stone at the height suggested by the applicant would be unsafe without support.

**Response:** It is proposed to relax condition 17 to allow the storage of stone to a maximum height of 3 metres or to the height of the quarry void which is ever the greater. This would allow some flexibility over storage height and reduce the risk of instability.

The formation of the access between the two stone storage areas would involve the excavation of a significant amount of stone from the original quarry face which is not described in this application.

**Response:** This matter has been addressed in Section 5 of the report

The proposal would have a detrimental impact on a scheduled ancient monument.

**Response:** It is not proposed to relax condition 13 as requested under this application and encroachment beyond the current operational area could not therefore occur.

Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected

**Response:** There are no public rights of way in the vicinity of the site. The nearest PROW (HOL/32/40) runs along the southern boundary of the wood and at its nearest is approximately 300 metres from the application site and is screened by dense woodland that extends from the PROW to the site boundary.

Allowing retail sales at the site would exacerbate existing highway safety problems due to lack of parking on site.

**Response:** This matter has been addressed in Section 10 of this report

Protected trees have already been illegally felled by the applicant and this should be taken into account in dealing with this application.

**Response:** The applicant has been successfully prosecuted in the courts for removing protected trees without the consent of the Council although this is now the subject of an appeal. However, this is not a material consideration in dealing with a planning application and cannot therefore be considered as part of the assessment of this proposal.

Local Beavers and Cub Scout groups use the wood for recreational activities and their enjoyment of these activities would be adversely affected by this proposal.

**Response:** These groups do not have rights to use the wood for recreational activities. Having said this, it is considered that the approval of this application subject to the proposed planning conditions would not result in any significant additional detrimental impact to groups using the wood.

Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further.

**Response:** It is not proposed to relax condition 13 as requested in this application and therefore activities beyond the current operational area would not be authorised should this application be approved.

The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.

**Response:** The principle of using this site for stone storage and dressing was established under planning permission 2001/90843. This proposal seeks to vary existing conditions and does not allow the Council to revisit the principle of the current use of the site.

Widening the entrance at the site would create a highway safety hazard

**Response:** This proposal does not involve widening the site access

The erection of a building on site would be visually detrimental

**Response:** Planning permission 2001/90843 includes the erection of a building. Consequently, subject to the approval of the associated materials this building can be legitimately erected.

The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council with regard to pruning or removal.

The current use of the site is contrary to Green Belt policy

**Response:** This matter is addressed in Section 10 of this report

Activities at the site result in the generation of dust and the problems associated with dust in the vicinity will be exacerbated by this proposal.

**Response:** Should this application be approved, it is considered that the variation of conditions outlined in Section 10 of this report would not result in additional detrimental impacts associated with dust generation.

Allowing this proposal would result in increased noise nuisance

**Response:** Should this application be approved, it is considered that the variation of conditions outlined in Section 10 of this report would not result in undue detrimental impacts associated with noise generation.

It is considered that the issues raised by Cllrs Patrick (ward Cllr) and Greaves (Ward Cllr in adjacent ward) have either been addressed in the body of the report or in the responses outlined above.

## **11.0 CONCLUSION**

- 11.1 Whilst it is recommended to approve this application, this is subject to amendments to the proposals put forward by the applicant. These are summarised below:

Condition 2 - Vary as requested

Condition 4 - Vary with amendment as recommended by officers

Condition 8 – No variation, retain as original planning permission

Condition 12 - No variation, retain as original planning permission

Condition 13 - No variation, retain as original planning permission

Condition 17 - Vary with amendment as recommended by officers

- 11.2 It is considered that allowing the above amendments to the existing planning conditions would:

- Simply defer the agreement of materials to be used in connection with the approved site building if and when it is erected
- see a limited increase in the hours of operation at the site which would be in line with other commercial activities within the district and would not result in significant detrimental impact on the amenity of the area.
- allow the applicant some flexibility with regard to site operations whilst not degrading the visual amenity of the area.

- 11.3 This assessment has taken into consideration the development plan, the emerging local plan, national planning policy guidance and other material considerations. It is considered that subject to the wording of the conditions set out below the variation of the terms of the original planning permission would constitute sustainable development.

## **12.0 CONDITIONS**

1. No development shall commence on the building's superstructure until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

2. All hardstandings which have been formed within the site shall be retained in a condition which is fit for purpose and kept free from all obstructions to their use in connection with vehicle parking and manoeuvring.
3. No activities shall take place at the site outside the following hours:  
  
07:00 to 18:00 Mon to Fri; and  
  
08:00 to 13:00 on Sat.  
  
No activities shall take place at the site on Sundays or Bank/Public Holidays
4. Facilities shall be provided and retained at the exit from the site for the washing of vehicle wheels.
5. There shall be no retailing of redressed stone, reclaimed materials or any other associated materials from the site.
6. The existing stone wall piers, in the positions marked 'X' and 'Y' on the approved plans, shall be reduced to a maximum height of one metre above road carriageway level within 2 months of the date of this permission. These wall piers shall thereafter be so retained
7. Details of the type, design and position of traffic warning signs to alert drivers to the site entrance shall be submitted to, and agreed in writing by, the Local Planning Authority and the approved signs shall be installed within 2 months of the date of the permission hereby granted.
8. Trees within or on the boundary of the site shall be neither felled, topped or lopped except with the prior written approval of the Local Planning Authority, nor shall they be damaged or killed by fire or by the application of toxic or injurious substances.
9. There shall be no activity or storage on, or any vehicular access to or over, those areas of the site coloured yellow on the approved plans.
10. Notwithstanding the details shown on the submitted plans, details of the position, height, design and strength of any proposed floodlights shall be submitted to, and approved in writing by, the Local Planning Authority before any such lighting is first installed. Any lighting agreed shall only be illuminated during the operating hours permitted by Condition 3.
11. The site and building shall only be used for the storage and dressing of stone and associated ancillary activities.

12. The storage of stone or any materials/equipment within the whole of the site shall not exceed 3m in height from the level of the former quarry floor or above the height of the former quarry void within the area hatched green on plan GW1 whichever is the greater.

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90201>

Certificate of Ownership –Certificate A signed: 18 January 2017

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**Electoral Wards Affected: GREENHEAD**

No

Ward Members consulted?

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**RECOMMENDATION:**

DELEGATE approval of the application, for a temporary trial period, and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

**1.0 INTRODUCTION:**

- 1.1 This applicant is brought before Sub-Committee for determination due to the significant number of representations received.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 29 Clay Butts is a link-detached dwelling on a modern housing estate. It is situated on the north side of the highway at the head of a cul-de-sac. Clay Butts continues to the east to join the main highway network. The dwelling has an attached single garage at the side and a single-width driveway some 20m in length. The surrounding houses are semi-detached or detached dwellings.

**3.0 PROPOSAL:**

- 3.1 The proposal is for the use of the dwelling to operate a meals-on-wheels service in addition to the existing use as a dwellinghouse. The proposal is to prepare meals for elders within the Indian community who are vegetarian and unable to cook for themselves, and require meals that have been prepared in a meat and egg-free kitchen so there is no risk of cross-contamination.
- 3.2 It is proposed that the applicant and her husband would prepare up to 30 meals a day in total – 20 lunchtime and 10 evening – Monday to Saturday. However, they would be prepared to cater for larger one-off bookings – such as by a care home – if required. All deliveries would be undertaken by the applicant's own private cars and they will only deliver to within a 5 mile radius of the HD2 postcode area. Cooking would be carried out in the existing kitchen and no external alterations to the premises would be carried out.



3.3 The applicant has supplied a short additional statement making the following points of clarification:

1. This is not a takeaway. It is a meals on wheels service.
2. We will not have customers or delivery cars coming to our home to pick up meals.
3. It is only my husband and I who will deliver meals at 2 set times during the day. These will be pre-ordered at a minimum of 24 hrs notice.
4. To start with the volume of meals will be low. Therefore we do not wish to incur costs associated with renting a commercial kitchen as we will not be able to sustain the costs. Once our demand increases to over 20 lunches then we will have to look elsewhere for a commercial kitchen.
5. An Environmental Health Officer (Leanne Perry, Food Safety team) has already visited our property and confirmed that she has no objections in principle. Waste will be bagged and disposed in accordance with her advice.

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

4.1 None.

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

5.1 Applicant supplied details of ventilation – 15-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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 – Unallocated land  
T10 – Highway safety  
T19 – Parking provision

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is without notation within the publication draft local plan.

Policies:

PLP 21 – Highways and access.

PLP 22 – Parking.

PLP 52 – Protection and improvement of environmental quality.

Supplementary Planning Guidance / Documents:

- 6.3 None applicable.

National Planning Guidance:

- 6.4 National Planning Policy Framework.

Core Planning Principles

Section 1 – building a strong, competitive economy – see ‘facilitate flexible working practices such as the integration of residential and commercial uses within the same unit’

Section 11 – Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was publicised by the posting of 1 site notice in the vicinity of the site and the mailing of 2 neighbour notification letters. This resulted in the submission of a petition 38 signatures and letters from 10 individual local residents objecting to the proposal. The issues raised can be summarised as follows:

Highway safety concerns:

- Access is limited because of the size and shape of the road, which also has no footways.
- A lot of cars park on the highway.
- Problems with access for emergency vehicles.
- Risk of accidents because of children playing in the road.

Residential amenity concerns:

- It is a residential not a commercial area.
- Negative impact on amenity, including noise and cooking odours.

- More waste generation – the existing bins are barely sufficient to cope with domestic waste as it is, waste may attract vermin such as mice and rats, and problems caused by disposal of cooking oil.
- Loss of privacy.
- Not enough room to safely store food indoors and outdoor storage may attract vermin.

Other concerns:

- The business may expand in the future, especially once the 12-month period is over.
- It is a link property not detached – concern about fire risks
- Safety of children on the premises
- The lease agreement with Thornhill Estates does not allow any use except as a private dwelling and further says that no business or trade may be carried out which may cause annoyance to leaseholders in adjoining properties.
- May infringe Article 8 of Human Rights Act
- Reduction in property value
- Notice not served on owners.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**There are no statutory consultees**

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

KC Highways Services – No objection in principle but a temporary permission is recommended.

KC Environmental Services – No objection in principle subject to conditions.

## **9.0 MAIN ISSUES**

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

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site has no specific allocation on the UDP Proposals Map. 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 including visual and residential amenity and highway safety. Subject to these not being prejudiced the proposal is considered acceptable in principle in relation to policy D2.

Chapter 1 of the NPPF, “Building a strong, competitive economy”, paragraph 21 states that local planning authorities should facilitate flexible working practices such as the integration of residential and commercial uses within the same unit. Chapter 11, “Conserving and enhancing the natural environment, states that any possible implications for pollution, including noise, must be assessed in the planning process.

The current proposal would, in principle, meet the objectives of sustainable economic development specifically those set out in NPPF Chapter 1, subject to an assessment of amenity, environmental, and highway safety issues. In particular it will need to be assessed whether the proposed use can operate without giving rise to loss of amenity to neighbouring residential properties arising from exposure to odours, excessive levels of noise, or disturbance; whether the proposed use would give rise to highway safety problems arising from parking or the intensification of the use of the access or local highway network; and whether waste disposal can be effectively dealt with.

### Urban Design issues

- 10.2 The proposal would not involve any external changes to the building and it is therefore considered that it would have no implications for urban design.

### Residential Amenity

- 10.3 NPPF Core Planning Principles state that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings, and NPPF Policy 11 advises that the effects of pollution on health, the natural environment or general amenity should be taken into account in the determination of planning applications.
- 10.4 Environmental Health, in their consultation response, recommend that commercial food storage, preparation and cooking should not be carried out in any room other than the existing kitchen. This is to ensure that the catering use remains small-scale. They also recommended that details of any extract ventilation system should be supplied before the application is determined – this is a standard condition on any proposal involving hot food preparation.

- 10.5 The applicant has confirmed that removal of fumes from the kitchen would mainly be by passive ventilation from open windows. The rear-facing kitchen window is approximately 4m from the side boundary with 31 Clay Butts to the east and any drift of fumes to the east caused by the prevailing wind would be partly obstructed by the position of the existing garage. In subsequent email correspondence with the case officer, the Environmental Health Officer concluded that given the limited amount of cooking that would take place, this arrangement is acceptable and that a purpose built ventilation and filtration system is not necessary. It is recommended that a condition be applied that no cooker or similar apparatus may be installed in the garage or any other room of the house, in order to retain adequate planning control over the scale of the use. Owing to the scale of the use proposed it is considered unnecessary to impose a condition restricting hours. It is considered that the overall level of activity arising from the proposed use including vehicular journeys (see "Highway issues" below) would not be such as would detract from the amenities of residential properties near the site.
- 10.6 In conclusion, it is considered that given the relatively small scale of the use proposed, it is expected that it would be able to operate without causing harm to the amenities of neighbouring residential properties subject to the condition set out in the paragraph above. However, notwithstanding the Environmental Health Officer's views, it is considered as a precautionary measure that the permission granted at this stage should be a temporary one for a period of 12 months. This will allow the impacts of the proposal to be monitored during this time so that in the very unlikely event of it giving rise to residential amenity problems it can be discontinued at the end of this period unless a new application is made.

#### Housing issues

- 10.5 The proposal would not result in the loss of an existing housing unit as the property would continue to function principally as a dwellinghouse.

#### Highway issues

- 10.6 The cul-de-sac serving 9-39 and 22-24 Clay Butts is rather narrow in places, varying between 3 and 6m in width, and has no separate footways. It is about 80m from the centre of the turning head, near to the application site, to the junction where the cul-de-sac joins the main part of Clay Butts, which is wider (5m minimum) and has footways each side. However, the junction and turning head are laid out to modern standards, and traffic speeds and volumes are expected to be low at this location. All the dwellings have private parking provision and so there would appear to be very little reason for drivers to park on the highway unless visiting, so there are few obstructions to negotiate.
- 10.7 The driveway to no. 29 would accommodate at least 4 and possibly 5 vehicles and it is therefore not anticipated that the change of use would give rise to any parking demand that could not be comfortably met within the site. It is proposed that only 2 vehicles would operate from the premises and that

no drivers would be employed. If each undertakes two daily “runs” – one lunchtime, one evening – this would amount to a maximum of 4 additional car trips per day.

- 10.8 It is considered that given the nature of the local highway network, the scale of the proposed use, and that it would operate without using large commercial vehicles, it is considered that in all probability the proposed use could operate without giving rise to highway safety problems as it would only represent a modest intensification. However, as a precautionary measure, and in accordance with the Highway Officer’s advice, it is recommended that at this stage a temporary permission should be granted for a period of 12 months. This will allow the impacts of the proposal to be monitored during this time so that in the very unlikely event of it giving rise to highway safety problems it can be discontinued at the end of this period unless a new application is made. Subject to this it would accord with the aims of Policy T10 and T19.

#### Drainage issues

- 10.9 It is considered that the proposal does not raise any additional issues for foul drainage or surface water drainage.

#### Waste disposal

- 10.10 The applicant currently has 2 green wheeled bins and a single grey one and estimates that the proposed use will not generate any waste over and above that which the existing bins are able to take. The applicant has proposed that if the existing waste bins are not sufficient then she will either request an extra one from the Council or alternatively take the waste to Huddersfield Waste Recycling Centre herself. It is not standard practice for Kirklees to provide a second domestic grey wheeled bin for household waste, so if the applicant required another one it would have to be dealt with as trade waste, for which there is a small collection charge. If this option were to be chosen, then there are four sizes of commercial waste bin available; the smallest, at 240 litres, is the same as a domestic waste bin, and it could easily be stored by the side of the house on the driveway next to the existing waste bins. It is considered on balance that the proposed use is unlikely to generate waste that would lead to storage and disposal problems affecting residential amenity and that there is no need to request any further information from the application regarding this. This aspect of the proposal would therefore comply with the aims of Policy D2.

#### Representations

- 10.11 Concerns relating to residential amenity and highway safety issues have been examined in the main part of the assessment but are highlighted here together with other issues raised and officer responses.
- Access is limited because of the size and shape of the road, which also has no footways.
  - A lot of cars park on the highway.

- Problems with access for emergency vehicles.
- Risk of accidents because of children playing in the road.

*Response:* Based on the nature and scale of the use proposed, and on the Highway Officer's comments, it is considered that the level of additional traffic generated would be minor and that the local highway network is adequate to cope with it.

- It is a residential not a commercial area.

*Response:* This is noted, but this does not automatically rule out business uses at home if these can be carried on without causing harm, see section 1 of the NPPF.

- Negative impact on amenity, including noise and cooking odours.

*Response:* It is considered that the use involved would not generate much noise over and above what normal domestic use of the kitchen would, and that based on Environmental Health advice the level of odours generated would not be such as would give rise to loss of amenity.

- More waste generation – the existing bins are barely sufficient to cope with domestic waste as it is, and problems caused by disposal of cooking oil.

*Response:* It is considered on the basis of the information supplied that only modest amounts of additional waste would be created and, as set out in paragraph 10.11 above, this could be stored and disposed of without causing any problems.

- Loss of privacy.

*Response:* There is no evident reason why the proposed use would give rise to loss of privacy.

- Not enough room to safely store food indoors and outdoor storage may attract vermin.

*Response:* Given the scale of the use proposed, and given the lack of objection from Environmental Health, it is expected that there would be sufficient space within the dwelling to store food safely. Food safety is however covered by other regulations, which the applicant would need to demonstrate compliance with, and this aspect of the proposal is therefore not considered to be a material planning consideration.

- The business may expand in the future.

*Response:* This can be addressed by a condition limiting food preparation and cooking to the existing kitchen. In the event of an application being made for a permanent permission at the end of this period, and such a permission being granted, the same condition could be re-applied.

- It is a link property not detached – concern about fire risks

*Response:* Fire safety is normally considered to be under the remit of Building Regulations and Health & Safety law, not the planning system, and so is not regarded as a material consideration in this case.

- Safety of children on the premises

*Response:* This would be covered by other legislation and is not considered to be a material planning consideration.

- The lease agreement with Thornhill Estates does not allow any use except as a private dwelling and further says that no business or trade may be carried out which may cause annoyance to leaseholders in adjoining properties.

*Response:* Enforcement of the terms of a lease is a private civil matter.

- May infringe Article 8 of Human Rights Act

*Response:* Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate. In this case given the scale of development proposed, together with the recommended conditions it is considered that, in balancing all the factors, a grant of planning permission would be acceptable.

- Reduction in property value

*Response:* This is not considered to be a material planning consideration.

- Site notice not posted.

*Response:* The site notice was posted on 27-Apr-2017 at the time of the officer's site visit. In addition, neighbour notification letters were posted and it is considered that all third parties have had sufficient chance to comment.

10.12 Members are asked to note that the wording of a paragraph in the petition: ". . . over 200 meals being prepared and delivered to customers twice a day 6 days a week . . ." would seem to imply that over 200 are to be prepared every day, when in fact the total would only be 30 per day, or 180 per week.

## **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, the NPPF, the draft local plan and other material considerations. It is considered that the development would constitute sustainable development. The proposal is considered not to have a materially adversely impact on the character of the area, highway safety or residential amenity. It is therefore recommended for approval subject to a temporary permission for 12 months being granted in the first instance so that the impact of the change of use on highway safety and residential amenity can be monitored during this period.



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

1. Permission to be for a period of 12 months from the date permission is granted.
2. No cooker or cooking appliance shall be installed on the property except within the existing kitchen serving the property.

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91235>

Certificate of Ownership – Certificate A signed

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Originator: Nick Hirst

Tel: 01484 221000

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Jun-2017

Subject: Planning Application 2017/90642 Erection of rear and side extensions  
46, Meltham Road, Honley, Holmfirth, HD9 6HL

### APPLICANT

Mr & Mrs K McGowan

### DATE VALID

23-Feb-2017

### TARGET DATE

20-Apr-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:    Holme Valley North**

No

Ward Members consulted

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**RECOMMENDATION: REFUSE, for the following reason;**

**1. The proposed rear extension, owing to its projection and its relationship to the neighbouring no.44, would have an overbearing and oppressive impact resulting in material loss of residential amenity to the occupiers of this property, contrary to the aims of Policies D2 (v) and BE14 of the Kirklees Unitary Development Plan and Policy PLP24 of the draft Local Plan and Core Planning Principles (paragraph 17) of the National Planning Policy Framework.**

## **1.0    INTRODUCTION**

- 1.1    This application is brought to Sub-Committee for determination at the request of officers with the agreement of the Chair. Chair has also agreed to a site visit. This is in accordance with the delegation agreement.
- 1.2    The reason officers have requested a Sub-Committee determination is because the original scheme was amended to overcome objections on the grounds of residential amenity at the request of officers. The amended proposal was initially considered to be, on balance, acceptable. However, for the reasons set out in the report below, it cannot now be supported. Members will have the opportunity to see the site and for the applicants to speak at committee.

## **2.0    SITE AND SURROUNDINGS**

- 2.1    No.46 is a two storey semi-detached dwelling faced in stone with blue slates on the hipped roof. The dwelling has off-road parking to the front, accessed directly from Meltham Road, and a private garden space to the rear. The dwelling has a single storey side section.
- 2.2    The semi-detached properties along this section of Meltham Road were built at the same time and share a common design. However many benefit from rear extensions. This includes nos. 48, 50 and 52 to the west of the site which have two-storey and single storey extensions to the rear. To the east

of the site no 44 has a single storey rear conservatory extension. Further east nos.42 and 40 Meltham Road are set at an angle to other properties and face the junction of Meltham Road with Grasscroft Road.

- 2.3 Land around the application site rises east to west. Whilst nos.46 and the attached 44 are on the same ground level as the land level rises from east to west nos.48/50 are on a higher ground level.

### **3.0 PROPOSAL**

- 3.1 The two storey element of the extension would project 3.0m from the rear elevation. It would be set in from the shared boundary with no.44 by 0.4m. It would also project 1.25m beyond the side elevation towards no. 48 and includes a first floor extension over the existing single storey side extension. This part of the extension would have a hipped roof. Changes to the original roof would be required to accommodate and align the roof of the two storey extension.
- 3.2 The single storey extension would project a further 3.0m beyond the two storey rear extension, for a combined projection of 6.0m overall. It would be set in from the shared boundary with no.44 by 1.5m. It would have a lean-to roof.
- 3.3 Habitable room windows are proposed on the rear elevation of the extensions only. Two rooflights are also proposed on the single storey roof and 3 are proposed within the original roof. All materials are to match those of the host building.
- 3.4 The extension would provide a 'living kitchen' on the ground floor and a master bedroom with en-suite to the first floor. The rooflights within the original roof would provide light to a bathroom and bedroom which otherwise have no natural means of light. Other windows proposed would serve a corridor on the first floor front elevation and a toilet in the ground floor side elevation.

### **4.0 RELEVANT PLANNING HISTORY**

#### **4.1 48, Meltham Road (built concurrently with No. 50)**

2007/91075: Erection of two storey extension (modified proposal) – Conditional Full Permission (Implemented)

2014/91903: Erection of single storey rear extension – Conditional Full Permission (Implemented)

#### **4.2 50, Meltham Road (built concurrently with No. 48)**

2007/90079: Erection of two storey and single storey extension and installation of solar panels – Conditional Full Permission (Implemented)

2014/91902: Erection of single storey rear extension – Conditional Full Permission (Implemented)

4.3 52, Meltham Road

2014/93696: Erection of single and two storey extensions and demolition of conservatory and outbuildings – Conditional Full Permission (Implemented)

## 5.0 HISTORY OF NEGOTIATIONS

- 5.1 The proposal, as originally submitted, sought a two storey rear extension to project 4.3m, with the single storey projecting a further 1.7m for a cumulative 6.0m. There was no set in from the boundary with no.44. The case officer had concerns to the proposal on grounds of overdevelopment and a harmful impact upon no.44.
- 5.2 Discussions were held between the case officer and the applicant's agent. The case officer requested the two storey extension be limited to having a 3.0m projection, and that the single storey extension be set in from the boundary by 1.5m. This arrangement would match the rear extensions approved at nos.48 and 50. It was envisaged this would overcome the perceived overbearing harm upon no.44.
- 5.3 The amended plans received were re-advertised by neighbour letter. Two further objections were received. While the case officer had requested amendments that may have overcome the neighbours' concerns, this could not be achieved. Taking into account of the perceived harm to the residential amenity of the occupiers of no. 44 and the representations received, officers determined that they were unable to support the proposal.

## 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 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.
- 6.2 The site is Unallocated on the UDP Proposals Map.

### 6.3 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 accessibility considerations in new development

### 6.4 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is undesignated in the publication draft local plan.

#### POLICIES

- PLP24 Design
- PLP21 Highways and access

### 6.5 National Planning Guidance

- **Paragraph 17** – Core planning principles
- **Chapter 7** – Requiring good design

## 7.0 **PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised by a site notice and letters to neighbouring dwellings. The amended plans were advertised by neighbour notification letter. This is in line with the Councils adopted Statement of Community Involvement. The end date for publicity was the 19<sup>th</sup> May 2017.

### 7.2 Objections

Three representations in objection to the proposal have been received from local residents during the course of the application. One representation was received to the original plans and two further to the amended plans. Below is a summary of the concerns raised;

- Personal upset caused to the occupier of no.44.
- The proposed extension is too large and would have a detrimental impact upon the amenity value provided by no.44's garden through overbearing and overshadowing.
- No.44's conservatory would be overshadowed, making it useless.
- Loss of value and saleability of no.44.
- Impact upon visual amenity within the area.

7.3 Ward Councillor Charles Greaves contacted the case officer regarding the application. In respect of the original submission he stated: "I think a double 3m and a single 6m at this location is too much. One or the other maybe, but both would be too much in my view - perhaps setting it in would reduce

some of the impact". Following the receipt of amended plans Cllr Greaves contacted the case officer and asked that the application be brought to sub-committee with a site visit if minded to approve. The planning reason for this was so that members could consider the size of the extension and the impact it would have on the garden of the neighbouring property. Notwithstanding Cllr Greaves' request, the reason this application is brought to committee is as set out in Paragraph 1.2.

#### 7.4 Support

No representations in support of the proposal were received.

### 8.0 **CONSULTATION RESPONSES**

8.1 No consultations were required.

### 9.0 **MAIN ISSUES**

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

### 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]'*

10.2 All these considerations are addressed later in this assessment.

#### Urban Design issues

10.3 The extensions would be faced and roofed in materials matching the host building, which is acceptable.

10.4 The rear extensions are considered to have a design and appearance which reflects and harmonises with the design of the host building. Regarding scale and massing, by projecting 3.0m, the two storey rear extension is in keeping with the guidance of Policy BE14, in terms of impact on visual amenity. The single storey extension has a total projection of 6.0m from the original building. However this is in keeping with the layout and scale of extensions



at nearby dwellings. In this context it is not considered that the rear extensions would appear either incongruous within the setting of, or be visually detrimental to, the appearance of the host building. The extensions would not be particularly visible in the wider streetscene as they are principally to the rear of the dwelling.

- 10.5 The side extension is small in scale and set well back. It will not be prominent within the area and would have limited impact upon the streetscene. While being of an alternative design to other two storey side extensions in the street, it is considered subservient to the host building and is deemed to harmonise well with the host building.
- 10.6 Regarding the changes to the roofline, it would retain the overall design of the existing roof. While it would result in no.46's roof varying from no.44's roof, changing the balance of the semi-detached pair, this is not without precedence on the street. As noted various other dwellings benefit from two storey rear extensions, which have differing impacts on the original roofs between pairs of semi-detached properties. In this context it is considered that no.46 would not appear incongruous in its setting or be visually detrimental to the semi-detached properties of which it forms part.
- 10.7 Given the above considerations it is concluded that the proposal, as a whole, is considered to comply with Policies D2, BE1, BE2, BE13 and BE14 of the UDP and Chapter 7 of the NPPF.

#### Residential Amenity

- 10.8 The proposed extension would be built close to the shared boundary with no.44. Because of the scale and massing of the extension, projecting a total of 6 metres from the rear elevation of the property, there are concerns of there being an adverse impact upon the amenities of the occupiers of this property. This is both to the dwellinghouse and the rear garden.
- 10.9 It is noted that several dwellings in the area have similar extensions to that proposed. These include two storey extensions projecting 3.0m with a single storey projecting a further 3.0m, cumulatively resulting in a 6.0m projection. The existence of these neighbouring extensions is a material consideration in the assessment of this application. In some respects these could be seen as setting a precedent in respect of the current application. Therefore consideration must be given in favour of the proposal due to its consistency to the neighbouring extensions. However, for that to be given significant weight then all aspects of this application would have to be the same as other development. It is this aspect, and the adverse impact of the development on the neighbouring resident at no. 44, that is considered to outweigh the benefits of the development.
- 10.10 In assessing the impact on the occupiers of no.44 it must be acknowledged that most planning approvals are likely to interfere to some extent with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate balancing the rights of the developer to develop, and the

need for consistency in determinations, against the rights of those affected by the development. A judgement must be made whether the proposed extension would result in a significant reduction in the level of amenity that the occupiers of no.44 could reasonably expect when compared to other dwellings on Meltham Road.

- 10.11 Amendments to the original scheme have set the single storey extension away from the boundary by 1.5m so will not be visible from the habitable room windows of no.46. Therefore it will have a limited impact to the amenity of residents inside the dwelling. The two storey extension would be visible. This projects 3m and is set off the boundary by 0.4m. Aspects of the design include the extension being set below the ridge height of the main dwelling and incorporating a hipped roof; these reduce its mass. Notwithstanding these design features it would still result in a two-storey high wall proximate to the boundary and the conservatory extension at no. 44. The rear elevation of the dwellings already face north and the increased impact on daylight from the scale and mass of the extension to habitable room windows would result in an overbearing impact and cause significant harm to the living conditions of the occupiers of No 44 and would be contrary to saved policies D2 and BE14 of the UDP, which seek to ensure that development does not have a detrimental effect on the occupiers of neighbouring properties. This is exacerbated in this particular case as no. 44 has a significantly smaller garden area than properties to the west and is already somewhat enclosed by its relationship to nos. 40 and 42 to the east of the site. No.44's garden is 10.0m in length. This is compared to no.48's garden's length of 45.0m. As such the proposed extension has a disproportionate and overbearing impact on the occupiers of no. 44 when assessed against the impact of existing extensions to the west of the site.
- 10.12 There are additional differences between the application site and neighbouring extensions. Whilst the two-storey and single storey extensions at numbers 48 and 50 were submitted under separate planning applications these were received and considered concurrently, with the dwellings being extended at the same time. Therefore at no point did either dwelling have a 6.0m side wall projecting from their rear elevation. The impact of no.48's 6.0m extension upon the application site is mitigated by the separation distance between the dwellings and by no.46 having a larger garden space.
- 10.13 Weighing the aspects in support of the proposal against the identified harm, on balance it is concluded that the development cannot be supported. While the visual appearance of the extension harmonises with neighbouring dwellings, there are materially different considerations when assessing the impact on residential amenity and arrangement between no.46 and no.44
- 10.14 In conclusion the proposal is considered to fail to comply with Policies D2 (v) and BE14 of the UDP and Paragraph 17 of the NPPF in regards to residential amenity.

### Highway issues

- 10.15 The proposal will retain one off-road parking space on site and will not change the access arrangement. One parking space is considered substandard, with two parking spaces being sought for a both a two and three bedroom dwelling.
- 10.16 Conversely, while the proposal will change the dwelling from a two bed to three beds, it is not considered that there will be a material increase in demand for parking given the overall scale of the proposed extensions and rooms provided.
- 10.17 It is noted that Meltham Road is capable of hosting on-street parking. It is concluded that the proposal will not result in material harm to the safe and efficient operation and is deemed to comply with policy T10 of the UDP.

### Other issues

- 10.20 There are no other material planning considerations for the proposal.

### Representations

- 10.21 Seven letters of objection have been received. Below are the issues which have been raised that have not been addressed within this assessment.

- Loss of value and saleability of no.44
- Personal upset caused to the occupier of no.44

**Response:** The loss of value of a dwelling is not a material planning consideration. While the case officer sympathised with the impact on feelings, personal upset does not form a material planning consideration. The impact on the residential amenity has been assessed in the appraisal.

## **11.0 CONCLUSION**

- 11.1 The principle of development is considered acceptable, and the design harmonises well with the host building and wider area.
- 11.2 There are concerns related to the impact of the development upon residential amenity, specifically to no.44 Meltham Road.
- 11.3 On balance it is concluded that the harm to the amenities of the existing occupiers of no.44 caused by the proposal outweighs the benefits of the proposed development.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice.

- 11.5 The application has been assessed against relevant policies in the development plan, the emerging local plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which indicate the development should be restricted.

### **Background Papers**

Application and history files can be accessed at:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90642>

Certificate of Ownership: Certificate A signed

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

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

22 JUNE 2017

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**Planning Application 2016/90477**

**Item 13 – Page 43**

**Alterations to convert outbuilding to holiday accommodation**

**adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL**

Points of clarification

Paragraph 1.7

The plans received 11<sup>th</sup> January 2017 were subsequently amended to delete a door in the southern elevation of the building and replace this with a window. This is referred to in paragraph 5.4.

Paragraph 7.5

The access road referred to in this paragraph relates to a track that once existed parallel to the side of 1 Wheat Close. This had access directly to Woodhead Road but was blocked off some years ago. This is also referred to in paragraph 7.30.

Paragraph 7.24

The third bullet point of this paragraph should refer to NPPF paragraph 90 rather than 89.

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**Planning Application 2016/92203**

**Item 14 – Page 75**

**Demolition of existing dwelling and erection of 2 detached dwellings with integral garages**

**65, Colders Lane, Meltham, Holmfirth, HD9 5JL**

**7.0 PUBLIC/LOCAL RESPONSE:**

Three further letters received, making the following comments on the application:

1. We trust that if planning permission is granted the Council will take note of earlier comments from us that the developers should pay due attention to the need for all the residents on the upper unadopted section of Colders Lane to have vehicular access to and from their properties at all times, and that the developers will make due allowance for this by control of the construction traffic on the road.

2. Furthermore, that the times of development work and necessary construction vehicle access will be set to cause the minimum amount of disturbance to the aforementioned residents.
3. And finally, that since the heavy traffic to and from the development site will inevitably cause further deterioration of what is already a very poor road surface, the developers will take action to restore the road to at least its current state.

*Response:* The first of these concerns has been addressed in the report, and it is recommended that a condition be imposed regarding the parking and unloading of construction vehicles and protection of public path users during development works. Regarding point (2), the standard footnote on hours of construction should also be placed on the Decision Notice. Regarding point (3), it is considered that it would not be appropriate to impose a condition on this. In a decision letter on an unrelated planning appeal against refusal of permission for the erection of 2 detached dwellings, 2015/90582, the Council requested a condition be imposed that the developer should undertake a survey of the road surface before and after development and repair any deterioration. But the Inspector expressed the view that any such condition would be unenforceable and there are powers under other legislation that could be used instead.

## 10.0 APPRAISAL

### Other Matters

10:30 An amended sectional drawing has been submitted showing the roof pitch at 30 degrees to conform to the elevations.

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**Planning Application 2017/90201**

**Item 15 – Page 91**

**Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate**

**Hagg Wood Stone Quarry, Woodhead Road, Honley, Holmfirth, HD9 6PW**

Section 12: Conditions.

Paragraph 3.2 refers to the review of the existing planning conditions. This includes a review of existing condition 10 (dropped crossing to Woodhead Road) where it is stated that this be re-worded and re-imposed on any new planning permission. However, this has been omitted from the recommended conditions in section 12. This is now set out below as proposed condition 13.

13. The dropped crossing to Woodhead Road, which extends for the full width of the site entrance, shall be retained for the duration of the development.

**Change of use of dwelling to mixed use dwelling and catering (to operate meals on wheels service)**

**29, Clay Butts, Birkby, Huddersfield, HD2 2FW**

Update:

**8.0 CONSULTATION RESPONSES**

8.2 Environmental Health have made the following additional clarification to their earlier consultation response:

I have since been made aware that some food is stored in a fridge or freezer in the garage. Our food team have no issue with this on food hygiene grounds. I consider that storing food in the garage in a fridge or refrigerator would not result in a significant expansion of the food business and would therefore agree to food also being stored in fridge or freezer in the garage. I consider that any other food storage in the garage would be unacceptable as it would lead to the possibility of the business expanding and possibly causing loss of amenity.

**Erection of rear and side extensions**

**46, Meltham Road, Honley, Holmfirth, HD9 6HL**

Paragraph 10.11

The first sentence of this paragraph should refer to no. 44, not no. 46.

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