

Public Document Pack



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

Julie Muscroft

Governance and Democratic Services

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Andrea Woodside

Email: andrea.woodside@kirklees.gov.uk

Wednesday 21 June 2017

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 29 June 2017**.

(A coach will depart the Town Hall, at 9.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Reception Room, Dewsbury Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Paul Kane (Chair)
Councillor Mahmood Akhtar
Councillor Jim Dodds
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Graham Turner

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

Substitutes Panel

Conservative

B Armer
D Bellamy
V Lees-Hamilton
N Patrick
G Wilson

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
S Hall
M Sokhal
S Ullah
S Pandor

Liberal Democrat

A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: **Membership of the Committee**

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

The following change has been made to the Membership since the Meeting of Annual Council on 24 May 2017; Councillor C Scott shall replace Councillor N Dad as a Member of the Committee.

2: **Interests and Lobbying**

1 - 2

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

3: **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.

4: **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.

5: **Public Question Time**

The Committee will hear any questions from the general public.

6: Site Visit - Application No: 2017/91139

Erection of place of worship and associated car park and landscape works (within a Conservation Area) 10, Oxford Road, Dewsbury.

(Estimated time of arrival at site – 9.10am)

Contact Officer: Emma Thompson, Planning Services

Wards

Affected: Dewsbury West

7: Site Visit - Application No: 2014/91242

Reserved matters application for erection of 47 dwellings Land off, Ashbourne Drive, Cleckheaton

(Estimated time of arrival at site – 9.35am)

Contact Officer: John Ritchie, Planning Services

Wards

Affected: Cleckheaton

8: Site Visit - Application No: 2015/92941

Outline application for erection of 1 dwelling rear of 371A, Halifax Road, Hightown, Liversedge

(Estimated time of arrival at site – 9.45am)

Contact Officer: Emma Thompson, Planning Services

Wards

Affected: Liversedge and Gomersal

9: Site Visit - Application No: 2017/91339

Erection of detached dwelling at land opposite 14, Bracken Hill, Mirfield

(Estimated time of arrival at site – 10.05am)

Contact Officer: Julia Steadman, Planning Services

Wards

Affected: Mirfield

10: Site Visit - Application No: 2017/90661

Erection of 14 dwellings at Westfield Assessment Centre, 13, Westfields Road, Mirfield.

(Estimated time of arrival at site – 10.20am)

Contact Officer: Bill Topping, Planning Services

Wards

Affected: Mirfield

11: Site Visit - Application No: 2017/90939

Erection of extensions at 61, Jackroyd Lane, Upper Hopton, Mirfield

(Estimated time of arrival at site – 10.30am)

Contact Officer: Nia Thomas, Planning Services

Wards

Affected: Mirfield

12: Local Planning Authority Appeals

3 - 30

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

Contact Officer: Julia Steadman, Planning Services

Wards

Affected: Dewsbury South

Planning Applications

31 - 34

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 26 June 2017.

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

- 13: Planning Application - Application No: 2017/91139** 35 - 52
- Erection of place of worship and associated car park and landscape works (within a Conservation Area) 10, Oxford Road, Dewsbury.
- Contact Officer: Emma Thompson, Planning Services
- Wards**
Affected: Dewsbury West
-
- 14: Planning Application - Application No: 2014/91242** 53 - 70
- Reserved matters application for erection of 47 dwellings at and off, Ashbourne Drive, Cleckheaton
- Contact Officer: John Ritchie, Planning Services
- Wards**
Affected: Cleckheaton
-
- 15: Planning Application - Application No: 2015/92941** 71 - 80
- Outline application for erection of 1 dwelling rear of 371A, Halifax Road, Hightown, Liversedge
- Contact Officer: Emma Thompson, Planning Services
- Wards**
Affected: Liversedge and Gomersal
-
- 16: Planning Application - Application No: 2017/91339** 81 - 94
- Erection of detached dwelling at land opposite 14, Bracken Hill, Mirfield
- Contact Officer: Julia Steadman, Planning Services
- Wards**
Affected: Mirfield
-
- 17: Planning Application - Application No: 2017/90661** 95 - 104
- Erection of 14 dwellings at Westfield Assessment Centre, 13, Westfields Road, Mirfield
- Contact Officer: Bill Topping, Planning Services
- Wards**
Affected: Mirfield
-

18: Planning Application - Application No: 2017/90939

105 -
116

Erection of extensions 61, Jackroyd Lane, Upper Hopton, Mirfield

Contact Officer: Nia Thomas, Planning Services

Wards

Affected: Mirfield

Planning Update

117 -
124

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

This page is intentionally left blank

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

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

Date: 29 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 Heavy Woollen area since the last Sub-Committee meeting.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Service Director - Economy, Regeneration & Culture & name	Paul Kemp 20 June 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	No financial implications
Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No legal implications
Cabinet member portfolio	Economy, Skills, Transportation and Planning (Councillor McBride)

Electoral wards affected: Denby Dale; Kirkburton; Dewsbury South; Dewsbury East;

Ward councillors consulted: No

Public or private:

1. Summary

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

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

- 2.1 2016/62/94170/E - Erection of single storey side and rear extensions at Mouse House, Stringer House Lane, Emley Moor, Huddersfield, HD8 9SU (Officer) (Dismissed)
- 2.2 2016/192/92434/E - Certificate of lawfulness for proposed erection of detached swimming pool and detached barn store at 5, Coachgates, Flockton, Huddersfield, WF4 4TT (Officer) (Allowed)
- 2.3 2016/62/92910/E - Erection of first and second floor extensions at 41, Savile Road, Savile Town, Dewsbury, WF12 9PJ (Officer) (Dismissed)
- 2.4 2016/62/92432/E - Erection of 1 dwelling at Holmfield, Clayton West, Huddersfield, HD8 9LY (Officer) (Dismissed)
- 2.5 2016/62/90093/E - Demolition of existing single storey side extension and erection of two storey side extension (within a Conservation Area) at 16, Hall Lane, Highburton, Huddersfield, HD8 0QW (Committee) (Dismissed)
- 2.6 2015/62/93452/E - Erection of 2 no. detached dwellings on land off Hollinroyd Road, Dewsbury, WF12 9AH (Committee) (Dismissed)
- 2.7 2015/62/93153E - Erection of one pair of semidetached dwellings with driveway adjacent to 250, White Lee Road, White Lee, Batley, WF17 9AJ (Officer) (Dismissed)

3. Implications for the Council

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

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

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

6. Officer recommendations and reasons

To note

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer

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

9. Background Papers and History of Decisions

Not applicable

10. Service Director responsible

Paul Kemp

Appeal Decision

Site visit made on 2 May 2017

by **J C Clarke BSc(Hons) BTP MRTPI**

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

Decision date: 31 May 2017

Appeal Ref: APP/Z4718/D/17/3171776

Mouse House, Stringer House Lane, Emley Moor, Huddersfield, HD8 9SU

- 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 Dr K Deakin against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/94170/E, dated 7 December 2016, was refused by notice dated 1 February 2017.
 - The development proposed is described as 'Single storey side extension. Single storey rear extension'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) whether the proposed development would constitute inappropriate development in the Green Belt;
 - (b) the effect of the proposed development on the character and appearance of the host property and the surrounding area; and
 - (c) If the proposal would be inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

3. Paragraph 89 of the National Planning Policy Framework (the 'Framework') establishes that the erection of new buildings in the Green Belt is, subject to specified exceptions set out in its 6 bullet points, inappropriate.
4. Under bullet point 3 of paragraph 89, the extension or alteration of an existing building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. The evidence before me indicates that the appeal dwelling has been substantially extended in the past, including through the implementation of planning permission 99/90813, which included a 2 storey side extension, porch and sun lounge.

5. The current appeal proposal includes two extensions which would be collectively of a more modest scale than the earlier extensions. However, the Council has identified, and the appellant not refuted, that, in conjunction with the earlier extensions, the proposal would result in the footprint of the building exceeding that of the original by about 270% and the volume of the building being about double that of the original.
6. Having regard to these points, the proposal would result in a disproportionate increase in the size of the original building. It would constitute inappropriate development in the Green Belt as defined in the Framework and saved policy D11 of the Kirklees Unitary Development Plan (KUDP).

Character and appearance

7. The appeal dwelling is a semi-detached house built in stone and set within rolling countryside. It can be seen in views from Crawshaw Lane to the west and Stringer House Lane.
8. The proposed dining room extension would project outwards at ground floor level from the gable of the house and have a mono pitched roof. The kitchen extension would project out from part of the rear elevation and be supplemented by a porch with ridged roof projecting at 90 degrees to the orientation of the house.
9. Although the dwelling is likely to have had a simple original built form, this has been affected by the existing extensions referred to earlier in my decision. I also note that the walls of the extensions now proposed would be built using natural stone to match that used on the existing house.
10. However, the proposal would, primarily by adding further to the already considerable number of different wall and roof elements of the building, add materially to its overall complexity of built form. This would add further visual confusion and take the building further away from its likely original character as a simple, traditional Yorkshire house. Whilst I accept that many traditional houses of a similar nature to the appeal dwelling may have lost some or all of their original character, this does not mean that the appeal proposal would not cause harm in relation to this issue. The added complexity of built form would also be noticeable in views from the nearby area.
11. I conclude that the proposal would cause moderate harm to the character and appearance of the host property and the surrounding area. As a result its approval would conflict with the relevant provisions of policies D11, BE1, BE2, BE13 and BE14 of the KUDP and the Framework.

Other considerations

12. In support of the proposal, the appellant has drawn my attention to prior approval 2016/93120, granted in 2016 for the erection of a single storey extension at the rear of the appeal dwelling. That extension, if built, would project 6 metres from the rear wall of the dwelling, and have a large expanse of flat roof. I agree that the extension subject to approval 2016/93120 would cause at least as much harm as the appeal proposal to the openness of the Green Belt and the character and appearance of the property and the surrounding area. I also note that the extension subject to approval 2016/93120 would be located next to the boundary with the neighbouring dwelling.

13. However, the living room extension forming part of the appeal proposal would not encroach within the area of the extension subject to approval 2016/93120. It could therefore be built in addition to that other extension.
14. The appellant has indicated that he would accept a condition on any planning permission for the appeal proposal to ensure that no extension to the rear of the building could be built under the 'prior approval' procedures. However, a planning condition cannot legally be used to revoke the planning permission which is provided for such extensions by the relevant legislation¹. Such a condition could not prevent implementation of a scheme subject to prior approval in advance of implementation of the appeal proposal. Whilst a planning obligation can in some circumstances be used to prevent implementation of a pre-existing planning permission on a particular site, no such obligation has been put before me.
15. Having regard to these points, I attribute only limited weight to the 'fall-back' position provided by prior approval 2016/93120 and the related legislation.
16. The extensions now proposed would help to meet the changing accommodation needs of the appellant. However, as any planning permission would run with the property this point carries only limited weight.
17. I acknowledge that no objections have been received to the appeal proposal from any interested party. However, this does not neutralise the harm that I have identified earlier.

Conclusions

18. Against the proposal, I have found that it would constitute inappropriate development in the Green Belt. Paragraph 87 of the Framework establishes that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 requires that substantial weight be given to such harm. In addition, the proposal would cause moderate harm to the character and appearance of the host property and the surrounding area.
19. Whilst the appellant has put forward other considerations in support of the proposal, these carry only limited combined weight. Consequently, I find that they would not clearly outweigh the harm that I have identified. Therefore, the very special circumstances needed to justify the development do not exist. The proposal would also not accord with the development plan or amount to sustainable development in the terms of the Framework.
20. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Appeal Decision

Site visit made on 27 March 2017

by Thomas Shields MA DipURP MRTPI

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

Decision date: 12 May 2017

Appeal Ref: APP/Z4718/X/16/3163422

5 Coachgates, Flockton, Wakefield, WF4 4TT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Adrian Harris against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/CL/92434E, dated 19 July 2016, was refused by notice dated 13 October 2016.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the proposed erection of a detached swimming pool and detached barn store.
-

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is considered to be lawful.

Preliminary matters

2. Where an LDC is sought, the burden of proving relevant facts rests with the appellant, and the test of the evidence is the balance of probability. The relevant date for determining lawfulness is 19 July 2016, the date of the application.
3. A number of planning appeal decisions have been referred to by the parties. While they are similar in terms of the subject matter of this appeal and contain references to case law, I do not have knowledge of the plans or particulars of those appealed matters or the detailed relevant circumstances upon which those decisions were made. I therefore attach no weight to them in reaching my decision which I make on the facts and circumstances of the particular case before me.

Main Issue

4. The main issue is whether the Council's refusal to issue an LDC was well founded. This turns on the point of dispute between the parties as to whether or not the land upon which the outbuildings are proposed to be sited falls within the curtilage of the dwelling; a necessary prerequisite of Class E permitted development under the GPDO¹.

¹ Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO)

Reasons

5. Planning permission was granted in 2000 for a large two storey detached dwelling house within a roughly square plot of land at No. 5 Coachgates. The land subject of this appeal ("the appeal site") is also roughly square in shape located immediately to the north and adjoining the residential plot granted planning permission in 2000. It was annotated on the submitted 2000 application plans as being a field.
6. Planning applications for a livestock building and stables within the appeal site land were submitted in 2001 and 2002. The plans in those applications replicated the annotation of land use as shown in the 2000 planning permission. A further application for extensions to No.5 in 2015 also indicated the same demarcation of land use.
7. Notwithstanding the above, in 2015 an application for an LDC was submitted for the appeal site land seeking to confirm its lawfulness as a domestic garden. The evidence of its use as a garden since 2002 included photographs and affidavits from the previous owner and from gardeners contracted to maintain the land as a garden. It is clear from all the submitted evidence that the annotations indicating the different land uses on the plans submitted to the Council in the 2001, 2002 and 2015 planning applications were unreliable indicators of the actual use being made of the appeal site land. The Council granted the LDC confirming use of the appeal site land as a domestic garden in 2016, and its use as such is therefore beyond doubt.
8. However, '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. Hence the use of the appeal site land as a domestic garden is only one of a number of relevant factors in determining the extent of a building's curtilage. Other factors to be considered are set out in established case law which I discuss in the following paragraphs.
9. There is no authoritative or precise definition of the term 'curtilage'. However, to fall within the curtilage of a building, land should serve the purpose of the building in some reasonably necessary or useful manner. This was established in *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 P&CR 195. In *Methuen-Campbell v Walters* [1979] 1 QB 525 (CA) it was found that for land to fall within the curtilage of a building or other land there must be an intimate association. In *Dyer v Dorset CC* [1988] 3 WLR 213 it was held that curtilage is a small area forming part and parcel with the house or building which it contained or to which it was attached. In that context, Nourse LJ commented that the kind of ground most usually attached to a dwelling house is a garden.
10. These authorities, including *Methuen-Campbell*, were reviewed in the later judgement referred to by the parties in *McAlpine v SSE* [1995] JPL B43 which indicated, amongst other things, that curtilage is a small area about a building, that the curtilage land must be intimately associated with the building, and that the size of the area of ground is a matter of fact and degree. *McAlpine* also reiterated the finding in *Sinclair-Lockhart* that curtilage land should serve the purpose of the building within it in some reasonably necessary or useful manner.
11. The appellant also refers to the High Court case of *Sumption v London Borough of Greenwich and Rokos* [2007] EWHC 2776 (Admin). However, *Sumption* does

not undo the precedent set by the Court of Appeal, and so does not establish, as a matter of law, that the curtilage of a dwellinghouse can be expanded simply by annexing adjoining land, which itself is being used for garden purposes. Clearly then all relevant circumstances, as outlined by the Court of Appeal in *Methuen-Campbell*, and in *McAlpine*, should be considered and the decision in any particular case will very much depend on the particular facts.

12. In this case the original residential plot and the appeal site (garden) land had no physical barrier or other visible separation between them at the date of the application. Both appeared from the evidence before me as an integrated and single unit of land enclosed together with the house by the driveway and long established boundaries separating the whole parcel of land from adjoining land to the north, east and west. Both parts of the land appeared to be in use for the same purpose as a residential garden to the house.
13. Smallness (*Dyer*) of the land in question is a relative factor; a matter of fact and degree. The appeal site land is approximately the same size as the original residential plot. In my view it is not disproportionately large in width, length or area given the large size of the detached dwelling house and its original plot. As a matter of fact and degree, I consider it to be small *relative* to the size of the dwelling. Moreover, it is not so large that the furthest extent of it could be said to be unable to have an *intimate association* (*Methuen-Campbell*) with the house. Its use as a cultivated garden with play equipment, still in situ at the time of my visit, indicates to me that it does have an intimate association with the use of the house, and as a domestic garden it serves the purpose of the dwelling house in a *reasonably useful manner* (*Sinclair-Lockhart*). This appears likely to have been the case for a number of years prior to the date of the application.
14. On the balance of all the evidence before me I conclude as a matter of fact and degree that the appeal site land forms part of the curtilage of the dwelling. Consequently, an LDC can be granted for the proposed outbuildings as they would be permitted development within Schedule 2, Part 1, Class E of the GPDO.

Conclusion

15. For all the above reasons, I conclude that the Council's refusal to issue an LDC was not well founded. The appeal succeeds accordingly and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Thomas Shields

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 19 July 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The construction of the detached swimming pool and detached barn store is permitted development within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015.

Signed

Thomas Shields

INSPECTOR

Date 12 May 2017

Reference: APP/Z4718/X/16/3163422

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 May 2017

by Thomas Shields MA DipURP MRTPI

Land at: 5 Coachgates, Flockton, Wakefield, WF4 4TT

Reference: APP/Z4718/X/16/3163422

Scale: DO NOT SCALE



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: 15th May 2017

Appeal Ref: APP/Z4718/D/17/3168357

41 Savile Road, Savile Town, Dewsbury, West Yorkshire WF12 9PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92910/E, dated 29 August 2016, was refused by notice dated 24 October 2016.
 - The development proposed is the erection of second floor extension, 3 metre rear extension over 6 metre extension.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The effect the proposed development would have on the character and appearance of the area, and on the living conditions of the occupiers of neighbouring properties at 39 and 43 Savile Road.

Reasons

Character and Appearance

3. The proposed development site is in the middle of a short terrace of similar two-storey buildings in a prominent position facing a main road into Dewsbury. The properties are of modest size, with short front and rear yards, and are of similar height and appearance, with a continuous roof line and a uniform front roof pitch. The position of the terrace on a main road gives it an important role in setting the character of the residential area that sits behind it.
4. The proposed extension above the existing roof would dominate both front and rear elevations of the terrace and would adversely disrupt the coherent roof line. Because of its mid-terrace position, the extension would fundamentally alter the shape of the terrace and undermine its contribution to setting the overall character of the area. The rear element of the extension would be an obtrusive, three-storey structure that would be the only part of the terrace projecting from the building on the first and second floor and from the roof.
5. The appellant referred to a number of nearby properties that have second-storey extensions. With exception of 53 Savile Road, the properties identified do not have a prominent position on a main road and therefore do not have the

same harmful impact on the character of the area that would result from the proposed development. Unlike the development site, No 53 is an end of terrace property and has a different relationship with the street scene so is not directly comparable. I have no evidence before me relating to any permission given for that extension that could assist me in determining this appeal and I therefore give little weight to this and other extensions to houses in the area.

6. The height and scale of the proposed development would significantly harm the character and the appearance of the area as a whole. Therefore, the proposed development would be contrary to saved policies D2, BE2 and BE14 of the Kirklees Unitary Development Plan 2007 (the Plan), which together seek to ensure, amongst other things, that development does not prejudice the character and appearance of its surroundings.

Living Conditions

7. The occupiers of No 39 enjoy direct afternoon sunlight to the rear elevation, and specifically to the window of a first-floor habitable room. By reason of its height and location along the boundary, the proposed development at No 41 would cause significant overshadowing to the rear yard and windows of No 39. Consequently, the development would have a substantial detrimental effect on the living conditions of the occupiers of No 39.
8. Given the limited size of the yards to the rear of the terrace, the scale and height of proposed development would have an oppressive and overbearing effect on the sense of rear space at Nos 39 and 43 and as such would be harmful to the living conditions of the occupiers of both properties.
9. Therefore, I conclude the development would unreasonably harm the living conditions at No 39 and No 41, and so would be contrary to policies D2 and BE14 of the Plan, which seek to ensure, amongst other things, that development does not have a detrimental effect on the occupiers of neighbouring properties.

Conclusion

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

D Guiver

INSPECTOR

Appeal Decision

Site visit made on 21 March 2017

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

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

Decision date: 25 May 2017

Appeal Ref: APP/Z4718/W/16/3166078

Holmfield, Clayton West, Huddersfield HD8 9LY

- 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 Stephen Cosgrove against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92432/E, dated 11 July 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the demolition of existing single storey garage block on the site comprising 4no garages and the erection of a two storey dwelling on land at Holmfield, Clayton West, Huddersfield.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has referred to Policy NE9 of the Kirklees Unitary Development Plan (the UDP) in their reasons for refusal. However, the Council has not submitted a copy of the policy to the appeal. Notwithstanding this, I am aware of the policy and its content due to the undertaking of other casework in the local planning authority area. As a result, I have referred to Policy NE9 in my decision. Given that Policy NE9 was referenced in the Council's reasons for refusal and that the appellant was aware of its inclusion as such in this appeal, I consider that the appellant would not be prejudiced by reference to the policy in my decision.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the surrounding area, including the protected trees to the north of the site; and
 - living conditions of neighbouring occupiers with regard to outlook, daylight and sunlight and future occupiers with regard to private outdoor space.

Reasons

Character and appearance

4. The appeal site is a narrow area of land to the north of Holmfield. There is a single-storey garage block on the appeal site which is in a poor state of repair.

The western part of the site is overgrown and was previously used as an allotment garden. There are mature trees close to the northern boundary of the site, some of which are the subject of a tree preservation order. To the north is 33a Church Lane (No 33a) which is a single-storey dwelling set on lower ground to the appeal site. To the south are several single-storey properties which are on higher ground. To the east is a two-storey residential property of stone construction and access to the appeal site is principally via Holmfield from the east.

5. The proposal would extend to effectively the full width of the site and trace the footprint of the existing garage building. It would be positioned close to the northern, eastern and southern boundaries of the site. As a result, it would fail to meet the required 1.5 metre distance from the eastern and northern site boundary as set out in Policy BE12 of the UDP. As a result, the dwelling would appear cramped within its setting due to the space constraints of the site.
6. There is a variety of property styles within the immediate area of the site. However, the design of the proposed dwelling would introduce another style into the area. The split level dwelling would stand adjacent to an existing two-storey detached property. Due to the site constraints, the scale of the proposed dwelling would be less than the adjacent property and would result in the dwellings height would reduce twice to 1.5 storeys. The reduced scale of the proposal, relative to other two-storey properties in the area, would highlight the size and site constraints of the scheme. This, in tandem with the dwelling being built so close to site boundaries, would result in a cramped form of development and appear as an overdevelopment of the site.
7. The appellant has sought to address overlooking and privacy constraints by proposing no windows in the front and rear elevations of the 1.5 storey part of the dwelling. Whilst this would remove the requirement for a 21 metre distance between any proposed habitable room windows and No 5 Holmfield, it would result in a 5.5 metre high blank wall facing the streetscene. This would have a detrimental effect and would be out of keeping with the character and appearance of the locality.
8. The land at the western end of the appeal site is proposed to be paved to provide off-street parking, a small patio area and bin storage to serve the dwelling. Notwithstanding this, given the space constraints and narrowness of the site and based on the evidence before me, I find that cars would only be able to be parked on the site 'in-line' with the property. As a result, a significant part of the available outdoor space would need to be retained for parking and manoeuvring vehicles. This would leave a very small area of hardstanding for outdoor amenity space. From what I have seen and read, I find that this supports the view that the proposal would be an inappropriate overdevelopment of the site.
9. I now turn to matters relating to the protected trees positioned close to the northern boundary of the site. I note the proximity of the proposed dwelling, particularly the 1.5 storey element, to the trees. The Council argues that this would likely result in pressure to excessively prune or fell the trees. This would be particularly so as the scheme would have no windows in the north and south elevations of that part of the dwelling. Therefore, it would rely on rooflights to provide adequate daylight within the dwelling.

10. The appellant submitted an arboricultural report to address concerns regarding the impact on these trees and argued that the trees have reached the end of their natural growth cycle. Therefore, the appellant states that there would be no potential for the trees to reduce the amount of daylight and sunlight reaching the proposed dwelling or its outside space.
11. As the trees are to the north of the site, I find that their impact on sunlight would be limited. However, I note that the crowns of the trees would overhang the proposed dwelling and its outdoor space. I find that this would result in some adverse impact on the level of daylight reaching the dwelling, particularly given that the principal source of daylight for a significant part of the building would be through rooflights.
12. The arboricultural report indicates that the protected trees would not be significantly harmed by the proposal. Notwithstanding this, I note that the proposed dwelling would encroach on the identified root protection area (RPA) of one of the trees (T1) and that the hardstanding proposed for the outdoor space and parking area would be within the RPA of all three trees (T1, T2 and T3). Furthermore, the proposal would be constructed within the crown spread of the nearest tree (T1).
13. I appreciate that the above impacts could be mitigated by planning conditions. Nonetheless, I find that matters such as the overhanging of the trees and their position in relation to the proposed dwelling would increase pressure to extensively prune or fell the trees regardless of whether they had reached the end their natural growth cycle. In the event of the trees being extensively pruned or felled, which I consider to be likely as a result of the proposed development, I find that there would be a significant adverse effect on the character and appearance of the area.
14. Consequently, I conclude that the proposal would have a significant detrimental effect on the character and appearance of the surrounding area, including the protected trees adjacent to the site. It would therefore be contrary to Policies D2, BE1, BE2, BE12, T10 and NE9 of the UDP and the relevant guidance within the National Planning Policy Framework (the Framework). Amongst other matters, these policies and guidance seek to ensure that development respects and has no significant adverse effect on the character and appearance of its surroundings, including any mature trees.

Living conditions: neighbours

15. I note that the proposed development would be to the south east of the dwelling at 33a Church Lane (No 33a). No 33a is situated on significantly lower land than the appeal site. The existing garage block on the appeal site is single storey and as such its impact on the occupier of No 33 is limited in terms of overshadowing and appearing overbearing. However, I note that the existing protected trees, which are within the garden area of No 33a, would have a significant overshadowing effect on No 33a and its occupier.
16. From what I have seen and read, the overshadowing effect of the proposed development on No 33a would only extend to a limited part of its garden area, close to the garage serving No 33a. Notwithstanding this, I find that the proposal would have a significant adverse impact on the amount of natural daylight and sunlight reaching the dwelling at No 33a, particularly in the morning. As I noted during the site visit, the part of the dwelling at No 33a

most affected would be a habitable room used at the south end of the property. The overshadowing resulting from the proposal would be particularly felt by the occupier given that the dwelling at No 33a is overshadowed by the protected trees for much of the rest the day.

17. With regard to the proposal being overbearing and its effect on the outlook of the occupier at No 33a, I find that the positioning of the 1.5–2 storey dwelling coupled with a blank stone wall elevation facing the garden area and dwelling at No 33a would have a significant effect on outlook. The garden area of No 33a is between 1–1.5 metres below the appeal site. In my view, the cumulative effect of the above would result in an undue sense of enclosure for the occupier of No 33a when viewing the site from the nearest windows of the property. This was reinforced by what I saw from inside No 33a during my site visit. The elevated nature of the site, the proposed height of the dwelling, the blank facing elevation and its proximity to the dwelling at No 33a would result in the proposed dwelling appearing substantially overbearing to the occupier at No 33a.
18. There is some existing impact on the outlook of the occupier of No 33a as a result of the existing garage block on the appeal site. However, as the garage is a single-storey structure with a shallow sloping roof, I find that the proposed dwelling would be significantly higher than the garage block and therefore would have a greater adverse impact on the outlook of the occupier of No 33a. Moreover, I find that the adverse impact of the proposed scheme would only be exacerbated by its elevated position. Therefore, the cumulative impact of the above would have a significant detrimental effect on the outlook of the occupier of No 33a and would appear unduly overbearing.

Living conditions: future occupiers

19. The proposal identifies an area of hardstanding which would provide some private outdoor space for its occupiers and would be shared with an area for the parking and manoeuvring vehicles on the site and an area for bin storage. Due to the space constraints of the site and its narrowness, I note from the submitted drawings that much of this outdoor space would be taken up by the parking and moving of vehicles. As a result, I find that there would be limited useable space for the outdoor enjoyment of future occupiers. Whilst I appreciate the appellant's points that the proposed dwelling would be suited to one or two occupants or possibly a small family, I find that the small amount of useable private outdoor amenity space would not be adequate or satisfactory in meeting the needs of future occupiers and would therefore have a detrimental effect on their living conditions.
20. The appellant states that this part of the appeal site has previously been used as an allotment and as such enjoyed direct sunlight for a sizeable portion of the day. Whilst this area may enjoy some direct sunlight, from my observations, I find that the overhanging trees may become bothersome for future occupiers in terms of limiting daylight into the proposed property through rooflights. Furthermore, I find that such impacts would contribute to the likelihood of increased pressure to significantly prune or fell the nearby protected trees.
21. Consequently, I conclude that the proposed development would have an adverse impact on the living conditions of neighbouring occupiers with regard to outlook and daylight and future occupiers with regard to inadequate private outdoor amenity space. Therefore, it would be contrary to Policies D2 and BE1

of the UDP as well as a core planning principle set out in the Framework, which states that a key aim of planning is to secure a good standard of amenity for all existing and future users of land or buildings. Amongst other matters, these policies and guidance seek to ensure that development is not detrimental to neighbouring or future occupiers with regard to outlook, daylight and sunlight.

Other Matters

22. The highways authority initially raised no objection to the proposed scheme. However, I note that concerns were subsequently raised during the application process relating to access and the movement of vehicles into and out of the site. The Council states that further information regarding swept paths was requested by the highways authority in order to demonstrate that the turning manoeuvres can be satisfactorily achieved. However, as the application was recommended for refusal, the appellant was not asked for such information. Notwithstanding this, these matters are not before me in this appeal. As a result, I have not considered them any further. However, in any event, I find that the outcome of my consideration of such matters would have no material effect on my overall decision.

Conclusion

23. I appreciate that the proposal would create a new dwelling in a sustainable and accessible location and improve the visual amenity of the site by using materials which would be in keeping with adjacent buildings. Furthermore, it would provide a more readable end to the row of properties on the north side of Holmfield. Notwithstanding this, having due regard to the evidence before me, I find that the benefits of the proposed development, when considered individually and cumulatively, would not outweigh the harm I have identified.
24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR

Appeal Decision

Site visit made on 23 May 2017

by **Darren Hendley BA(Hons) MA MRTPI**

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

Decision date: 5 June 2017

Appeal Ref: APP/Z4718/D/17/3170261

16 Hall Lane, Kirkburton, Huddersfield, West Yorkshire HD8 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Gill against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90093/E, dated 11th January 2016, was refused by notice dated 19th December 2016.
 - The development proposed is a side extension to replace outdoor stores.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the occupiers of 8 and 6 Hall Lane, and 52 Slant Gate, by virtue of visual impact, outlook, light and privacy.

Reasons

3. The appeal property lies at the end of a row of two storey cottages that are set off Hall Lane with a shared access in front of the cottages. The property contains a storage building attached to its side wall, which reaches a maximum height of approximately 4 metres to the ridge of its mono pitch roof and with a low eaves height to the rear. The storage building is also set on the boundary wall with No 8.
4. No 8 forms the end property of a further row of attached cottages that extend in a close knit pattern to the side and rear of the appeal property, and which are accessed via a communal courtyard around the rear of the appeal property. Whilst a number of these properties also have a direct access onto Slant Gate, the properties at the end of courtyard, including No 8, rely on the courtyard for access.
5. The elevation of No 8 which faces the appeal property contains the main entrance door, together with a secondary lounge window, and two small landing windows at the first floor level. This elevation is set close to the boundary with the appeal property, separated by the access path from the end of the courtyard which serves the main entrance door and the garden beyond. With the arrangement of No 8, I do not consider whether this elevation is the

- front or rear is in itself of particular relevance in respect of assessing the effect on the living conditions of its occupiers.
6. The proposal would only be fractionally set off the boundary with No 8 within the appellant's land ownership, utilising the boundary wall and would therefore be in close proximity to the access path and elevation of No 8 that would face the proposal. The increase in massing, compared to the storage building, would be marked, due to both the proximity to No 8 and because the eaves height would be maintained across this elevation and would not decrease in height, like the current mono-pitch arrangement.
 7. I consider that when utilising the access and entrance door to No 8, the proposal would appear overbearing and domineering, due to this massing and proximity. The resultant effect on views from the secondary lounge and landing windows would be to have a significant visual impact and considerably reduce the outlook. Although the secondary lounge window would be sited marginally beyond the proposal, with its proximity and massing, the proposal would be noticeably visible. I accept the main habitable room windows of No 8 are on the opposing elevation and would be unaffected. However, the windows that would be unduly affected are the only ones that provide the occupiers of No 8 with an outlook from the elevation in which they are found.
 8. The proximity and massing of the proposal would also noticeably reduce daylight reaching the access and the windows on this side elevation of No 8, and it would decrease the amount of already limited light which this side of No 8 receives. I accept that due to the orientation, there would not be undue loss of sunlight, although this does not address my concerns over loss of daylight.
 9. The orientation of the windows on the proposal is over the access in front of the appeal property, and any overlooking of No 8 would not be unreasonable due to the angles involved.
 10. The proposal would reduce the footprint, compared to the storage building, although this is slight and would not overcome the harm I have identified caused by the proximity and massing of the proposal. The kitchen window of No 8, which is orientated over its rear garden, would not be unacceptably affected, but this does not address my concerns over the effect on the windows on the side of No 8 that would face the proposal.
 11. No 6 is positioned towards the rear elevation of the appeal property, with its windows orientated down the courtyard. The proposal would be positioned well forward of No 6 and there would be limited visibility at a direct angle. No 52, which contains a number of narrow windows, is orientated towards the rear of the appeal property. The proposal would appear as a subordinate part of the appeal property when viewed from the windows of No 52. It would not unduly result in loss of light, as the proposal would be sited well back from the elevation of the existing appeal property which faces No 52, and which is significantly greater in massing than the proposal. The proposal would not appear unduly overbearing or domineering from either No 6 or No 52.
 12. I consider however that the proposal would have an unacceptable harmful effect on the living conditions of the occupiers of No 8, by virtue of visual impact, outlook and light. The proposal would therefore not comply with 'Saved' Policy D2 of the Kirklees Unitary Development Plan (1999) (UDP) which seeks to protect the living conditions of residents. I also consider the proposal

does not comply with paragraph 17 of the National Planning Policy Framework because it would not secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

13. The irregular arrangement of terraced cottages contributes considerably to the significance of this part of Highburton Conservation Area. The cottages are of varying shapes and sizes, and a number contain elements which are subordinate to the main property. The proposal would maintain a subordinate appearance and be constructed of matching stone with a slate roof. The appeal property already contains a front single storey extension, although this is modest in size, and when combined with the proposal, the original cottage would still remain the dominant element. I therefore consider the proposal would preserve the character and appearance of the Conservation Area.
14. I accept that the guttering on the proposal would provide for a means of rainwater disposal, which is not found on the storage building. Nevertheless, it would not outweigh the harm regarding the effect on the living conditions of the occupiers of No 8.
15. I also note that the Council's Planning Committee took their decision against Planning Officer recommendation, which they are entitled to do where there are sound planning grounds. I am also aware the planning application submission was amended in order to attempt to address the concerns of the Council. Nevertheless, I have determined the appeal on the merits of the proposal before me.

Conclusion

16. The proposal would have an unacceptable effect on the living conditions of the occupiers of No 8 by virtue of visual impact, outlook and light. Accordingly, I conclude the appeal should be dismissed.

Darren Hendley

INSPECTOR

Appeal Decision

Site visit made on 25 October 2016

by Beverley Wilders BA (Hons) PgDurb MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/Z4718/W/16/3155645

Hollinroyd Road, Dewsbury, West Yorkshire WF12 9AH

- 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 Greenside Developments against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93452/E, dated 28 October 2015, was refused by notice dated 24 December 2015.
 - The development proposed is residential development of 2 detached dwellings at land off Hollinroyd Road, Dewsbury WF12 9AH.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area including its effect on the Urban Greenspace, the Green Corridor and on protected trees and the woodland;
 - the biodiversity of the Habitat Network and Habitat of Principal Importance.

Reasons

Character and Appearance

3. The appeal site comprises a relatively large area of woodland located adjacent to Hollinroyd Road. The road is largely narrow and unmade where it adjoins the site and is a public footpath forming part of the Kirklees Way providing a pedestrian link between Hollinroyd Road and Sugar Lane. There is also a pedestrian track which cuts through the site linking the footpath to Sugar Lane. The immediate surrounding area is largely residential in character with a mixture of dwelling styles and materials. The appeal site is steeply sloping with dwellings on Pennine Road set at a much higher level than Hollinroyd Road and dwellings on William Street set at a slightly lower level than the road.
4. Trees on the appeal site are protected by a Tree Preservation Order (TPO) and the site is designated as Urban Greenspace on the Kirklees Unitary Development Plan (UDP) and also forms part of a Green Corridor.
5. The proposal to erect two detached dwellings on the site would result in the loss of a number of protected trees. No up to date tree information was

submitted with either the application or appeal though a tree survey dated January 2007 accompanies the appeal and references a scheme for the construction of five units on the site. Though out of date the 2007 survey nevertheless confirms that the majority of trees on the site are native species and that they are highly visible from the public highway and form an important landscape feature.

6. Whilst I note the view of the author of the 2007 tree survey that the construction of a sympathetic small scale development would not adversely affect the overall amenity value of the site, I attach limited weight to the 2007 survey given its age and the fact that it refers to a different proposal. I also note reference to the fact that the proposed dwellings are to be located in area of the site where fewer trees have been established due to poor ground conditions and that woodland curtilages are proposed. However though I consider the design of the dwellings to be acceptable given their location relative to existing dwellings and given the lack of design consistency in the locality, I consider that the erection of the dwellings and the associated changes to Hollinroyd Road to enable vehicular access together with the proposed loss of trees would adversely affect the character and appearance of the area.
7. The proposal would introduce development into an undeveloped wooded area that would be visible from the adjacent footpath and would diminish the existing quality of the landscape feature. It would also introduce development into a designated Urban Greenspace and Green Corridor where UDP policies D3 and D6 require, amongst other things, development to protect visual amenity and quality. Additionally in Urban Greenspaces UDP Policy D3 states that any development proposed should be necessary for the continuation or enhancement of established uses, or involve a change of use to alternative open land uses, or would result in a specific community benefit. Whilst the proposal would involve improvements to the existing pedestrian track through the site, I do not consider that this community benefit or any tidying up or improved management of the woodland would outweigh the harm identified to character and appearance. In addition though I note that UDP Policy D6 does not preclude development, I consider that the scale of the proposal is such that it would have a significant adverse impact on the continuity of the Green Corridor.
8. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the character and appearance of the area including its effect on the Urban Greenspace, the Green Corridor and on protected trees and the woodland. It is therefore contrary to UDP policies D3, D6, BE1, BE2 and NE9 and to relevant paragraphs of the National Planning Policy Framework (the Framework). These policies seek, amongst other things, to ensure that development retains a sense of local identity, protects Urban Greenspace and Green Corridors and normally retains any mature trees within the application site.

Biodiversity

9. The appeal site comprises woodland and I understand from the Council that lowland deciduous woodland is a Habitat of Principal Importance and that the site forms part of the districts Habitat Network.

10. No up to date ecological information was submitted with either the application or appeal though an Ecological Survey and Assessment dated January 2008 accompanies the appeal and references a previous scheme for development on the site. Whilst I note that the author of the 2008 survey considered that none of the habitats on site were of substantive ecological importance and that no evidence of protected species was found, I attach limited weight to the 2008 survey given its age and the fact that it refers to a different proposal. I also note that the site was considered to have the potential to support bats and breeding birds and that the appellant is willing to comply with the recommendations of the 2008 survey.
11. However having regard to the nature and scale of the proposal, the fact that it would involve the loss of existing trees and the lack of up to date ecological information regarding the site, I conclude that based on the available evidence the proposal is likely to result in an adverse impact on the biodiversity of the Habitat Network and Habitat of Principal Importance. It is therefore contrary to relevant paragraphs within Part 11 of the Framework. These policies seek to ensure, amongst other things, that development proposals conserve and enhance biodiversity.

Other Matters

12. From other appeals that I am determining elsewhere within the Council's area I am aware that the Council does not currently have a five year housing land supply. However irrespective of this, in terms of paragraph 49 of the Framework, policies D3, D6, BE1, BE2 and NE9 are not relevant policies for the supply of housing, they deal with more detailed matters including the potential impacts of development. In any event whilst I note that the appeal site is in a reasonably accessible location, I consider that the economic and social benefits of providing two dwellings is significantly and demonstrably outweighed by the harm that would result to the character and appearance of the area and to biodiversity.
13. In reaching my decision I have had regard to the fact that the appellant considers the proposal to be enabling development that would allow for improved management and public access to the woodland and that it is stated that this could be secured by planning conditions. I also note that the site is currently un-managed and that there is evidence of fly tipping and anti- social behaviour having taken place within it. Whilst I note that the scale of the proposal is reduced when compared to previous proposals for dwellings on the site and whilst I have had regard to the arguments put forward regarding enabling development, for the reasons stated I do not consider that the benefits of the proposal outweigh the harm identified.
14. Though I note the sustainable credentials of the dwellings proposed and the proposed use of renewable energy, I do not consider the proposal to be sustainable development.
15. I have some sympathy with the fact that the appellant was unable to access the Council's Officer Report in order to fully understand the Council's concerns regarding the proposal. However it has been made available during the appeal process and I note that following the determination of the application it appears that some discussions regarding the proposal took place between the appellant and the Council. In any event these matters do not affect my decision.

Conclusion

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

Beverley Wilders

INSPECTOR

Appeal Decision

Site visit made on 27 September 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 2nd November 2016

Appeal Ref: APP/Z4718/W/16/3154725
250 White Lee Road, White Lee, Batley WF17 9AJ

- 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 Martin Hughes against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93153/E, dated 2 October 2015, was refused by notice dated 4 March 2016.
 - The development proposed is a pair of semi-detached dwellings with new driveway.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on highway safety.

Reasons

3. Access to the proposed development would be taken from White Lee Road adjacent to the north-western boundary of the appeal site. It would provide access for the proposed development and also Nos. 248 and 250 White Lee Road. The existing access serving these properties, and which adjoins the south eastern boundary of the site, would be closed.
4. White Lee Road is a classified road with a speed limit of 30mph. The appeal site is located between two crossroad junctions, a traffic light junction with the main Leeds Road about one hundred metres away to the north-west and an uncontrolled crossroads a similar distance away to the south-east. At the time of my visit there was a steady stream of traffic in either direction.
5. The proposed new access would have visibility splays achieving 2.4m x 23.2m in a north-westerly (NW) direction and 2.4m x 33.5m in a south-easterly (SE) direction. The application was supported by a traffic speed survey¹, and based on this evidence the Council has assessed visibility figures for the 85 percentile wet weather speed of vehicles using Manual for Streets Guidance which recommends visibility splays of 2.4m x 37.45m in the NW direction and 2.4m x 33.21m in the SE direction. It is clear that the visibility splay in the NW direction falls considerably short of the recommended distance.

¹ ABACUS Traffic Surveys, dated 02/12/15.

6. It was evident from my visit to the site that the existing site access is severely substandard in a SE direction with only a 2.4m x 7m visibility splay currently achievable due to the adjoining high fence. However, the existing NW direction splay from this access is 2.4m x 34m, and consequently only just falls short of that recommended for recorded vehicle speeds. I understand that the appellant considers the SE direction to be the more critical direction, however whilst the appeal proposal would provide an access with improved visibility to the SE; visibility in the NW direction would be significantly reduced. Furthermore the amount of vehicular traffic using the proposed access would be double the amount which currently uses the existing site access.
7. It is clear that the proposed access would achieve 2.0m x 43m visibility splays in both directions. Manual for Streets 2 advises that a minimum X distance of 2m may be considered in some slow-speed situations when flows on the minor arm are low. It further advises that an X distance of 2.4m should normally be used in most built-up areas. From the evidence I have before me I would not consider vehicle speeds to be slow in the vicinity of the appeal site, which also lies within a built-up area. It would therefore seem to me that the most appropriate X distance to apply would be 2.4m. I recognise that the Council may have accepted 2.0m x 43m visibility splays on a previous approval for an additional dwelling on this site, but that permission is no longer extant. Furthermore the approval was for a single additional dwelling and not therefore directly comparable.
8. I have taken into consideration the sites accessibility and the appellant's contention that there have not been any recorded injury accidents across the site frontage. However, the proposed new access would also have restricted visibility and would be used by double the amount of vehicles currently using the existing access. White Lee Road is a main road and the proposed access would be located relatively close to two crossroad junctions and on a rise in the road. For these reasons, I consider that it would be inappropriate to relax the sight lines recommended in national guidance. To allow the proposal would result in increased vehicular movements to and from the site via a proposed access which is substandard in visibility. This would result in an increased danger to other road users and occupiers of the site.
9. I conclude that the appeal proposal would cause harm to highway safety and as such would be contrary to Saved Policies BE1, D2 and T10 of the Kirklees Unitary Development Plan, 1999 which seek to ensure, amongst other things that new development does not prejudice highway safety.

Conclusion

10. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR

This page is intentionally left blank

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

This page is intentionally left blank



Originator: Emma Thompson

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2017/91139 Erection of place of worship and associated car park and landscape works (within a Conservation Area) 10, Oxford Road, Dewsbury, WF13 4JT

APPLICANT

A Vania

DATE VALID

31-Mar-2017

TARGET DATE

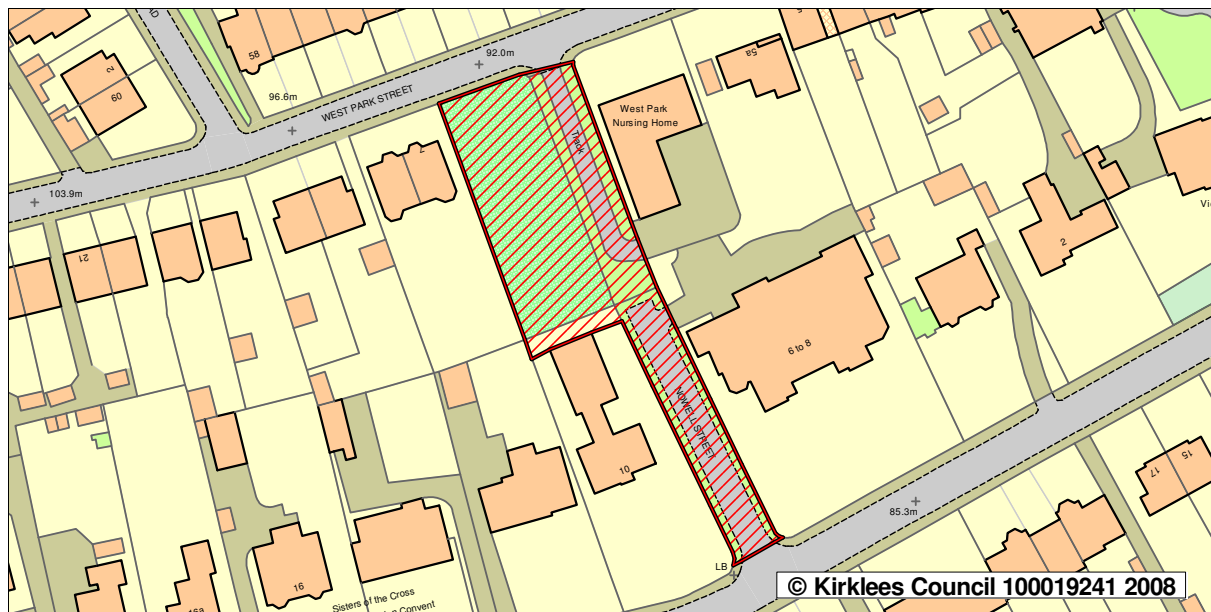
26-May-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury West Ward

Yes

Ward councillors consulted

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 referred to the Heavy Woollen Planning Sub-Committee due to the high level of representations, both in support and in opposition, received in response to the periods of publicity of the application. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is located on the corner of Nowell Street and West Park Street and encompasses the derelict land to the rear of the existing Mosque building extending to West Park Street in addition to the inclusion of Nowell Street from the main site to Oxford Road.

2.2 The application site and land to the east is relatively level. West Park Street rises more steeply from east to west from the application site such that the site is around 2 metres lower than the gardens associated with nos.7-9 West Park Street. Nowell Street is an unmade/unadopted road linking West Park Street and Oxford Road.

2.3 There is a single mature tree that is subject to a Tree Preservation Order (TPO) located along the eastern boundary. The remaining area of the site is very much unkempt in appearance with limited vegetation or greenery. The area to the rear of number 7 and 9 is overgrown with a number of mature trees.

2.4 The site lies within the Northfields Conservation Area. The surrounding area is characterised by a mixture of large houses which are a combination of terraced and semi-detached properties of Victorian appearance. There is a more recent block of flats to the east, existing two storey flat roofed mosque to the south, and large Victorian properties to the north and west.

3.0 PROPOSAL:

3.1 The application has been significantly revised following negotiations with officers and now seeks full planning permission for the erection of a place of worship. The building proposed would be located to the front of the site in line with existing residential development on West Park Street. The building is shown to provide accommodation over three floors but has been designed to retain the domestic scale and appearance of neighbouring buildings.

3.2 The footprint of the building appears similar to that of a pair of semi-detached properties neighbouring the site and also occupies roughly the same position as the dwelling that was approved in 2014 (application reference 2011/92932).

3.3 Access is to be provided from Oxford Road via Nowell Street which is to be upgraded to adoptable standards. The road would then be closed just beyond the point of access to the car park. Car parking for 22 vehicles would be provided within the site to the rear of the Mosque.

3.4 The protected tree located within the site is shown to be removed, with replacement tree planting (1 "mature" tree) shown to the street frontage and detailed on the site layout. The plan also shows an area of landscaping to the front of the Mosque.

4.0 RELEVANT PLANNING HISTORY:

4.1 2015/92627 – Erection of place of worship and educational centre - Withdrawn

2011/92932 – Erection of single dwelling and garage – Approved in 2014

2008/93703 Erection of 10 apartments and studios – Withdrawn

2007/91345 Erection of 10 no. flats with basement garaging – Refused on grounds of visual amenity, impact on Conservation Area, impact on residential amenity, highway safety and insufficient information in respect to protection of trees on site.

2005/93484 Erection of 4 no. dwellings – Refused on the grounds of highway safety, impact on protected trees, impact on Conservation Area and overlooking of adjacent property.

2001/90608 Renewal of previous unimplemented permission for erection of 10 no. flats with basement garaging – Approved

1995/90733 Erection of 10 no. flats with basement garaging – Approved

1993/04301 Erection of 4 no. town houses – Refused

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Extensive discussions took place during the progression of the previous submission application 2016/92627. Following it being withdrawn the agent engaged further with Officers and resubmitted.
- 5.2 Whilst considering the current application the proposals have been further revised with the removal of the education block from the development. In addition the site location plan has been updated to include the access to the adopted highway at Oxford road within the red line and remaining ownership in the blue line.
- 5.3 The application is for the erection of the Mosque only with access along Nowell Street to Oxford Road.

6.0 PLANNING POLICY:

- 6.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 6.2 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 **BE1** – Design principles
BE2 – Quality of design
BE5 – Preservation/enhancement of conservation areas
BE6 – Infill sites
BE11 – Materials
BE12 – Space about buildings
T10 – Highway safety
T19 – Parking standards
NE9 – Retention of mature trees
EP4 – Noise sensitive development

National Planning Guidance:

- 6.4 **Chapter 7** – Requiring good design
Chapter 8 – Promoting healthy communities
Chapter 11 – Conserving and enhancing the natural environment
Chapter 12 – Conserving and enhancing the historic environment

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is without notification of the draft local plan.

Policies:-

- PLP21** – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP30 – Biodiversity and geodiversity
PLP33 – Trees
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP53 – Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application as originally submitted was advertised by press notice, site notice and neighbour notification letters. 115 representations supporting the proposals were received, in addition to 2 petitions with 446 and 32 names respectively. 29 representations against and 1 general comment were also received.
- 7.2 Since re-advertising the reduced scheme, relating to the erection of the Mosque only, there have been 4 representations in support and 15 against.
- 7.3 In view of the various periods of publicity it is considered appropriate, in this instance, to include a summary of comments submitted to the original scheme, as well as the amended proposal. These are summarised below and are subdivided into support and objections:

The Objections are as follows:

Heritage & Amenity:

- The development is within a Conservation Area and takes no account of the building vernacular.
- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.
- The development neither enhances nor preserves the Conservation Area.
- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.

- The development is out of style, scale and character with existing Victorian buildings.
- Contrary to the notion of preserving the green space and trees (now removed) which contributed to the original Conservation Area, proposed as a car park and has been garden grabbing which the Government is keen to curtail.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of keeping and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.
- Overbearing
- The site has been subjected to fly tipping and has become unsightly.

Highways:

- The development will attract constant traffic
- Intensification of use and parking in addition to the two local schools
- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- The car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.
- Gritting cannot take place in the area as the vehicles cannot get access.

Other:

- There are covenants on the land which would not allow the development.
- Noise from the site
- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.
- There are plenty of existing mosques that can be used.
- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.

The application is supported for the following reasons:

- The proposed building will complement and enhance the surrounding environment.
- The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.
- The existing facilities are poor.

- The road/car park is not adequate.
- Currently no separate women's WC and prayer area.
- Landscaping of the area will be an improvement.
- The new building is sympathetic to the conservation area.
- Improved parking facilities.
- Existing site is an eyesore.
- Improved access for all.

7.4 Following the re-advertisement of the reduced scheme, the comments are summarised as follows:

Objection:

- Proposed building will not fit in with the surrounding architecture in a Conservation Area
- Traffic increase and demand for parking
- Numerous mosques already

Support:

- Needed facility
- Delays and unjustified objections
- In keeping
- Adequate and improved parking
- Engaged with the community
- New building will be built to current regulations and standards

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management – No objection subject to conditions and restricting numbers.

Historic England – No objection to the erection of the Mosque.

K.C. Strategic Drainage – No objection

8.2 Non-statutory:

K.C. Environmental Services – No objections subject to conditions.

K.C. Conservation and Design – No objections to the revised proposals

K.C. Arboricultural Officer – Object to the loss of the TPO'd tree

K.C. Ecologist – No objections subject to condition

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The National Planning Policy Framework (NPPF) identifies places of worship as community facilities and states that planning decisions should “plan positively for the provision and use of community facilities to enhance the sustainability of communities and residential environments”.
- 10.2 Policy C1 of the UDP states that community facilities should be provided in accessible locations which will usually be in, or adjacent to, town and local centres.
- 10.3 In this instance, whilst not located within a town or local centre, the site is within an established area of residential development within a diverse community. Proposals to provide a facility separate from existing centres should be considered in relation to the needs of the community it is intended to serve. Such proposals will, however, need to be capable of accommodation without giving rise to problems of disturbance for occupiers of adjacent premises or prejudicing highway safety.
- 10.4 It is recognised that the development would be located within, and serve a part of, the community in which it is located. The erection of the mosque should therefore be assessed in respect of highway safety and impact on nearby occupants.
- 10.5 Whilst the provision of a community facility in a sustainable location accords with the overarching aims of the NPPF, this should not be to the detriment of heritage, visual and residential amenity, or highway safety.

Urban Design and Heritage issues

- 10.6 The site is within the Northfields Conservation Area which was designated in 1978. The Conservation Area does not have the benefit of an up to date appraisal but one exists from the date of designation. The Conservation Area is a residential suburb of Dewsbury built in the latter half of the 19th century and completed, in the main, around 1890.

- 10.7 The character comes from the layout of the streets, the unity of styles and building materials; the styles are of typical two storey buildings of large Victorian villas constructed of stone. The roof space of some of the buildings leads them to be three storeys in height with use made of traditional dormers.
- 10.8 It is accepted that the land to the east of nos. 7-9 West Park Street is untidy and does little to enhance the character of the Conservation Area and could benefit from development. To the south of the site is a two storey flat roofed building that equally makes no contribution.
- 10.9 In terms of the proposed mosque there has been permission granted previously for a single dwelling in this location so the principle of a building sighted as proposed has been established. In terms of the design, it is considered that the proposed building successfully blends into the style of building on West Park Street; the style is that of a Victorian villa. The proposed minaret echoes the octagonal towers evident on the row of terraces on the opposite side of West Park Street. The elevation of the mosque facing onto West Park Street has been redesigned to reflect better the architectural style of the surrounding buildings. The inclusion of bay windows provides greater articulation in the façade, it is considered that the erection of the building does not cause harm to the character of the Conservation Area.
- 10.10 The proposal requires the loss of a protected mature tree; concerns in respect of the impact on the tree have been raised by the Council's Arboricultural Officer. The tree contributes positively to the amenity of the area and character of the Conservation Area. In order to ensure the development retains the character and appearance of the Conservation Area the location of the building was revised to the front of the site. This inevitably results in the loss of the protected tree. The loss of the tree will be detrimental to the character of the Conservation Area. Any harm of the development to the character of the Conservation Area should be assessed against paragraphs 133 or 134 of the NPPF, where paragraph 133 relates to substantial harm and paragraph 134 is less than substantial harm. Paragraph 134 states that "Where a development proposal will 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 optimum viable use."
- 10.11 In this case it is considered that the harm is less than substantial as there is no exceptional harm to the Conservation Area as a whole. Where less substantial harm occurs the harm has to be weighed against the public benefits the proposal brings. It is considered that the public benefit is of sufficient merit to override concerns regarding the loss of the protected tree. Furthermore replacement planting and landscaping is considered to add weight the balance in favour of the proposed development.
- 10.12 The residential development in the area is characterised by large residential dwellings set within long narrow plots with large back gardens. There is minimal 'backland' development in the immediate area meaning the open spaces to the rear of dwellings have been retained. The development retains

the open space between the buildings by providing parking for 22 vehicles. The car park, in effect, retains the prevailing character of the area and whilst it will be surfaced and upgraded this will improve the general appearance of the area and as such is supported. The site layout shows areas that could be utilised to provide landscaping thereby improving its contribution.

- 10.13 It is considered by officers that the merits of the proposed development and wider community benefits would outweigh any concerns and loss of the remaining protected tree within the site and as such would be in accordance with Policies BE5, BE1, and BE2 of the UDP as well as chapters 7 and 12 of the NPPF.

Residential Amenity

- 10.14 The application site is located within an established residential area and is therefore located in close proximity to existing dwellings.
- 10.15 The proposed Mosque occupies a similar position to the dwelling that was approved in 2014. It is of a scale and height that is considered proportionate to existing development located on West Park Street. The elevation to West Park Street is shown to step down from its neighbour with the minaret set to the rear corner of the building thereby minimising its presence within the street scene. Due to the scale and position of the building it is not considered to be overbearing to any nearby occupant. It is noted that there are windows proposed in the Nowell Street elevation which would be approximately 12 metres from the windows in the side elevation of residential accommodation opposite. In order to ensure the privacy of the occupants is retained it is considered appropriate to recommend that the windows within the east elevation are obscurely glazed.

Noise & Land contamination

- 10.16 The application form does not include any details of hours of operation but it is understood that the buildings would be used in to the evenings. In view of the use and proximity to existing residential development, Environmental Services have been consulted. They raise no objections to the development but recommend conditions regarding land contamination and time and noise level restrictions on call to prayer. It is therefore considered that matters of amenity due to matters arising from noise are adequately mitigated and as such the development is considered to be in accordance with Policy EP4 of the UDP as well as chapter 11 of the NPPF.
- 10.17 To summarise, it is considered by officers that the development will not result in any loss of amenity to surrounding occupants through loss of privacy, being overbearing or from nuisance arising from noise and as such is considered to be in accordance with the NPPF and UDP policies.

Landscaping Issues

- 10.18 The remaining protected tree within the site is to be removed to allow for the erection of the Mosque. The scheme does not allow for its retention. The plan shows a replacement tree as mitigation. It is acknowledged that the replacement of mature trees by new planting to accommodate development is usually less acceptable than the retention of existing trees because of the time required for replacement trees to mature and provide an equivalent level of amenity. However, taking into account the community benefit that the building will provide in addition to the mitigation measures proposed the development is considered, on balance, acceptable. As a result of the site development being reduced to exclude areas to the west it is considered that ecological matters can be addressed through the imposition of a condition to provide adequate mitigation to ensure the development is in accordance with Chapter 11 of the National Planning Policy Framework.

Highways

- 10.19 The application site is situated in an established residential area of Dewsbury, on the corner of Nowell Street and West Park Street.
- 10.20 Nowell Street is an un-made/un-adopted road linking West Park Street and Oxford Road. There is a point closure mid-way between West Park Street and Oxford Street preventing through vehicular traffic allowing only a pedestrian link between the two sections of the street. West Park Street and Oxford Road are both part of the adopted highway. Other than double yellow lines around the junction of West Park Street and Halifax Road, there are no on streets parking restrictions on West Park Street.
- 10.21 Parking is restricted on Oxford Road by permit parking zones and double yellow lines around the junction of Halifax Road and along the northern side of the carriageway.
- 10.22 High levels of on street parking on both sides of the carriageway does occur on West Park Road and can result in access difficulties for all vehicles. Visibility from Nowell Street onto West Park Street and Oxford Road is restricted by the height of adjacent boundary walls and hedges.
- 10.23 The applicants have now submitted revised proposals which remove the previously proposed education block and provide a three storey mosque with 22 off-street parking spaces.
- 10.24 The proposed Mosque building consists of an entrance hall, conference room and ablutions area to the lower ground floor, prayer hall to the upper ground floor and mezzanine library to the first floor. It is proposed to upgrade Nowell Street to adoptable standards from Oxford Road to the proposed site access. The existing point of closure is to remain and Nowell Street will not become a through road as a result of this application.

- 10.25 Sight lines are to be improved at the junction of Nowell Street and Oxford Road to meet the recommended standards of 2.4 x 43 metres.
- 10.26 The applicants have agreed to restrict the number of worshippers attending the mosque to 100 at any one time.
- 10.27 The existing building is to be retained and used for education purposes. Three classes will be run Monday to Friday between 5pm and 7pm. The total number of children attending the three classes is 40 aged between 4 and 16.
- 10.28 The recommended parking standards are as follows:
- Education block – 1 space per class room or 30 students and 1 space per 3 staff
 - Mosque – 1 space per 5 seat and 1 space per 3 staff
- As such 6 spaces are needed for the education block and 22 spaces for the proposed Mosque. If the two uses were to operate simultaneously there could be a potential shortfall of 6 spaces. This shortfall could potentially be accommodated on Nowell Street which is to be surfaced and improved to adoptable standards. It is also considered that there is unlikely to be a significant over-lap between the two uses; the peal hours for a Mosque is typically Friday lunch time and the education block is to be open between 5pm and 7pm in the evenings.
- 10.29 Highways DM have assessed the proposals and concluded that the site can accommodate the facility subject to the aforementioned restrictions in addition to the submission of a travel plan. As such, with the inclusion of relevant conditions, as suggested above, the proposal would not result in significant undue harm to highway safety or efficiency.
- 10.28 Officers consider that taking into account the provision of a community facility set within the community it is to serve, in addition to the provision of off street parking, the proposals are considered, on balance, to be acceptable from a Highways perspective, complying with the aims of Policy T10 of the UDP.

Representations:

- 10.26 Officers responses to the matters raised in the representations received as set out below:-

10.26 **Support**

The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.

Officer Response: It is accepted that demands for a new/replacement madrassa and mosque are high but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

The existing facilities are poor.

Officer Response: It is accepted that there are benefits in terms of a new/replacement madrassa and mosque but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

The road/car park is not adequate.

Officer Response: It is recognised that there are inadequacies with the existing site. The erection of a new facility with lack of parking provision would also lead to congestion and parking on the streets surrounding the site to the detriment of highway safety.

Currently no separate women's WC and prayer area.

Officer Response: It is accepted that there are benefits in terms of a new/replacement Madressa and Mosque but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

Landscaping of the area will be an improvement.

Officer Response: It is probable that improvements to landscaping can be achieved through the development; however, there are significant concerns regarding the impact the proposals will have on the character of the area, residential amenity, and highway safety.

The new building is sympathetic to the Conservation Area.

Officer Response: The proposals have been assessed by officers in K.C. Conservation & Design and it is not considered that the scale, location and design are appropriate and would cause harm to the Conservation Area thereby failing to comply with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

Improved parking facilities.

Officer Response: The application may provide improved parking and access facilities which may appear to be an improvement when compared to the existing situation on site however the development would significantly increase the opportunity for use of the site without the provision of adequate parking facilities contrary to Policies T10 and T19 of the UDP.

Existing site is an eyesore.

Officer Response: The site has been left in a very untidy state and detracts from the wider area. This is not justification for allowing a development that is not acceptable in principle.

10.27 **Objections:**

Heritage & Amenity:

- The development is within a Conservation Area and takes no account of the building vernacular.
- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.
- The development neither enhances nor preserves the Conservation Area.

- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.
- The development is out of style, scale and character with existing Victorian buildings.
- There is a large combined bulk to the two connected buildings.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- The mosque façade and minaret are too high.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of scale and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.

Officers response to the points above where they may have not been addressed in the report: The proposals have been assessed by officers in Conservation & Design and it is considered that the scale, location and design of the mosque is acceptable and as such would not cause harm to the Conservation Area.

The scale, design and location of the education block is not considered acceptable and would result in the loss of mature trees. This part of the development would be harmful to the Conservation Area for which it is not considered that the benefit to the community outweighs the harm thereby failing to comply with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

Highways:

- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- 24 car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.

Officers response to the points above: The proposals have been assessed by Kirklees Highways Development Management. There are significant concerns regarding the development and evidence to support the development resulting in a lack of parking provision contrary to Policies T10 and T19 of the Kirklees Unitary Development Plan.

Other:

- There are covenants on the land which would not allow the development.
Officer Response: Covenants are not considered material to the determination of the planning application. They are a private legal matter.
- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.
Officer Response: There are no details regarding the hours of operation of the site. K.C. Environmental Services have been consulted regarding the proposals and have raised no objections subject to conditions relating to unexpected land contamination and controls regarding call to prayer. They are satisfied that the development would not result in any harm to residential amenity providing conditions are imposed.
- Bats and owls have been resident in the mature trees in the area the development would impact on these.
Officer Response: Both an Ecological and Arboricultural survey has been requested to inform recommendations for landscaping and mitigation. It is not considered that the conclusions of the reports would prevent development of the site. As such the agent has requested that the reports be produced should Members recommend approval. Taking into account the costs involved in production of the reports, in addition to the likely conclusions of each, it is considered reasonable by officers that these are provided should the decision be taken to approve the application.
- There are plenty of existing mosques that can be used.
Officer Response: The agent has demonstrated that there is the need/demand for an additional facility in the area.
- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.
Officer Response: Both an Ecological and Arboricultural survey has been requested to inform recommendations for landscaping and mitigation. It is not considered that the conclusions of the reports would prevent development of the site. As such the agent has requested that the reports be produced should Members recommend approval. Taking into account the costs involved in production of the reports, in addition to the likely conclusions of each, it is considered reasonable by officers that these are provided should the decision be taken to approve the application.
- The site has been subjected to fly tipping and has become unsightly.
Officer Response: It is acknowledged that the site is unkempt and that redevelopment would improve the amenity of the area however this should be an appropriate development in terms of scale and design.

10.28 To summarise in relation to representations:

There are members of the community that the development would directly benefit but equally there are a number who consider the proposals to be detrimental to their environment. Affording weight to public benefit is not considered to be a simple process. For the aforementioned reasons Officers consider that the site can accommodate the development proposed with the inclusion of conditions regarding numbers of attendees and also mitigation planting and as such it is considered that any harm is outweighed by the community benefit of the accommodation provided.

11.0 CONCLUSION

11.1 The nature and scale of the proposed use would not result in any significant detriment to the amenities of nearby residential properties or highway safety. The proposal would result in a viable use for the building, in accordance with relevant local and national planning policy.

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

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

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

1. 3 year time limit
2. Development to be carried out in accordance with the approved plans
3. Submission of landscape scheme (to include wild life attracting species)
4. Obscure glazing to the east elevation
5. Reporting unexpected contamination
6. Call to prayer (noise levels and time)
7. Sight lines to be provided
8. Areas to be surfaced and drained
9. Up-grade of Nowell Street
10. Travel Plan
11. Materials

12. Restriction of numbers of worshippers attending the Mosque to 100 at any one time

13. Hours of use of the premises

Background Papers:

Application and history files.

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91139>

Certificate of Ownership –Certificate D signed by the agent Hasan Dadibhai

This page is intentionally left blank



Originator: John Ritchie

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2014/91242 Reserved matters application for erection of 47 dwellings Land off, Ashbourne Drive, Cleckheaton, BD19 5HZ

APPLICANT

L Ramsden, Redrow
Homes Ltd, c/o agent

DATE VALID

15-Sep-2014

TARGET DATE

15-Dec-2014

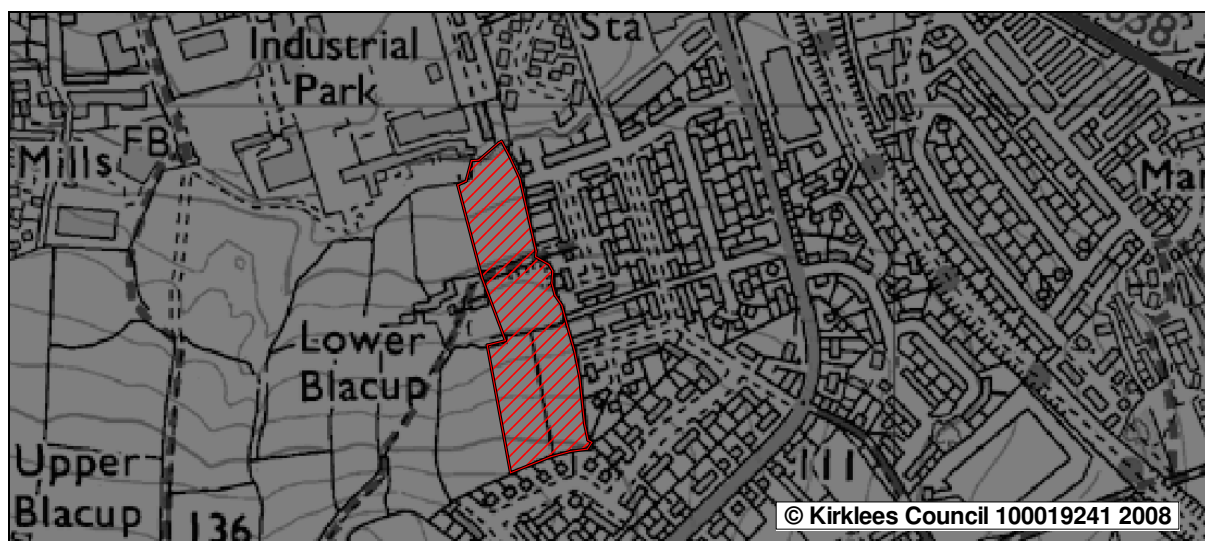
EXTENSION EXPIRY DATE

13-Apr-2017

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Cleckheaton

Yes

Ward Members consulted
(referred to in report)

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 The application is referred to the Heavy Woollen Planning Sub-Committee at the request of Cllr Kath Pinnock on the grounds of the strength of the comments made by statutory consultees and continuing concern from local residents and herself. This is in accordance with the Council's Scheme of Delegation.

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

- 1.2 The principle of housing development has been established following the grant of outline planning permission at appeal on 18 December 2013. This decision reserved all matters for future approval except partial means of access to, but not within, the site. The outline approval included a signed Agreement under section 106 of the Act which makes provision for a financial contribution towards education and affordable housing and provides for traffic calming measures. The proposal would not have a detrimental impact on highway safety, residential and visual amenity, drainage or landscape. A separate application to reduce the provision for affordable housing is to be determined by Officers.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of approximately 2.4 hectares currently used as grazing land sloping steeply down from south to north. It is crossed east-west by the track to Lower Blacup Farm which serves as a public footpath.

- 2.2 The western boundary of the site abuts residential properties off Ashbourne Drive, Ashbourne Way, Ashbourne View and Ashbourne Croft. These dwellings are 2-storey detached and semi-detached properties. Its southern boundary abuts dwellings on Penn Drive which are semi-detached bungalows. The northern boundary is to Blacup Beck with industrial premises off Quarry Road and Iron Street beyond. The western boundary is to open fields which are part of a significant area extending to Hightown Heights and Hartshead Moor Side.
- 2.3 The site is in the vicinity of Lower Blacup Farm to the west which is a grade II listed building. The site is not in a conservation area and there are no protected trees within or adjacent to the site.

3.0 PROPOSAL:

- 3.1 The application seeks the approval of reserved matters comprising layout (including access within the site), appearance, landscaping and scale.
- 3.2 The layout would comprise 47 dwellings in two separate groups of 23 each accessed off Ashbourne View and Ashbourne Drive. The northern section off Ashbourne Drive includes an area of public open space adjacent to no 52 Ashbourne Drive between the proposed access road and Blacup Beck. This area would accommodate a surface water attenuation tank. An additional area of public open space would be provided to the west adjacent to Lower Blacup Farm.
- 3.3 Both the southern and northern sections would have access to a central area of public open space adjacent to no 12 Ashbourne View which includes a formal play area.
- 3.4 The existing access to Lower Blacup Farm and footpath route would be retained and crosses the access road for the northernmost group. The majority of the dwellings would be stepped against the contours of the site and would be mostly two-storey detached with four terraced dwellings. The dwellings would be faced in artificial stone with sporadically located rendered properties. All would have concrete roof tiles.
- 3.5 The layout would incorporate three areas of public open space to the north of the access from Ashbourne View, in a central position along part of the western boundary and between the access from Ashbourne Drive and the northern boundary of the site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2012/93062 – Outline application for residential development (54 dwellings) with all matters reserved except access – Refused by Heavy Woollen Planning Sub-Committee on 11 April 2013 on the following grounds:

1) *The application site is designated as provisional open land in the UDP. The proposed development would be contrary to UDP policy D5 which safeguards such land in accordance with NPPF paragraph 85, under which planning permission for permanent development should only be granted following a local plan review which proposes the development. The review of the local plan, starting with the preparation and adoption of the LDF core strategy, is in progress but has yet to be completed.*

2) *The granting of planning permission for the proposed development would be contrary to NPPF paragraph 17.1 (that planning should be genuinely plan-led) because it would pre-empt the opportunity for local people to shape their surroundings through the LDF process. Such a process will enable the residents of Kirklees to influence the choice of which POL sites should be allocated for development and which should continue to be safeguarded, in the context provided by the adopted core strategy.*

3) *The proposed development is indicated to be built immediately adjacent to the curtilage of the Grade II listed Lower Blacup farm. This close proximity would remove the natural buffer currently benefiting the eastern boundary of the listed property, resulting in it being visually concealed and partially encased (in particular the principal elevation of the Grade II listed property), and also compromising the agricultural setting of this historic farm complex. The proposals are judged to cause substantial harm to the setting of this designated heritage asset and it has not been demonstrated that this harm is necessary to achieve substantial public benefits that outweigh that harm. The proposals are therefore considered contrary to the national planning policy guidance in Paragraphs 132 & 133 of the National Planning Policy Framework.*

4) *The proposed development would be located adjacent to a working farm where potential noise, odour and other environmental nuisances could arise from the presence of livestock and farm operations. Insufficient information has been submitted to demonstrate that nearby prospective residential occupiers would not be put at unacceptable risks from these potential sources of nuisance. Additional indirect effects (should the Council require the mitigation of any identified environmental nuisances) could also result in detrimental impact on the operational viability of the existing farm. As such the proposals are considered to be contrary to the objectives of UDP Policy EP4 and national planning policy guidance in Paragraphs 109 & 123 of the National Planning Policy Framework.*

Conditional outline planning permission was granted on appeal on 18 December 2016 following a Public Inquiry based on an illustrative layout of 53 dwellings. This included a S106 agreement which makes provision for 9 units of affordable housing following a viability assessment, an education contribution of £130,966 for the provision or improvement of primary education facilities at Heaton Avenue Primary school and traffic calming on Quaker Lane. The Inspector reserved all matters except partial means of access to, but not within, the site.

2014/93145 – Application to remove the requirement for affordable housing on the site – Delegated to Officers to determine. The application sought to reduce the affordable housing contribution from nine to nil. The application was assessed by a third party on behalf of the Council and the Officers are satisfied that five units are viable on this site. The applicant's agreement to this remains to be confirmed and the application remains undetermined.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Officers negotiated with the applicant to address identified issues:

- The submission of an amended layout to better reflect the spacing of the existing dwellings to the south and east.
- An acceptable visual relationship of proposed to existing dwellings at the site boundaries in terms of levels.
- Adequate drainage.
- Details of the design of the estate road crossing of the farm track / public footpath to maintain the width of the right of way and the protection of users.

These issues are addressed in detail below. At the time of writing matters of highway design remain outstanding and discussions are continuing. It is expected that these will be concluded and reported at the meeting.

6.0 PLANNING POLICY:

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

The site is identified as provisional open land on the UDP proposals map.

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

- **D5** – Provisional open land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **BE23** – Crime prevention
- **T10** – Highway Safety
- **H10** – Affordable housing
- **H12** – Arrangements for securing affordable housing

- **H18** – Provision of public open space
- **EP4** – Noise sensitive development
- **EP11** – Ecological landscaping

6.3 Supplementary Planning Guidance / Documents:

Affordable Housing SPD2
Kirklees Council Interim Affordable Housing Policy

6.4 National Planning Guidance:

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

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017:

The site is allocated for Housing (site H708) on the Local Plan with an indicative capacity of 53 dwellings. The larger area to the west allocated as Urban Greenspace (site UGS1068).

- **PLP 1** – Presumption in favour of Sustainable Development
- **PLP 2** – Place Shaping
- **PLP 7** – Efficient and Effective use of land and buildings
- **PLP 11** – Housing Mix and Affordable Housing
- **PLP 21** – Highway Safety and Access
- **PLP 22** – Parking
- **PLP 24** – Design
- **PLP 30** – Biodiversity and Geodiversity
- **PLP 32** - Landscape
- **PLP 35** – Historic Environment
- **PLP 63** – New Open Space

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 In its initial form the application was publicised by site notice, newspaper advert and neighbour letters on 22 April 2014. Following the receipt of amended plans further publicity took place on 26 June 2015 by site notices and neighbour letters. The latest plans were publicised in the same manner on 24 May 2017 and the publicity period expired on 14 June 2017. In addition Ward Members were notified.

7.2 Given that the principle of development has been accepted with the grant of outline planning permission the public comment, as it relates to the proposed reserved matters, may be summarised as follows:

- Development would harm the rural setting of the site and the setting of the grade II listed buildings.
- Applications for planning permission for fewer dwellings have previously been refused on this site.
- Use of Play area next to existing property would be a source of nuisance to those residents.
- Uncertainty of who maintains landscaping and boundary planting in the site and immediately next to existing property together with uncertainty over boundary treatment. Concerns relate to overgrown planting and property security.
- Lack of affordable housing.
- The layout allows for future additional housing on individual plots.
- Plans do not show conservatories on existing houses backing onto the site.
- There has been no meaningful consultation by the developer with the local community.
- Uncertainty over the planning decision is reducing house price.
- The site includes land in the ownership of neighbouring property and 'protected trees' have been removed.
- The crossing of the estate road and the track to Lower Blacup Farm is a potential road safety hazard due to it being used as a short cut and conflict between vehicles and pedestrians. Existing delivery lorries and refuse vehicle reverse along the lane due to lack of turning facilities at Lower Blacup Farm. Access should be restricted to farm vehicles or the middle cul de sac should be turned around to provide the entrance at the top of the site.
- It is not clear how the road and parking areas will be put in to an adequate gradient to accommodate the slope on either side of the track.
- The farm track should not be used for construction traffic.
- The proposed estate road is too narrow to allow for adequate passage of vehicles, particularly large delivery and refuse vehicles, as well as sufficient on-street parking.
- The site is served by Quaker Lane and then Hightown Road which are both busy at times. The former is a 'rat run' by vehicles to by-pass the junction of Westgate and Hightown New Road which leads to congestion by the Fire Station.
- Westgate will be accessed by other sites recently have recently been given planning permission.
- The increase in traffic resulting from the development will result in increased noise and pollution.
- The surrounding roads were built to lower standards of car ownership. Ashbourne Drive is congested with parked cars leading to vehicle damage and pedestrian and emergency vehicle access difficulty.
- The dwellings should be faced in stone on this prominent site on the skyline to be in keeping with its surroundings.
- Precautions should be taken to prevent structural damage to existing dwellings by construction traffic.

- It is not clear how the surface water tank will be emptied.
- Measures are required to keep surrounding roads clean during construction.
- Existing problems of blockage of foul sewers and flooding from the Beck will be exacerbated.

Summary of comments received from Cllr K Pinnock:

- There will be conflict between farm traffic and residential traffic and pedestrians where the estate road crosses the farm track. The plans should be amended to prevent access over the farm track or make the crossing point single track with road safety measures to reduce traffic speed.
- Access to / from the farm track and Ashbourne Way needs to be prevented.
- Concern that there is only one full width footpath on one side of the road throughout the development.
- Concerned at the number of dwellings not served by the public highway.
- Any approval for reserved matters should include the conditions laid down by the Inspector on appeal particularly road safety measures on Quaker Lane from Ashbourne Drive to Westgate and contributions to Education and affordable housing.
- There is no equipped play area in the development.
- There should be adequate boundary treatment between existing property and the proposed open space.

Comments in relation to additional publicity:

In response to the latest round of publicity seven public objections have been received which in terms of relevance to the reserved matters under consideration may be summarised as follows:

- The development will exacerbate road safety problems in the area where there is traffic congestion, children playing on the streets and recent accidents.
- There should be no windows at close proximity to existing dwellings which would affect privacy.
- A play area close to an existing dwelling will create 'uncertainty and inconvenience' as well as harming property value. Furthermore situated close to vehicular access to the site it will put children at risk. It is suggested that a play area is located in the position of plot 24 and the number of houses is reduced to 46.
- Noise and dirt during construction period. Construction vehicle access will be from Ashbourne Drive and Ashbourne View only to the detriment of residents and the condition of roads and pavements.
- The development should be served by two separate culs de sac from Ashbourne Drive and Ashbourne View avoiding the hazard to pedestrians of crossing the existing farm track / public footpath.
- The existing farm track / public footpath should not be used at any time during or after construction and restrictions on parking of construction / workers' vehicles in the immediate area should be enforced.
- There are inadequate community benefits from the proposal.
- The design of the dwellings and density would be out of character with the surroundings and visually intrusive on this elevated site.
- There has not been sufficient publicity for the proposals.

Cllr K Pinnock has made additional comments as follows:

- The applicant appears to have taken no action to mediate conflict of users of the farm track to the detriment of road safety.
- The plans do not adequately deal with changes of level within the site. Cross sections do not address the more difficult site levels.
- In cross-sections A-A & B-B there are retaining walls, the height and length of which are not clear.

8.0 CONSULTATION RESPONSES:

The following responses were received prior to the receipt of the latest amended plans and have been referred to the applicant. In response amended plans have been received and Members will be updated at the meeting.

8.1 Statutory:

K.C Highways Development Management - raise concerns as follows:

- Insufficient size of integral garages resulting in inadequate off-street parking provision.
- Requirement for an increase in the turning head size to the north and redesign of the northern access to provide acceptable gradients.
- PROW Officers have no objections subject to a condition requiring adequate measures to protect the public footpath crossing the site.

KC Flood Management – Following the receipt of amended plans there are no objections to the layout with regard to flood routing.

8.2 Non-statutory:

KC Conservation & Design – Concern about

- Inadequate space between buildings
- Boundary treatment to roadsides could look oppressive.
- Need for entrance feature buildings at key locations.
- Inadequate landscaping.
- Creating a hierarchy of street in terms of materials.

The officer notes that design was also formulated to allow an entrance feature and visual space for the listed building which has been broadly achieved.

The officer concludes that whilst the above points would improve the layout it is not to say that the proposed design is not appropriate, bearing in mind the constraints of the site, particularly topography. Therefore the Conservation & Design is of the opinion that the layout as submitted is acceptable and does not warrant refusal from an urban design point of view.

Yorkshire Water – no objections

KC Landscape – concerns at tree loss, request further details of the design and provision of the play area and possible increased disabled access to that area. Clarification of the maintenance responsibilities of open space areas have been requested.

KC Ecologist – require further details of planting and biodiversity protection and enhancement.

Police Architectural Liaison Officer – require marked boundaries to distinguish between private and public space.

8.3 In response to the latest plans the following response has been received.

Statutory

- **KC Highways Development Management** – Plans do not address the insufficient size of the integral garages throughout the development.

The manoeuvrability space for a refuse vehicle throughout the site has been satisfactorily addressed.

The road in the northern section at 1 in 10 needs reducing to 1 in 20 with details of turning head gradient required.

No details of the gradients to the proposed turning heads throughout the site are provided.

In the southern section the use of a traditional estate road is not considered necessary however, it is accepted that a shared surface carriageway may not be practical due to the gradients.

Details of the interface between the access road and public footpath Spen 94 needs clarification with suggested traffic calming.

Highways officers question whether real time bus information can be required at this stage.

Discussions are continuing to resolve these issues.

Non Statutory

- **KC PROW** – Welcome the retention of the public footpath Spen 94, preferably with a green corridor. This should reflect its recorded width of 6.1 metres. Controls over construction traffic and the protection of path users are required pre-commencement. The scheme lacks detail of the estate road crossing point over the footpath.

9.0 MAIN ISSUES

9.1 The principle of development has been accepted by virtue of the outline planning permission (reference 2012/93062). The application is for the approval of reserved matters and as such, the main issues will be addressed as follows:

- Layout
- Appearance
- Access within the site
- Landscaping
- Scale
- Representations

10.0 APPRAISAL

Layout

- 10.1 Officers have some concerns at the close relationship of the proposed dwellings to each other. Whilst the majority of the dwellings are detached they are sited close up to the side boundaries of the narrow plots leaving little open space between them and giving a cramped appearance with limited views between dwellings. This differs from the streetscene of existing dwellings to the east where, whilst there are a greater number of semi-detached dwellings, there is more space between dwellings as a result of increased separation and, in some cases the incorporation of side driveways.
- 10.2 NPPF part 7 requires good design in new development regarding it as a key aspect of sustainable development and contributing positively to making places better for people. Paragraph 57 notes the importance of the achievement of high quality design whilst paragraph 64 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 10.3 The applicant was requested to amend the layout to provide a greater separation between dwellings but has declined.
- 10.4 Officers concerns are consistent with NPPF advice and UDP policies BE1 and BE2. However it is recognised that the appearance of the scheme must be seen in its context. The difference in layout between the proposed development and existing dwellings to the east is not substantial and in some cases later side extensions have reduced the gap between existing dwellings. Officers do not consider that the harm is significant and conclude that it is outweighed by the benefit of housing delivery. On balance therefore it is considered that Officers could not recommend refusal on the basis of the spacing of the dwellings.

- 10.5 The layout has been assessed in the light of UDP policy BE12 and the relationship of the facing habitable room windows on proposed dwellings to each other and to the existing ones bordering the site. Within the site there are a few instances where facing habitable room windows between proposed dwellings are less than the 21 metres minimum recommended under policy BE12. However, the harm is ameliorated as the views are across roads so that the expected privacy level would be less or where the dwellings are not directly facing.
- 10.6 For the most part the relationship of the proposed dwellings to those abutting the site is in accordance with UDP policy BE12. The majority of the dwellings on Ashbourne Way have long rear gardens and whilst these reduce towards the end of that cul de sac the nearest relationship between no 26 and plot 21 exceeds the recommended distance set out in UDP policy BE12.
- 10.7 The nearest dwelling on Penn Drive to the south, no 30 is 19.87 metres from the habitable room windows on plot 36. However, the proposed dwelling is set below the level of no 30 and at an angle to it such that the effect is considered acceptable.
- 10.8 With regard to the recommended distance of 12 metres between a habitable room window and a blank wall or the window to a non-habitable room, as set out in UDP policy BE12, there are a number of instances where this distance is not met. The distance between the side wall of plot 1 and the ground floor extended rear wall of 2 Ashbourne Croft is 11.76 metres although the distance is exceeded at first floor level. However, it is considered that the discrepancy and resultant harm is minor and needs to be balanced against other material planning considerations.
- 10.9 Within the site the distance between habitable room windows on the rear of plots 13-15 and the blank side elevation of plot 11 is 10.5 metres and that between habitable room windows on the rear of plot 13 and the blank side elevation of plot 11 is less than the recommended distance at 10.5 metres and 10.9 metres. Similarly it is considered that the discrepancy and resultant harm is minor and needs to be balanced against other material planning considerations.
- 10.10 Local residents have referred to locations where extensions to dwellings have not been identified on the location plan. This issue was considered by the Local Government Ombudsman when considering a similar case involving proposed new development at Kitson Hill Road, Mirfield. In subsequently considering the development in the light of the Ombudsman decision Members were advised that
- “When measuring distances between proposed and existing dwellings, the Local Planning Authority must take into account the presence of habitable room windows in extensions and conservatories. This, of course, does not mean that proposed layouts that include distances less than those specified as the normally acceptable minimum distances can never be approved. Policy

BE12 clearly provides for lesser distances to be approved in certain circumstances". Members will need to satisfy themselves in each case that:

- the circumstances of the particular development together with any mitigation measures being proposed are, in their judgement, adequate to ensure that no detriment will be caused to existing or future occupiers of the dwellings or any adjacent premises; or
- where some impact on residential amenity cannot be avoided, that any detriment is outweighed by other material considerations and is reasonable in all the circumstances.

The Ombudsman will expect the Council to consider each case on its own merits.

10.11 In this case the following is noted:

- Habitable room windows at the rear of no 24 Ashbourne Way are 22 metres from those proposed on plot 20. This is reduced at ground floor by a conservatory however; this is at a slight angle.
- No 30 Penn Drive has a rear conservatory and no 36 Penn Drive has a conservatory up to its rear boundary with the application site. However, in both cases they are not directly facing the proposed dwelling.

It is considered by officers that where distances are not in accordance with policy BE12 the extent of the harm is outweighed by the benefit of housing delivery on this site. This harm can be addressed by removing permitted development rights for further extensions.

10.12 On appeal for the original outline application, the Inspector considered an indicative site layout plan which had been submitted after the application had been refused but before Proofs of Evidence were exchanged. This showed a buffer zone immediately to the east of Lower Blacup Farmhouse and reduced the number of dwellings from 54 to 53. This Authority accepted that the revised indicative layout addressed its concerns regarding the setting of the listed building and the living conditions of future residents due to potential nuisance from farming activities. Thus reasons for refusal 3 & 4 were withdrawn. The Inspector regarded the encroachment of dwellings close to the listed building as less than substantial harm which, in accordance with paragraph 134 of the NPPF was weighed against the public benefits of the proposal including the provision of new housing where a 5-year supply of deliverable housing land does not exist. The Inspector imposed a condition (15) requiring a buffer to be kept free from the erection of dwellings and curtilage space excluding parking and incidental landscaping.

10.13 The amended layout submitted with this application, whilst different from the earlier indicative plan incorporates this buffer to Officers' satisfaction. The Conservation & Design officer confirms that this then lessens the amount of public benefit needed to be accrued to outweigh the harm to the setting of the listed building. The public benefit in this case is one of providing housing numbers which was accepted by the Inspector so there is no reason to suggest that if in a planning sense the need for housing tips the balance towards approval this should not be the case in terms of heritage issues. Therefore on balance the Conservation & Design Officer withdraws his

previous objection and considers the application is now in compliance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and para 134 of the NPPF.

- 10.14 The Inspector was satisfied that the indicative layout included a substantial buffer between Blacup Beck and the proposed houses acting as a wildlife corridor. The layout now proposed retains that feature.
- 10.15 In response to the Highways Officer's concern regarding the insufficient garage sizes leading to inadequate parking the applicant acknowledges this but notes that each plot has two allocated parking bays in addition to the integral garage.
- 10.16 In response to the Highways Officer's concern at road gradients the applicant has amended the proposal to include a shared surface on the northern side.
- 10.17 Discussions are continuing between the applicant and Officers to resolve the outstanding Highways concerns.
- 10.18 With regard to the Highways officer's request for real time bus information at nearby bus stops and the provision of Metro Cards to new residents, it is noted that these requirements were not imposed by the Inspector on appeal and it is not considered appropriate to do so at this stage.

Appearance

- 10.19 The dwellings would be faced in artificial stone and whilst the design is not remarkable the appearance of the dwellings would be acceptable in the context of the site.
- 10.20 The main consideration in the proposal is the way that the development has been designed to accommodate the site slope. The site is narrow so that whilst small sections at the access points are built along contours the majority of the layout climbs across the contours leading to stepped housing and retaining structures.
- 10.21 The applicant has submitted sectional drawings which highlight the following:-
- The finished floor level (ffl) of plot 1 would be 0.36 metre higher than that of nos 23 & 25 Ashbourne Way
 - Plot 2 would go in at existing ground level, plots 4-7 would be raised above existing ground reaching a maximum of 2.35 m above ground level at plot 7.
 - Plots 18 – 23 would be below existing ground level to a maximum of 1.76 m on plot 23 immediately next to no 28 Ashbourne Way. The finished floor level (ffl) of plot 20 would be 1.37 m below that of no 24 Ashbourne Way.
 - The ffl of plot 32 would be 5.22 metres below that of 36 Penn Drive.
 - The ffl of plot 46 would be 0.92 m below that of no 2 Ashbourne Croft.
 - The ffl of plot 39 would be 0.4 m above that of no 8 Ashbourne Croft.
 - The private drive serving plots 38-40 would lie close up to the boundary with the rear of no 8 Ashbourne Croft and would be approximately 0.4m above its garden level and 0.28 m above ffl.

- The proposed ground level of the surface of the earth covering of the surface water attenuation tank would be 0.64m above ffl of nos 50 & 52 Ashbourne Drive.
- At the lower end of the site the ffl of the proposed dwellings (plots 4-7) adjacent to the rear of existing dwellings on Ashbourne Way would be a above existing ground levels to varying degrees to a maximum of 2.37 metres. This is indicated to be dealt with by a mixture of soil grading and retaining walls.
- On the western side of the site the proposed dwellings are higher than existing ground levels peaking at 3.5 metres on plot 24.

These relationships are felt to be acceptable given the site gradient.

10.22 In response to the concerns of Cllr Kath Pinnock over the extent of the submitted sectional information the applicant considers that these have been addressed in the submitted plans.

10.23 In response to her concerns about the visual impact of retaining walls the applicant states that the maximum height of retaining walls will be 3 metres whilst their lengths vary (up to 60 metres in length along the southern boundary). The applicant argues that all are contained within rear gardens so that their impact would be limited.

Access

10.24 The access points into the site were agreed at outline stage. Highways officers have expressed concerns at the size of integral garages and minor issues of highway design.

10.25 In response to the concerns of local residents and Cllr Kath Pinnock regarding the crossing by the estate road of the footpath and access track the applicant has stated that they do not consider that there will be a road safety issue given the volume of users. The applicant considers that the design of the crossing including measures to protect pedestrians will be assessed when the S38 application is reviewed by the Highways Authority and through the road safety audit process. A site section has been supplied across the farm track.

10.26 The Highways has considered the concerns of local residents and Cllr K Pinnock with regard to the crossing of the estate road with the farm track / public footpath to Lower Blacup Farm and the prospect of estate vehicles using the farm track as a short cut. Officers consider there would not be a harmful effect on road safety given that the design of the residential road is that it would cross the farm track with track users giving way, there would be low vehicle speeds and a low number of dwellings served by the new road. This situation would not be dissimilar to the existing use of the track use at its junction with Ashbourne Way.

- 10.27 With regard to concerns that the future residents could use the track as a short cut, given that the distance to the Ashbourne Way junction with Ashbourne Drive is the same and that the time travelled would be quicker by the better standard new residential road, it unlikely that the track would be seen as the preferred route from a highways point of view.

Landscaping

- 10.28 The applicant has submitted an existing tree survey and proposed landscaping masterplan. This shows natural surveillance to public open spaces, screen planting close to the listed building and planting to soften long distance views. The comments of the Landscape officer are awaited on the details and these will be reported to members at the meeting but can, in any case, be addressed by condition.

Scale

- 10.29 The proposed dwellings are two-storey which would be similar in scale to those dwellings to the east. At the top of the site where the proposed dwellings lie adjacent to bungalows on Penn Drive they are set below existing ground levels such that they will not be harmfully intrusive from that road or on the skyline.

Representations

- 10.30 With regard to those representations which have not been addressed above, officers respond as follows:

- Previous applications have been refused on this site in the past.
Response: The proposal must be considered on its own planning circumstances current at the time of this application.
- Nuisance from play areas.
Response: The provision of public open space within the site is a requirement of UDP policy H18. Furthermore no objections have been raised by the Police Architectural Liaison Officer. There is no evidence to suggest that nuisance will be caused to a harmful degree.
- Uncertainty over maintenance of public open space.
Response: This is covered by the terms of condition 7 of the outline planning permission.
- Layout allows for potential increase in housing
Response: Any such proposal would be the subject of a future application for planning permission in its own right.
- Site includes land in other ownership
Response: No evidence has been submitted to justify this claim. Any planning permission would not override private ownership rights.

- Potential structural damage to adjacent property during construction.
Response: This is not a planning issue and is the responsibility of the developer.
- Drainage issues
Response: Drainage issues would be dealt with under condition 10 of the outline planning permission.
- Effects of Construction
Response: A construction management plan can be imposed as a condition as part of this approval.
- Property Value
Response: This is not a material planning consideration.
- Inadequate community benefits
Response: These have been established at the outline stage.
- Inadequate publicity
Response: The publicity for this proposal is considered adequate. Local residents consider that the position of the latest site notices are not conveniently placed on a cul de sac. However, the application has been the subject of three rounds of publicity with responses and Officers consider that this has attracted a comprehensive account of public concerns and this would be unlikely to be added to by a further round of publicity.

11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.

11.2 The proposal is considered to constitute sustainable development.

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

1. Samples of all facing and roofing materials
2. Details of boundary treatment
3. Electric Charge Points
4. Removal of Permitted Development Rights for extensions and new openings
5. Details of storage and access for collection of wastes
6. Construction Management Plan
7. Landscaping implementation

Background Papers:

Application and history files:

Link to the details for this reserved matters application

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f91242>

Link to the details for the outline permission reference 2012/93062

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f93062>



Originator: Emma Thompson

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2015/92941 Outline application for erection of 1 dwelling rear of 371A, Halifax Road, Hightown, Liversedge, WF15 8DU

APPLICANT

S Tukes

DATE VALID

11-Nov-2015

TARGET DATE

06-Jan-2016

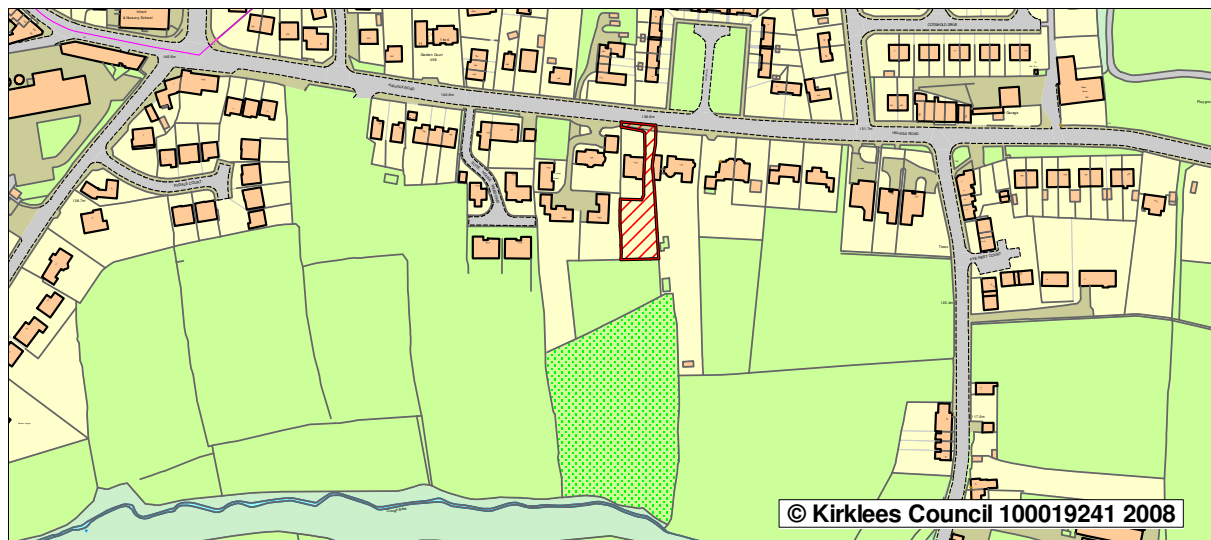
EXTENSION EXPIRY DATE

02-Sep-2016

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Liversedge and Gomersal

No

Ward Members consulted

RECOMMENDATION: REFUSE

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

1.0 INTRODUCTION:

- 1.1 This application has been brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation at the request of Local Ward Councillor David Hall for the following reason:

"On the grounds of the difficulties with the application re green belt identification, and the fact of precedence of neighbouring properties which have had similar applications granted."

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

- 1.2 The site is located within the designated Green Belt where new development is classed as inappropriate and should only be approved in "very special circumstances" which outweigh the harm. In this instance there are no special circumstances that have been demonstrated that would justify approval of what is considered to be inappropriate development. As such the principle of residential development is not acceptable and contrary to policy contained in Chapter 9 of the National Planning Policy Framework.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises of the garden located to the rear of 371A Halifax Road, Liversedge which is a small detached bungalow. The existing property fronts Halifax Road and the existing access runs to the side of the existing building. The garden is overgrown with shrubbery and small trees.
- 2.2 The character of existing development forms an established linear pattern along the southern side of the road with limited development to the rear of the existing buildings. The site is bound by residential properties to the east and west and the road to the north beyond which are a number of dwellings. The area to the south is open and rural in character

3.0 PROPOSAL:

- 3.1 The application is in Outline with all matters reserved. The application details submitted include an indicative layout plan that show an “L” shaped dwelling situated adjacent to recently constructed development on the site adjacent. The garden extends to the south with a small area being retained for the existing dwelling.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2002/91248 – Outline application for the erection of 3 dwellings and garages – granted outline consent (considered by the officer as unallocated but later transpired the development is located on Green Belt)
- 2010/90194 – Erection of 4 detached dwellings and formation of parking – Land rear of 377 Halifax Road - full permission (unallocated land on the UDP proposals map)

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Due to the location of the site being within an area that is identified as ‘High Risk’ a Coal Mining Risk Assessment was requested. In addition, due to the characteristics of the site, an ecological survey was required. Both documents should have been submitted in order to validate the application.
- 5.2 In light of matters regarding the designation of the site, which is in the Green Belt, the agent has reduced the scheme to a single dwelling unit which seeks to reduce the impact of the development on the openness and character of the Green Belt.

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 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design Principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway safety
H1 – Meeting the housing needs of the district

Supplementary Planning Guidance / Documents:

- 6.3 None considered relevant

National Planning Guidance:

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

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 The site is allocated as *Green Belt* on the draft local plan.

Policies:

- PLP21** – Highway Safety and Access
PLP24 - Design
PLP30 – Biodiversity and geodiversity

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The original application for 2 dwellings was advertised by site notice and neighbour notification letters and has subsequently expired. One representation has been received and is summarised below:

- Loss of view
- Vehicular noise
- Waste collection
- Loss of privacy
- Loss of value

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Coal Authority: No objections subject to conditions

8.2 Non-statutory:

K.C. Biodiversity Officer: No objections following receipt of ecological survey.

9.0 MAIN ISSUES

9.1 The main issues for consideration are as follows:-

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

10.0 APPRAISAL

Principle of development

10.1 The application site is located in the designated Green Belt on the UDP proposals map and as such policy contained in chapter 9 of the NPPF is relevant.

10.2 Paragraph 79 of the NPPF states that the “Government attaches great importance to Green Belts . . . (and that) the essential characteristics of the Green Belts are their openness and their permanence”.

- 10.3 The Green Belt serves five purposes that include safeguarding the countryside from encroachment. Paragraph 87 of the NPPF makes reference to “inappropriate development”, stating that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. When considering any planning application for development substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
- 10.4 The erection of a new building is considered as inappropriate, Paragraph 89 of the NPPF sets out the exceptions to this which includes the replacement of a building. Additionally Paragraph 90 of the NPPF sets out other forms of development that are not inappropriate in the Green Belt provided that they preserve the openness and do not conflict with the purposes of including land within it. Taking into account the exceptions outlined in the NPPF it is considered that the principle of erecting a dwelling in this location is not appropriate.
- 10.5 Whilst the interpretation of where the Green Belt boundary is drawn on the UDP proposals map may not be easily interpreted the boundary has been checked and the fact remains that the land is designated as Green Belt and therefore should be assessed as such. It is the view of officers that there are no ‘very special circumstances’ to justify approving the erection of a new dwelling in the Green Belt which is inappropriate and would cause harm to the character and openness of the area, contrary to the aims of Chapter 9 of the NPPF.

Urban Design issues

- 10.6 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 7 of the NPPF emphasises the importance of good design.
- 10.7 The indicative site plan provides limited details but shows a single “L” shaped dwelling located adjacent to existing neighbouring development. Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history, and reflects the identity of local surroundings and materials. As the application is in outline with all matters reserved there are no details of landscaping, scale, materials or design.
- 10.8 The nature of existing residential development that surrounds the site is mixed in scale and character, with no single style or design of property taking precedent. It is considered that a dwelling could be designed to complement existing buildings. It must, however, be recognised that any building in this location would reduce the openness, detract from the general rural context and natural undeveloped character of the area, contrary to the aims of the NPPF and Draft Kirklees Local Plan policy 55.

Residential Amenity

- 10.9 In assessing the impact of the development on both dwellings externally surrounding the site and the dwelling proposed within the site, Policy BE12 of the UDP is of relevance. This policy recommends a separation distance of 12m between existing habitable room windows and non-habitable room windows and 21m between habitable room windows of any two dwellings. A distance of 10.5m is recommended from a habitable room window and the boundary of any adjacent undeveloped land and 1.5m between any wall of a new dwelling and the boundary of any adjacent land other than a highway.
- 10.10 Due to the location of the development it is considered that a dwelling could be designed so as to avoid any loss of privacy or amenity of any nearby occupants and ensure separation distances as set out in Policy BE12 of the UDP.

Landscape issues

- 10.11 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The application does not include landscaping for consideration and the plans do not show any areas of landscaping that are to be incorporated into the development.

Highway issues

- 10.12 The application is submitted in outline with all matters reserved, including access. The application site currently has driveway access from Halifax Road directly into the site passing down the side of the existing dwelling. There is existing hardstanding to the front of the existing dwelling that would provide parking. The indicative site layout plan shows adequate space for vehicles associated with the proposed dwelling. It is considered that with the inclusion of appropriate conditions the proposals would not materially add to any undue highway safety implications, complying with the aims of Policies T10 of the UDP.

Representations

- 10.13 Loss of view
Officer Response: An indicative plan shows the dwelling as two storey. The indicative site section shows the land to slope gradually away thereby reducing any impact of the development on any neighbouring occupant. The location of a dwelling in the rear garden would reduce the open spaces between the existing dwellings and open spaces to the rear and as such whilst loss of view is not a material consideration the loss of openness is and is recommended for refusal on this basis.

10.14 Vehicle noise

Officer Response: It is considered that the erection of a dwelling would not lead to a material loss of amenity to any adjoining occupants due to noise generation over and above the existing traffic and vehicular noise.

10.15 Weekly collection point for waste bins at the front wall of my home

Officer Response: It is considered that development would not lead to a material loss of amenity as a result of the location of bin stores.

10.16 Loss of privacy in my garden and patio area

Officer Response: It is considered that development can be designed so as to avoid any loss of privacy to any adjoining occupant.

10.17 Devaluation of my property if is overlooked by other properties

Officer Response: Loss of value is not a material planning consideration.

Other Matters

10.18 *Coal Mining Legacy*

The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. A Coal Mining Risk Assessment has been submitted with the application and comments obtained from the Coal Authority. There are no objections to the proposals providing conditions are imposed to ensure there is no risk as a consequence of development, in accordance with the aims of chapter 11 of the NPPF.

10.19 *Biodiversity & Bats*

In order to ensure compliance with the aims of the NPPF, the site has been assessed with regards to its ecological merits in addition to bat activity. Paragraph 118 of the NPPF states that: When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

In view of the potential for bats using the surrounding habitats further evidence has been provided to support initial assessments that the site can be developed without resulting in any harm to bats, in accordance with the aims of chapter 11 of the NPPF.

11.0 CONCLUSION

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

Background Papers:

Application and history files:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f92941>

Certificate of Ownership – Certificate A signed and dated: 14 September 2015

This page is intentionally left blank



Originator: Anthony Monaghan

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2017/91339 Erection of detached dwelling Land Opp, 14, Bracken Hill, Mirfield, WF14 0EZ

APPLICANT

S Riley & B Fox

DATE VALID

02-May-2017

TARGET DATE

27-Jun-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application is brought to Heavy Woollen Planning Committee due to the significant number of objections received. Councillor Bolt has also requested the application to be heard at Committee due to the level of objection to the development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to a piece of land on Bracken Hill on which was previously sited the detached garage serving no.14 Bracken Hill, which is located on the opposite side of the highway to the site. The site is steeply sloping and has a long frontage onto Bracken Hill.

2.2 Bracken Hill itself is characterised by traditional stone detached and terraced properties whilst to the rear of the site, the properties on Bracken Grove are of a later period and comprise semi-detached bungalows and two storey dwellings of brick construction.

2.3 At the time of the case officer's site visit, a dwelling has been partially constructed on the site.

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

3.0 PROPOSAL:

3.1 The proposal is a full application for the erection of a detached dwelling. The application has been received as the result of an enforcement complaint.

- 3.2 The site is elongated with a long boundary with Bracken Hill, it slopes from north to south; the building is two storey but split level to account for the topography of the site. The roof is twin pitched with gables to each end and is of natural slate. The facing material is natural stone; doors and windows have not yet been inserted but would be grey uPVC.
- 3.3 Outdoor amenity space would be provided in the form of a small garden to the south-west of the site and there would be two off street parking spaces to the side of the dwelling.
- 3.4 The application also includes a Coal Mining Risk Assessment and Geotechnical report detailing results of a bore hole intrusive survey.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 **COMP/17/0107.** Alleged unauthorised development. April 2017 - Case still open.

2015/91816. Erection of detached dwelling and demolition of detached garage - Approved.

2015/90489 Discharge condition 3 on permission 2011/92670 - Approved

2011/92670. Alterations and extension to existing garage to form dwelling, and formation of off street parking - Approved.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Discussions took place with the agent to submit amended plans and to verify the exact dimensions of what has been constructed on site. Amended plans submitted on 24 May 2017 which show the dormer removed from the plans.
- 5.2 Further amended plans were submitted 9 June 2017 showing the dormer removed from the block plans and the parking layout slightly adjusted to ensure the inter-visibility splays are entirely within the red line boundary.
- 5.3 A planning supporting statement was also received 9 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 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1-** Quality of design.
BE2- Design principles.
BE11 Materials
BE12 Space about buildings.
T10- New development and access to highways.
T19- Parking Standards.

Supplementary Planning Guidance / Documents:

- 6.3 None relevant.

National Planning Guidance:

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

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 The site is unallocated on the draft local plan.

Policies:

- PLP21** – Highway Safety and Access
PLP24 - Design
PLP53 – Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 21 individual letters of representation received, (3 of which are part-duplicates), and one on behalf of local residents from a Consultant. Issues raised are summarised as follows:

- Overlooking from dormer window to 1 and 3 Bracken Grove.
- Building too high, overbearing and dominates the street.
- Would add to excessive highway traffic.
- Overlooking from roof light of 12 and 14 Bracken Hill.
- Problems with service vehicles and other large vehicles accessing properties on Bracken Hill.
- Ground is unstable and has not been reinforced.

- Dormer windows would overlook houses to the rear.
- Poor visibility onto highway.
- Object to retrospective changes to permission.
- Increase in height affects outlook from nearby dwellings.
- Building reduces access to properties further on Bracken Hill.
- Children play in the street.
- Original approval was for natural stone with stone slate roof. The actual materials are grey slate and artstone.
- Poor build quality.
- Contempt shown for local community and planning approval.
- Loss of trees on the site.
- Insufficient amenity space.
- Kirklees has duty of care to make site safe.
- Street light has not been repositioned.
- Will affect value of property.
- The previous approval was the maximum reasonably acceptable on this site.

Mirfield Town Council: Objects on the basis of detrimental impact to highway safety (both access and egress), over intensification of site, overlooking to neighbouring properties, loss of privacy due to height of build, in contravention of Policy BE12. The objection refers to highway comments on the original application 2015/91816 and state that the practice of deliberately changing plans & applying for retrospective permission is becoming common and a lack of contact from building regulations to local residents is unacceptable.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – The details provided are acceptable for the development provided intervisibility splays are provided.

K.C Flood Management and Drainage –The proposed site plan has been amended removing the proposed soakaway and now showing surface water draining to the public sewer. No objection to the proposal subject to a condition being attached to any approval (comments from 2015/91816).

The Coal Authority – Awaiting response which will be reported to the members in the Update.

8.2 Non-statutory:

K.C Building Control - Concerns that no structural report has yet been submitted showing that the existing garage slab is capable of supporting the building.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated on the Unitary Development Plan proposals map and on such sites there is a presumption in favour of development unless it would have a detrimental impact on residential or visual amenity, highway safety or the character of the area. At the heart of the NPPF is also a presumption in favour of sustainable development.
- 10.2 Two of the core principles of the NPPF are that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; and encourage the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value.
- 10.3 Planning permission has previously been granted on this site for the extension and alterations to the existing garage to form a dwelling and subsequently, the erection of a detached dwelling. As such, it is considered therefore that the principle of the development of this site for residential has been established.
- 10.4 Providing that the proposals would not cause harm to highway safety, residential and visual amenity or any other relevant considerations the principle of development is considered acceptable and in accordance with Policy D2 of the Unitary Development Plan and government guidance contained within the NPPF.
- 10.5 In terms of housing policy The NPPF provides a presumption in favour of sustainable development and requires housing applications to be considered in this context in order to boost significantly the supply of housing. For decision making it means approving development that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or specific policies in the framework indicate development should be restricted.

Urban Design issues

- 10.6 The application site is located in a residential area of varying house types, however Bracken Hill itself is characterised in the main by traditional two storey terraced and detached dwellings constructed of stone. Bracken Grove, to the west, is characterised by brick bungalows and two storey dwellings.
- 10.7 The dwelling which is the subject of this application is 5.55m wide by 15.6m long with a pitched roof. It measures a maximum of 7m to the ridge at the lower side and 4.6m to the eaves. To the upper, north side it measures 5.2m to the ridge and 2.8m to the eaves. These measurements have been taken on site, and may not fully account for the finished ground level adjacent to the building.
- 10.8 With regard to the difference in ridge height this has been measured on site as being approximately 0.9m greater than previously approved although the Agent has stated this is actually 0.75m.
- 10.9 It is noted that the building is the same height to the eaves as previously approved; as such the main issue to assess is the increase in height to the ridge and difference in pitch. From the lower side of Bracken Hill the building is partly screened by some trees on the site, however it does appear as a prominent structure in the streetscene. It is also noted that other dwellings, for example 14 Bracken Hill, also have an imposing impact which is partly due to the sloping topography of Bracken Hill.
- 10.10 In terms of the pitch of the roof this is steeper than previously approved but does not look out of character with the building, nor with other nearby properties with similar slate roof.
- 10.11 With regard to the design detail this is similar to that previously approved and includes stone corbels to the eaves, stone sills and lintels and stone quoins. There would also be a section of timber boarding above the entrance doorway. The materials of construction are natural stone with blue/grey slate roof. It is noted that the original approval proposed natural stone slate tiles for the roof, however it is acknowledged by officers that the blue/grey slate also matches those used on the nearby terraced dwellings. Doors and windows would be of grey uPVC, again this is satisfactory given the location of the site.
- 10.12 On the basis of the above and on balance, the proposal is considered to be acceptable with regard to its design and impact on visual amenity, in accordance with Policies D2, BE1 and BE2 of the UDP and government guidance contained within the NPPF.

Residential Amenity

- 10.13 Policy BE12 of the UDP establishes that some minimum separation distances are provided between proposed new dwellings and existing development. The internal layout of the proposed development is such that most habitable room windows would be located to the east elevation. Due to the orientation of the building, it would not have a direct relationship with 12 Bracken Hill which is set back from the highway at this point and there is a separation distance of approximately 21m from the nearest point of the two buildings.

- 10.14 The row of terraced properties, nos. 2 to 10 Bracken Hill to the south would be slightly closer, being around 11m at the closest point; again this relationship would not be direct as the building is positioned at an angle to these dwellings. In addition the window to this part of the proposed dwelling serves a kitchen area of the dining /kitchen room at lower ground floor level. Given the above it is considered that the proposal would not result in a significant detrimental impact from overlooking to these properties from the east elevation.
- 10.15 With respect to the windows in the south elevation, two of these serve habitable rooms and directly overlook the parking area of the dwelling, with the garden area serving one of the terraced houses beyond at a distance of around 9m. There is no direct relationship with any nearby dwellings from these windows that would adversely affect residential amenity. The west elevation of the building will contain a large glazing area serving the dining/kitchen; this would be around 8.6m from the boundary and would be 18m from the nearest existing dwelling to this side, no 1 Bracken Grove, but would not have a direct relationship.
- 10.16 The garden to no 140 Stocks Bank Road and the gardens to properties on Bracken Grove are at a lower level than the application site. During the Case Officer's site visit these properties were visited to assess the potential impact from this side. Whilst the dwelling appears elevated, this difference is less pronounced where the large glazed area would be, and would appear to be around 1.0m and is to the side of a detached garage in the rear garden of no.148 Bracken Grove. The garden of this property wraps around the rear of the garden of no.140c Stocks Bank Road and there is some screening to this boundary.
- 10.17 It should also be noted that the site here is actually around 2m deeper than shown on the previous approval. As such the decking and dwelling are located further away from the rear boundary. Whilst previous approvals required that these windows were obscurely glazed it is the assessment of the officer that satisfactory screening can be achieved by the proposed timber fencing.
- 10.18 The main issue to address with this application are the differences between what was previously approved and the current application. It is noted that the dormer has been removed from the proposals because there was significant concern raised by officers that this element had the potential to result in an overbearing impact and could have caused significant degree of overlooking.
- 10.19 The remaining differences are in the number of roof lights, which have been reduced from 5 on the west facing pitch to 2 on the current proposals. One of these is of a high level design, serving the living area, and one serves a bedroom, again at high level. As such there is no potential for overlooking from these windows. On the east facing pitch a roof light has been inserted which will serve a room in the roof space; this does not have a direct relationship with any other dwellings and does not result in overlooking.

- 10.20 As noted previously the main difference between the previous approval and the current application (relating to the building as constructed), is the increase in roof pitch which has resulted in an increase in roof height of around 0.9m. This does result in a more prominent gable to the southern side and a more visible structure; however it is necessary to assess whether or not this would adversely affect residential amenity.
- 10.21 To the east side of the site across Bracken Hill is the row of terraced properties, some of which have a fairly direct view of the property, particularly the south eastern corner. Whilst this is the most prominent point on this side, it should be noted that there is a change in levels between the highway and the building such that the building is at a slightly lower level. As such, the impact would not be from the full height of the dwelling. It is also of note that due to the orientation of the building there would no significant overshadowing of these terraced properties apart from in the late evening during the summer months. There is also unlikely to be any loss of light from the development to the extent that it would affect residential amenity.
- 10.22 In terms of any increase to loss of outlook the main impact would be from the building up to eaves height which has already been approved. The pitch of the roof has increased and as a result the ridge height has also increased by approximately 0.9m. A greater impact would arise as a result of this. However it should be noted that the roof element of this building slopes away from these properties and as such the impact on outlook is therefore less than it would be for the same increase to a vertical element.
- 10.23 With regard to other properties on Bracken Grove, the property is be elevated but given this orientation is unlikely to cause a significant impact from overshadowing, and given the distance from these properties, would not result in a significantly detrimental overbearing structure.
- 10.24 With regard to the residential amenity of future occupiers of the dwelling, the proposals include an area of outdoor amenity space to the rear of the dwelling which is mainly grassed and a decking area adjacent to the dining/kitchen space. This area is approximately 80 sq. m and as such is considered to provide an acceptable level of provision.
- 10.25 On the basis of the above, it is considered by officers that on balance, the proposals would not be significantly detrimental to residential amenity and would accord with Policies D2, BE1 and BE2 of the Unitary Development Plan.

Landscape issues

- 10.26 The site is relatively small with the garden area to the south western part of the dwelling. The plans indicate that this area would be a lawn with a small section of decking outside the kitchen/dining room.

- 10.27 To the side and rear boundary is proposed 1.8m high hit and miss timber fencing. It is considered that given the proximity to neighbouring properties and the change in levels between those dwellings on Bracken Grove, solid timber fencing would be required. This is recommended to be secured via condition.
- 10.28 To the front boundary is proposed a small lawn area with a 1m high natural stone boundary wall, this is appropriate in terms of the material which would match others in the vicinity, and the height would help to maintain visibility on this corner.

Housing issues

- 10.29 The proposal would provide for an additional dwelling in this mainly residential area and in a sustainable location.

Highway issues

- 10.30 The proposed dwelling is a two/three bedroom property with a floor area of around 140 square metres, the threshold above which UDP parking standards require 3 parking spaces. The plans show two parking spaces which are in accordance with the details previously requested by condition. The parking spaces would be set back 2m from the edge of the highway and 2 x 2m inter-visibility would be provided.
- 10.31 A condition is recommended to be included to ensure that the surface is permeable and that the street lighting column adjacent to the site is moved. A bin storage area is also shown within the site boundary and accessible to service vehicles. Officers recommend that a condition is imposed requiring this to be provided before the development is first occupied.
- 10.32 There has been some concern with the issues surrounding bin collection which has not been possible on a number of occasions over the building period. It is important to point out that this is due to the scaffolding and site fencing and not the building itself which, as noted previously, does not project any further on the north east corner than the previous garage on the site. The issue has been discussed with the Council's cleansing service which has confirmed this to be the case. The Agent has been advised to ensure the highway is not obstructed.
- 10.33 Subject to condition the proposals, the proposals are considered to be in accordance with Policies BE1, T10 and T19 of the UDP.

Drainage issues

- 10.34 The proposal is to connect both surface and foul water to mains drainage. Given the slope of the site and the relationship with other dwellings to the west, it is doubtful whether there would be space to use soakaways. The Council's Strategic Drainage team were consulted on the previous application; however this is now below the threshold above which they would now be consulted.

10.35 In addition any connection to Yorkshire Water sewers would require permission from Yorkshire Water.

Representations

10.36 As noted above, 21 letters of representation have been received in response to site publicity, 3 of which were part-duplicates and one on behalf of local residents from a Consultant.

Officers respond to the issues raised as follows:

- Overlooking from dormer window of 1 and 3 Bracken Grove.
Response: *The dormer has been removed from the submitted plans.*
- Building too high, overbearing and dominates the street.
Response: *This has been assessed in the assessment section of the report.*
- Would add to excessive highway traffic.
Response: *This has been assessed in the assessment section of the report.*
- Overlooking from roof light of 12 and 14 Bracken Hill.
Response: *This has been assessed in the assessment section of the report.*
- Problems with service vehicles and other large vehicles accessing properties on Bracken Hill.
Response: *The main obstruction to service vehicles has been from the scaffolding and fencing associated with the building work.*
- The Ground is unstable and has not been reinforced.
Response: The NPPF sets out under paragraph 120 that “where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/ or landowner”. In this instance, consultation has been carried out with the Council’s Building Control. To date, no structural report has been submitted however, the stability of the building and any required mitigation will be dealt with as part of the Building Control process.
- Dormer windows would overlook houses to the rear.
Response: *This has been assessed in the assessment section of the report.*
- Poor visibility onto highway.
Response: *This has been assessed under the section “Highway Safety”.*
- Object to retrospective changes to permission.
Response: *The application has been assessed on the merits of the submission.*
- Increase in height affects outlook from nearby dwellings.
Response: *This has been assessed under the section “residential amenity”.*

- Building reduces access to properties further on Bracken Hill.
Response: *The siting of the building on the north east corner is the same as the garage previously located on the site. The access is no narrower.*
- Children play in the street.
Response: *The development is unlikely to significantly add to any highway safety issues already existing on Bracken Hill.*
- Original approval was for natural stone with stone slate roof. The actual materials are grey slate and artstone.
Response: *The materials used on the building have been assessed in the “visual amenity” section of the report*
- Poor build quality.
Response: *The quality and safety of the building would be an issue for Building Control. The planning officer has been liaising with the Building Control Officer during the application stage.*
- Contempt shown for local community and planning approval.
Response: *The application has been received for a partly constructed building and will be assessed on its merits.*
- Loss of trees on the site.
Response: *There are no mature trees on the site and no Tree Preservation Orders.*
- Insufficient amenity space.
Response: *This has been assessed under the “residential amenity” section of the report.*
- Kirklees has duty of care to make site safe.
Response: *The site safety is the responsibility of the developer and is overseen by the Health and Safety Executive.*
- Street light has not been repositioned.
Response: *This would need to be repositioned before the parking layout can be implemented.*
- Will affect value of property.
Response: *This would not be a material planning consideration.*
- The previous approval was the maximum reasonably acceptable on this site.
Response: *There is no definition as to what the maximum development is on a site; an assessment is carried out on each particular application as to whether or not what is being proposed is acceptable in terms of the scale and resultant impact.*

Planning obligations

- 10.37 The application is for one dwelling only as such there is no requirement for the applicant to enter into any legal agreements or obligations.

Other Matters

Coal Mining Risks

- 10.38 The site is within the Coal Mining High Risk area; a coal mining risk assessment and report detailing results of an intrusive investigation have been submitted. The Coal Authority has been consulted and a response is still awaited, which will be reported in the update.

Sustainable transport

- 10.39 Environmental Health has requested a condition requiring an electric charge point be provided within the site for electric vehicles. This is a reasonable request as it is important that new infrastructure for charging these vehicles is introduced to make them viable. Electric vehicles will have an immediate impact on improving local air quality, and, subject to more electricity being generated from renewable sources, help reduce carbon emissions.

Enforcement Complaint

- 10.40 The application has been received as the result of an enforcement complaint regarding unauthorised development. The Enforcement Officer and Planning Case Officer have been working together on this case and, following any decision, a view would be taken as to any enforcement action necessary to be undertaken.

Removal of permitted development rights

- 10.5 The rear dormer has been removed from the submitted plans and if permission is granted, this would be required to be removed from the building. It is important to remove permitted development rights for any alterations to the roof which could result in dormers being built (Part 1, Schedule 2, Class B).
- 10.6 Furthermore, Officers also recommend that given the constraints of the site, and the potential impact on visual and residential amenity, permitted development rights should also be removed under Classes A, C, D and E of the same schedule. Class A includes alterations which would prevent insertion of any new doors or windows.

11.0 CONCLUSION

- 11.1 There have been a large number of objections received in relation to this application and concern that the development has not been built according to the approved plans and is therefore unauthorised. A number of the issues raised refer to elements of the development which have been previously approved.

11.2 Notwithstanding the above, the application has to be assessed on the current application. The differences between the previously approved development and this submission has been carefully assessed, both by reference to the submitted information and by visiting the site, with regard to the impact on residential and visual amenity and highway safety.

11.3 It is concluded that whilst there would be some additional impact from the development, this would not cause significant harm to visual or residential amenity and highway safety. As such the proposals are 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. Development to be carried out in complete accordance with the plans and specifications.

2. Permitted development rights under Classes, A, B, C, D and E of Schedule 2 of Part 1 of the GPDO to be withdrawn.

3. Before the development is first brought into use, private parking areas/driveways shall be surfaced and sustainably drained and thereafter retained.

4. Visibility splays of 2.0m x 2.0m measured from the back edge of the carriageway shall be provided, the parking spaces shall be set back from the edge of the carriageway by 2.0m, and there shall be no obstruction to visibility exceeding 600mm in height.

5. The bin storage area to be provided.

6. Boundary fence to the west and south boundaries of the site shall be 1.8m high and shall be close boarded.

7. An electric vehicle recharging point shall be installed in a position that is accessible to electric vehicles.

8. Street light column no.02 to be moved.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F91339>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2011%2F92670>

Certificate of Ownership – Certificate A signed and dated 13 April 2017.



Originator: Bill Topping

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2017/90661 Erection of 14 dwellings Westfield Assessment Centre, 13, Westfields Road, Mirfield, WF14 9PW

APPLICANT

Stuart Daniel, Riva Homes

DATE VALID

27-Feb-2017

TARGET DATE

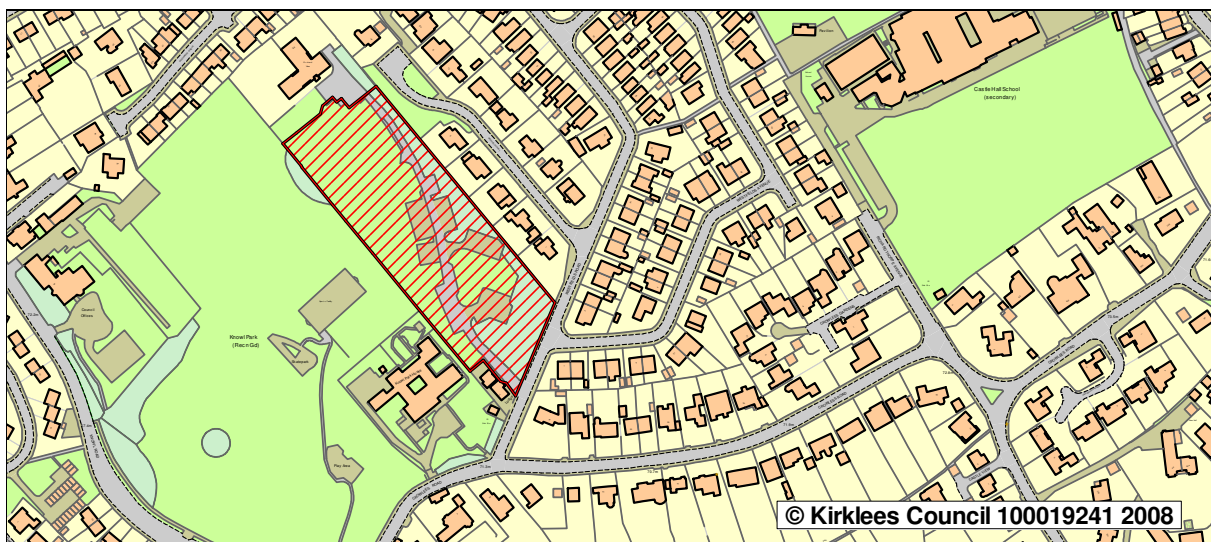
29-May-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield

Yes

Ward Members consulted
(referred to in report)

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 to secure a S106 agreement to cover the following matters:

- **The provision of affordable housing two (2) units ; and**
- **The provision and future maintenance of Open Space on site, and an off site contribution of £90,000;**
- **Metro cards £22,470**

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

1.0 INTRODUCTION:

1.1 This application is brought to Committee as the site is in excess of 0.5ha

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises an area of 1.17ha in the grounds of the former Westfield Assessment Centre at Mirfield. The previous buildings within the site have been demolished. There is a central access road, and adjacent to the entrance to the site is a former gatehouse which has been converted into a dwelling. Within the wider site there are a number of mature trees which are protected by a Tree Preservation Order, with the nearest protected trees to the stone building being located along the north-eastern boundary. The surrounding area is predominately residential; the land to the north of the red line comprises the Orchard View Children’s centre and the access to the care home runs through the site.

3.0 PROPOSAL:

- 3.1 The application seeks planning permission for the erection of 14 no dwellings. The proposed dwellings would be sited either side of a central access road, culminating in a central courtyard area. The proposed layout includes a mix of detached, semi-detached and terraced dwellings with a mix of two storey and two storey with rooms in the roof.
- 3.2 It is proposed the development would be served by a private road maintained by a management company. The site would be gated with both pedestrian and vehicular access gates. This road would comprises an extended cul de sac of a tarmac shared surface carriageway to be utilised by pedestrians and vehicles. Central to the site is located an area of open space (2 areas, one each side of the road) containing a number of the mature and protected trees.

4.0 RELEVANT PLANNING HISTORY:

2016/91486 Full application for erection of 22 no dwellings- Withdrawn

2014/92673 – Outline application for erection of 11 dwellings – Granted Under Reg.4 General Regulations

2014/92675 – Change of use of existing buildings to 2 apartments – Granted under Reg.4 General Regulations

2015/90633 – Change of use from B1 (a) Office to C3 residential and single storey rear extension – Conditional Full Permission

2015/91955 – Discharge of conditions 3 (external facing materials), 5 (Phase II Intrusive on previous permission

2016/90642 – Prior Notification for proposed demolition of building – Demolition Details Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Pre-application discussions were held following the withdrawal of the previous application for 22 dwellings. Amended plans have been received addressing the proximity of a number of the dwellings to the protected trees. Also detailed highway comments have been addressed.
- 5.2. Given the numbers of units applied for the Councils Affordable Housing is applicable. The applicants have submitted a viability appraisal indicating that they believe the site is unviable with an affordable housing contribution.
- 5.3. This appraisal has been sent for independent assessment on behalf of the Council. (Details are included within the Assessment section of this report)

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).

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
BE23 – Crime prevention
NE9 – Retention of mature trees
T10 – Highway safety
H10 – Affordable housing
H12 – Arrangements for securing affordable housing
G6 – Land contamination
H18 – Provision of open space
B4 – Change of use of land and buildings last used for business or industry
EP11 – Ecological landscaping

Supplementary Planning Guidance / Documents:

- 6.3 SPD2 Affordable Housing

National Planning Guidance:

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

- 6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is unallocated on the draft local plan.

Policies:

PLP11 – Housing mix and affordable housing
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP28 – Drainage
PLP30 – Biodiversity and geodiversity
PLP33 – Trees
PLP53 – Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

7.1. This application was publicised by site notices and neighbour letters.

One letter of representation has been received: The main points of concern being:

- The scheme is an improvement upon the previous submission, but still objected to;
- The use of a private road and gates is fraught with difficulties for future maintenance, likewise the maintenance of the open areas within the site is problematic;
- No affordable housing is offered with the development. This is contrary to Council policy;
- Any work in close proximity to the protected trees on this site needs very careful monitoring.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – No objections recommend conditions in the event of approval.

The Coal Authority – No objections.

K.C Flood Management – Support the application subject to the implementation in accordance with submitted Flood Risk Assessment. Recommend conditions.

8.2 Non-statutory:

K.C Environmental Services – No objections recommend conditions in the event of approval.

K.C Arboricultural Officer – Amended plans are considered acceptable, recommend conditions for protection during construction.

K.C Ecologist – No objections matters can be the subject of pre- conditions, in the event of approval.

Yorkshire Water - No objections recommend conditions in the event of an approval.

K.C Landscape - On site POS is acceptable location, future maintenance to be secured through a Section 106 Agreement. In addition an off-site contribution of £90,000 would be required.

Crime Prevention – No objections.

K.C Housing – There is a demonstrable need for affordable housing in this area, and this should be secured on site.

9.0 MAIN ISSUES

- Principle of development
- Impact on Amenity
- Highways Issues
- Drainage Issues
- Biodiversity
- Environment Issues (Remediation; Air Quality)
- Crime Prevention
- Conclusion

10.0 APPRAISAL

General Principle/Policy:

- 10.1 The site (formerly the Westfield Assessment Centre,) is a brown field site located in a predominantly residential area, and has the benefit of an Outline permission for 11 dwellings (2014/92673). As such the principle of residential development has already been established. The site is considered to be in a sustainable location, with good access to public transport and local facilities in the Mirfield Centre.
- 10.2 Given the scale of the development and the number of dwellings involved the Council's policies on the provision of Public Open Space and Affordable Housing are relevant.
- 10.3 The scheme contains a central area of POS situated around a number of mature protected trees, which is considered acceptable as passive open space. Also require is a financial contribution in lieu towards the improvement of existing play facilities within the area.
- 10.4 The Councils Interim affordable housing policy seeks the provision of 20% of units on new housing sites. As such a policy compliant provision would be 3 units in this instance. The applicants have submitted a viability appraisal with the application, indicating that they believe the scheme to be unviable with the level of affordable housing provision required.
- 10.5 This appraisal has been independently assessed at the expense of the applicant, and the Independent Assessor indicates that the scheme should be able to sustain two (2) affordable dwellings. As such, the provision of two (2 no.) affordable dwellings, as well as the Public Open Space (POS), and METRO card provision, will be recommended for inclusion within a Section 106 Agreement.

Impact on Amenity

- 10.6. The scheme comprises 14 dwellings in the form of a long cul de sac the scheme delivers 14 dwellings at a density of just under 14 per ha. This is a relatively low density, but given the nature of the site, particularly the extent and numbers of protected trees, which have been retained, this is considered to be an appropriate and efficient use of the site. In addition the neighbouring dwellings are a mixture of house types, mainly detached with gardens, which is considered to be compatible with the proposed development.
- 10.7. The dwellings are 2 storey in height (some with rooms in the roof), but an appropriate scale, and the use of natural stone and slate is acceptable. In this case the vehicle entrance will be a feature with stone gateposts, which are effectively retained from the past use of the site.
- 10.8. The internal layout satisfies the Council's space about buildings policies, and the distances to the nearest dwellings on Westfield Court are well in excess of 21 m, and also the trees along that boundary are to be retained, affording an additional screening effect.
- 10.9. As such the scheme is considered to satisfy the requirements of Part 7 of the NPPF "Requiring good design", and there is no adverse effect upon residential amenity.

Highway issues

- 10.10. Each of the 14 dwellings will have a minimum of 3 off-street parking spaces, the applicants have demonstrated by means of vehicle swept paths that a large refuse vehicle can enter and turn within the site, and sight lines onto Westfield Road are good in both directions.
- 10.11. Whilst this is a non-standard approach to the design of the road layout and the proposed access road is not to be adopted and highway maintainable at public expense the layout does provide adequate off-street parking, access and internal vehicle turning and highways have no objections.
- 10.12. They raise no objections subject to the inclusion of conditions for a scheme detailing the proposed internal estate road to include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit.

Drainage issues

- 10.13. The site is located within an area that is Flood Risk Zone 1, i.e. the area least likely to flood. However given the size of the site (i.e. in excess of 1.0 ha), a Flood Risk Assessment is required dealing with surface water.
- 10.14. An updated Flood Risk Assessment has been received with this application, which is supported by the Strategic Drainage Section, withdrawing previous objections. Likewise Yorkshire Water Authority, have no objections, and recommend conditions.

- 10.15 Conditions are recommended to secure a separate gravity systems, the reduction of surface water run off rates from a former brown field site, adequate attenuation, and safe flood routing, as well as a temporary drainage solution during construction.
- 10.16 As such it is consider that this scheme accords with the guidance contained in chapter 10 of the NPPF “ Meeting the challenge of climate change, flood risk and coastal change”.

Environmental Issues

- 10.17 Environmental Services have reviewed the Phase 1 and Phase II Reports by Eastwood & Partners Consulting Engineers dated 26 may 2016 (ref: 39450). They agree with the recommendations in the Phase II and will require validation the 600mm capping layer has been implemented. They also require the lead outlier is addressed and the findings submitted once further investigation has been completed. They raise no objections subject to the submission of a Remediation Strategy and Validation report. Conditions are recommended to secure the above, in accordance with the aims of policy G6 of the UDP and part 8 of the NPPF.
- 10.18 With respect to Air Quality, in accordance with the guidance in part 8 of the NPPF “Promoting Healthy Communities” and the West Yorkshire Low Emissions Strategy, it is proposed to condition the provision of electric charging points within the development.

Biodiversity Issues

- 10.19. The applicants have submitted an Ecological Impact Assessment report, that is considered to be of a high standard. A number of the trees have high potential to support bats, and contain features with the potential to support roosts of high conservation value (maternity roosts).
- 10.20 The applicant has submitted an “Advanced Bat Mitigation Scheme”, which has been amended and updated in accordance with the requirements of the Councils Ecologist, which is consider to be acceptable, but would need to be fully undertaken and implemented prior to any development commencing. As such is recommended this agreed Advanced Bat Mitigation Strategy be included within any decision as a pre-condition.
- 10.21. It is also recommended that a Landscape Scheme showing habitat creation and retention, together with a Landscape and Ecological Management Plan, be conditioned to ensure the future maintenance of sites biodiversity potential.
- 10.22. Subject to the addition of the above conditions it is considered that the proposal satisfied the guidance contained in part 11 of the National Planning Policy Framework” Conserving and enhancing the natural environment”.

Crime Prevention

- 10.23. There has been no objection raised by the Police Architectural Liaison Officer. The layout is considered to afford good natural surveillance of the central area of open space, parking provision is within close proximity and sight of the dwellings it serves, and garden fencing is robust.
- 10.24. As such it is considered that the scheme accords with the Council's policy BE23 – Crime prevention, as well as the guidance contained in part 8 of the National Planning Policy Framework "Promoting healthy communities".

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.
- 11.2 The proposal is considered to constitute sustainable development.

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

1. 3 year time limit for commencing conditions.
2. Development to be carried out in accordance with approved plans.
3. Environmental Health conditions- Remediation- Air Quality (provision of electric charging points.
4. Sample of materials; walling, roof, external doors, windows and boundary treatments.
5. Tree protection/ method statement during construction.
6. Landscape Plan/ Bio diversity enhancement plan.
7. Landscape and Ecological Management Plan.
8. Advanced Bat Mitigation Scheme (pre- condition).
9. Drainage conditions- Implement in accordance with submitted FRA'
-Temporary drainage scheme during construction.
10. Highway conditions- Visibility; road up to adoptable standards; provision/ maintenance of parking.
11. Construction Management Plan.

Background Papers:

Application and history files:

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90661>

Certificate of Ownership – Certificate A signed and dated 27 February 2017

Link to application details for 2016/91486 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91486>

Link to application details for 2014/92673 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92673>

Link to application details for 2015/90633 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f90633>

Link to application details for 2015/91955 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91955>

Link to application details for 2016/90642 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90642>



Originator: Nia Thomas

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 29-Jun-2017

Subject: Planning Application 2017/90939 Erection of extensions 61, Jackroyd Lane, Upper Hopton, Mirfield, WF14 8HU

APPLICANT

Mr Moss

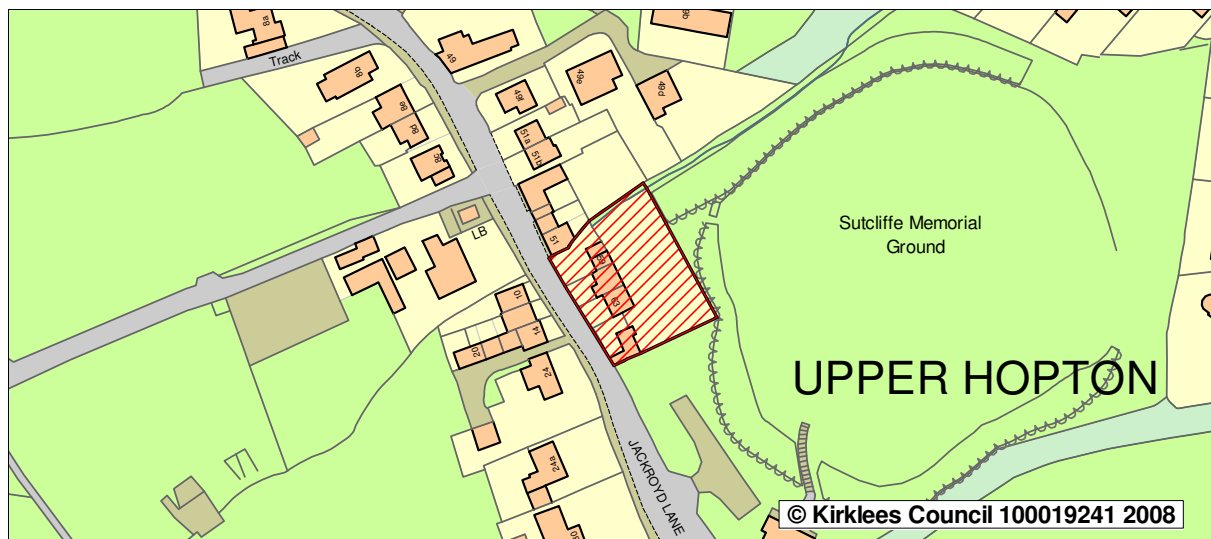
DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
------------	-------------	-----------------------

23-Mar-2017	18-May-2017	
-------------	-------------	--

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is reported to Sub-Committee following a request by Councillor Vivien Lees-Hamilton who states:

"This application is overbearing, over intensive, detrimental to living amenity and too close to drainage sites. Could I also add the fact that if this application goes ahead it will create a boxing in effect of the neighbouring properties especially in regards to number 51 Jackroyd Lane.

It will also take away what little light number 51 gets into the back of their house and the kitchen.

To sum I wish to add to my original objection's loss of light and creating a boxing in effect to neighbouring properties. Could I also request that on the site visit the committee members also visit number 51 Jackroyd Lane to view the full effect that this application will have on neighbouring properties".

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

2.0 SITE AND SURROUNDINGS:

- 2.1 No. 61 Jackroyd Lane is a two storey dwelling constructed of stone, with tiled roof. The property has a large area of amenity space to the side and rear of which is on a lower level than the dwelling itself. There are outbuildings to the side (south of the site) fronting the highway.
- 2.2 Surrounding the site is predominantly residential to the north-west and east, with open land allocated as urban greenspace to the north-east and south of the site. There is a mixture of residential properties including bungalows and two storey dwellings – many of which have been extended (see planning history section under section 4.0 of this report).

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of extensions. Each individual element of the proposal will be described below.

3.2 Single storey side extension (south-eastern elevation)

The extension will be 4.2 metres in overall height, will project 4.4 metres from the side of the dwelling and will be 5.5 metres in length.

3.3 Single storey rear and side (north-east) extensions

The extension will project from the side of the dwelling by 2.4 metres, will project 5.7 metres from the rear of the dwelling, is 12.5 metres in width and will be 6.8 metres in overall height (5.4 metres to the eaves).

3.4 The extensions will be constructed from stone for the external walls, tiles for the roof and timber for the openings to match the existing dwelling.

4.0 RELEVANT PLANNING HISTORY:

4.1 99/90356 – Erection of first floor extension APPROVED (no. 51 Jackroyd Lane).

4.2 90/01542 – Extensions and alterations to 3 no. cottages to form 1 no. cottage APPROVED (no. 59-63 Jackroyd Lane).

5.0 HISTORY OF NEGOTIATIONS:

5.1 No amendments have been secured as officers consider that the proposal is acceptable in its current form.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

- D2** – Unallocated land
- BE1** - Design principles
- BE2** – Quality of design
- BE13** – Extensions to dwellings (design principles)
- BE14** – Extensions to dwellings (scale)
- T10** – Highways Safety
- T19** – Parking Provision

6.3 Other Documents

Mirfield Design Guide (2002)

6.4 National Planning Guidance:

- **Chapter 7** – Requiring good design
- **Chapter 11** – Conserving and enhancing the natural environment

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is unallocated on the draft local plan.

Policies:

- PLP21** – Highway Safety and Access
- PLP22** - Parking
- PLP24** - Design

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The Council has advertised the application by site notice/neighbour letters, and the public consultation period ended on 21 April 2017. Two representations have been received and the applicant has provided a statement rebutting these objections. All representations will be summarised and addressed in section 10.0 of this report.

7.2 Mirfield Town Council have been consulted on the application and no comments have been received.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

None

8.2 **Non-statutory:**

KC Conservation and Design (informal) – no objection.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.2 The general principle of making alterations to a dwelling is assessed against Policies BE1, BE2, BE13 and BE14 of the Unitary Development Plan and advice within Chapter 7 of the National Planning Policy Framework regarding design. Highway safety matters will be considered against Policies T10 and T19 of the UDP. All these require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations.

Visual amenity/local character:

- 10.3 The impact on visual amenity is acceptable. Each individual element of the proposal will be assessed below. The Council’s Conservation and Design team has been consulted to provide design comments. There is no objection to the proposal.

Side extension (southeast)

- 10.4 Although the extension will be visible from the streetscene, it is single storey in scale and designed with a significant set down from the ridge of the host dwelling and therefore will be read as a subordinate addition. The proposal would be set back slightly from the front elevation of the host property and is considered to be sympathetic in scale and appearance to the host dwelling.
- 10.5 The extension would be constructed from materials to match the host dwelling and the openings/fenestration details replicate the appearance of the main building. The roof form of the extension is consistent with that of the host dwelling which ensures that the traditional appearance of the dwelling is replicated.

- 10.6 Although the side extension would be visible from the streetscene to the south-east, there are a variety of dwellings in close proximity to the site, many of which have extensions. For this reason, the erection of the proposed extensions would not harm the character of the area which does not have a uniform form of development.
- 10.7 Due to the location of the extension to the side of the dwelling, the potential for the creation of a terracing effect needs to be considered in accordance with the guidance set out within Policy BE14 of the UDP. In this case, there are no dwellings to the southeast of the site for a significant distance and the extension is set down significantly from the ridge of the host dwelling. As such, there will be no harmful terracing effect as a result of the proposal.

Side (northeast) extension

- 10.8 Although this extension would be seen in the streetscene, the proposal is on a lower level than the host dwelling and therefore would not form a visually prominent feature in the streetscene and as discussed above, will not harm the character of the area.
- 10.9 The extension is set down significantly from the ridge of the host dwelling and will be constructed from materials to match, which is stone for the walling, stone tiles for the roof and timber for the openings. The proposed openings are of a sympathetic design and scale to the host dwelling and therefore this extension will not detract from the traditional character of the building, especially given the traditional roof form of the extension which matches the main building.
- 10.10 Due to the location of the extension to the side of the dwelling, the potential for creation of a terracing effect needs to be considered in accordance with the guidance set out within Policy BE14 of the UDP. In this case, the extension is single storey in scale and designed with a significant set down from the ridge of the host dwelling. For this reason, along with the distance and indirect relationship between the dwellings, there will be no harmful terracing effect.

Rear extension

- 10.11 This extension would have an overall projection of 7.3 metres from the rear of the dwelling. Policy BE14 advises that *“unless there would be a detrimental effect on visual amenity, adjoining dwellings or any occupier of adjacent land, extensions to terraced, semi-detached and detached dwellings will normally be permitted where the proposal...is to the rear and does not exceed 3.0m in overall projection”*. In this instance, the dwelling is detached and given its relationship with neighbouring dwellings, the scale of the proposal is considered to be acceptable in this instance. Furthermore, the dwelling is located in a large plot and the proposal would not be considered to result in overdevelopment of the site. A condition has been recommended to remove permitted development rights for new extensions and outbuildings within the site to ensure that the site will not be overdeveloped in the future.

- 10.12 The extension is designed to be set down from the ridge of the host dwelling, ensuring that it will be sympathetic in scale and would be read as a subordinate addition. Although its design is not of a traditional appearance and does not replicate exactly the design of the host dwelling, given its location to the rear of the property and matching materials, the extension will not significantly detract from the character of the host dwelling. The Council's Conservation and Design team have been consulted on the application and do not have an objection to the design of the proposals.
- 10.13 With regards to the impact of the development on the streetscene and the character of the area, given the location of the extension to the rear of the site, Officers consider that there would be no significant harm in this regard. There is an adequate distance between the application site and the Sutcliffe Memorial Ground which, along with the screening and the relatively small scale of the proposals, means that this extension will not result in a prominent feature when viewed from the rear.

Summary

- 10.14 In all, the proposed extension are considered acceptable from a visual amenity perspective for the reasons set out above. The proposals are considered to comply with the aims of policies D2, BE1, BE2, and BE13 of the UDP as well as chapter 7 of the NPPF.

Residential Amenity:

- 10.15 The impact on residential amenity is acceptable. Two objections have been received.

Impact on no. 51 Jackroyd Lane

- 10.16 The extension to the northeast side of the dwelling will project closer to no. 51 by 2.4 metres, increasing the bulk and massing closer to this dwelling. The application site is set at a much lower level and is set back from no. 51 by at least 3 metres. The extension would also be set back from the front elevation of the host dwelling by 0.4 metres. For these reasons, along with the fact that the extension is significantly set down from the ridge of the host dwelling and the fact that there are no habitable room windows in the side elevation of no. 51, Officers consider that there would be no significant overbearing or overshadowing impact on the occupiers of this dwelling. The one opening in the side elevation of no. 51 is considered to serve a non-habitable room given its siting in the side elevation).
- 10.17 With regards to overlooking/loss of privacy, there are no openings proposed in the side elevation of the extension facing No.51 and therefore there would be no loss of privacy as a result of the proposal. Should openings be inserted in the future, there may be a degree of overlooking into the rear amenity space of no. 51 and for this reason, a condition has been recommended to remove permitted development rights for new openings in the north-eastern elevation of the extension.

10.18 The extension to the south-east of the site will not impact on the occupiers of this dwelling in any way.

Impact on Divi End

10.19 Given the distance between the application site and Divi End of over 30 metres, there will be no significant detrimental impact on the occupiers of this dwelling for the reasons discussed above.

Impact on dwellings to the south-west (on the opposite side of the highway)

10.20 The extensions are small in scale and given that the extended dwelling will not project closer to these dwellings than existing (a distance of over 15 metres will remain), there will be no impact on residential amenity as a result of this proposal.

Impact to the south-east and east

10.21 There are no dwellings located to the south-east and east of the site for a significant distance and as such, there will be no detrimental impact upon the residential amenity of occupiers of those dwellings.

Highway issues:

10.22 Following a site visit and confirmation from the applicant (email dated 13th June), the parking provision on site is acceptable. There is a garage which is accessed via the cricket field parking area and there is a gated driveway with space for one vehicle.

10.23 There is also a driveway that is accessed directly from Jackroyd Lane and serves another garage. Taking into account the above parking provision, the proposal complies with UDP policy T19.

10.24 Given that the extensions will not be erected on land currently used for parking and the parking situation will not change, there will be no highways safety issues over and above the existing situation. Taking into account the above information, the proposal is considered to comply with UDP policy T10.

Representations

10.25 Two representations have been received. Officers respond to the issues raised as follows:

- Development doubles profile of structures facing Divi End
Response: *Divi End adjoins no. 51 Jackroyd Lane and therefore will not be significantly impacted as a result of the proposals.*
- Overbearing, overshadowing
Response: *This matter is addressed above in the residential amenity section of this report.*

- Visually awkward landmark on landscape when viewed from adjacent properties and Sutcliffe Memorial Ground
Response: *This matter is addressed in the visual amenity section of this report.*
- Significant noise and disturbance to neighbouring properties
Response: *Problems relating to the construction period are not a material planning consideration.*
- Delivery of materials would cause congestion
Response: *Problems relating to the construction period are not a material planning consideration.*
- Loss of amenity from noise, dust and contaminants
Response: *Problems relating to the construction period are not a material planning consideration.*
- Removal of several trees – some of ecological value
Response: *The trees within the garden of the application site are not protected and are not considered to add amenity/ecology value to the area. The trees are not protected by virtue of a conservation area or a TPO.*
- Possible future use – extended dwelling may lend itself to future reconversion to multiple dwellings which may then lead to future problems relating to congestion, road traffic accidents increase
Response: *The impact of the development on highway safety has been assessed in this report. The conversion to multiple dwellings would require a separate planning application in any case.*
- Future window openings in northern elevation and extensions would exacerbate all of the above
Response: *This has been addressed in the residential amenity section of this report. A condition has been recommended to remove permitted development rights for new openings.*
- Current proposal would be detrimental to Divi End occupiers, neighbours and the public at large
Response: *The impact of the development on residential amenity has been addressed in the relevant section of the report.*
- Dominant and overbearing – light and visual aspect will be impaired
Response: *The impact of the development on residential amenity has been addressed in the relevant section of the report.*
- Close to property and boundary – single storey outbuilding will be proposed into two storey extension
Response: *The impact of the development on residential and visual amenity has been addressed in the relevant section of the report.*

- Kitchen has to be lit artificially due to close proximity of trees – this is improved 6 months of the year along with the view
Response: *The loss of view is not a material planning considerations.*
- Shadow no. 51 and prevent view from kitchen or bathroom
Response: *The impact on residential amenity has been considered above. The loss of view is not a material planning consideration.*
- Damp due to lack of sunlight – further reduction in light could make it inhabitable due to medical conditions
Response: *The potential for loss of sunlight has been addressed above in the residential amenity section of the report. The impact of the development upon medical conditions specifically is not a material planning consideration.*
- Car parking is on the street – increase in the numbers would impact on road now and in the future
Response: *The impact on highway safety and parking provision has been considered in paragraph 10.12 of this report.*
- Would visually impact on open spaces adjacent to the property
Response: *The impact of the development on visual amenity has been addressed in the relevant section of the report*
- Extension projects from main building structure
Response: *The impact of the development on visual amenity has been addressed in the relevant section of the report.*

Officer responses relating to Cllr Lees- Hamilton's concerns is below:

- Loss of light to no. 51
Response: *this has been considered in the residential amenity section of this report.*
- Boxing in effect
Response: *This has been interpreted as a concern that the development would result in an oppressive/overbearing impact. The impact on residential amenity is considered in the relevant section of this report.*
- Overbearing
Response: *This has been considered in the residential amenity section of this report.*
- Over-intensive
Response: *This has been considered in the residential amenity section of this report.*
- Detrimental to living amenity
Response: *The issues discussed above have been addressed in this report.*

- Close to drainage sites
Response: *Given the small scale nature of the proposals, it is not considered that the proposed development would lead to flooding or drainage issues.*

Officers have considered the applicant's response to the above comments (email received 30th May 2017):

- Do not think extension will overshadow or overbear property due to single storey level of extensions, levels differences and distance
Response: *This has been covered in section 10.9 of this report.*
- Development will mostly be to the rear of the site and a considerable distance from Sutcliffe Memorial Ground (and obscured by trees) – development will not create a landmark
Response: *The matter of visual amenity has been covered above.*
- Noise and associated issues from building work will not be different from similar building work in the area
Response: *This is not a material planning consideration.*
- Materials will not give rise to pollution as materials will be normal
Response: *Given the small scale nature of the proposal, it is not considered that there will be significant pollution issues arising from this development.*
- Trees will not be removed – will be shrubs and strip of privet. The applicant also makes reference to a conversation with the objector at Easter regarding trees
Response: *There are no protected trees within the curtilage of the site and therefore Officers have no objection to the applicant's intention to remove shrubs/privet.*
- Not our intention to subdivide house and concerns raised relating to further works are unfounded
Response: *The application has been assessed based on the submitted plans.*
- Serious issue relating to parking – house has off road capacity for several vehicles and proposed development will not reduce this capacity in any way. Not aware of serious accidents and park is 200 metres from house. Comments received from objector relating to parking are incorrect
Response: *Highway safety matters have been discussed in section 10.12 of this report.*
- Do not see how development could affect damp and render property unsuitable for human habitation
Response: *This is not a material planning consideration.*
- Trees that are blocking his sunlight have been present for decades (prior to living at the house). Most are positioned on properties owned by third parties
Response: *The development is small in scale and will not affect any protected trees.*

11.0 CONCLUSION

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

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

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

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Materials to match existing dwelling
4. Removal of PD rights for new openings in northern elevation
5. Removal of PD rights for extensions and outbuildings

Background Papers:

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/90939>

Certificate of Ownership – Certificate A signed and dated 12 February 2017.

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE HEAVY WOOLLEN

29 JUNE 2017

Planning Application 2017/91139

Item 13 – Page 35

Erection of place of worship and associated car park and landscape works (within a Conservation Area)

10, Oxford Road, Dewsbury, WF13 4JT

7.0 PUBLIC/LOCAL RESPONSE

Representations received since re-advertising on the 31st May 2017:

4 letters of support and 20 letters of objection summarised below:

Support:

- Benefits to the local community
- Support for the revised plans which have increased space and meet conservation and highways approval
- Need for a local mosque that is safe and secure and convenient
- Improved parking
- New design will complement the area

Objections:

- Increased facilities on the site
- Insufficient parking
- Car borne not pedestrians
- Noise
- Congestion
- Impact on highway safety
- Another Mosque is not needed
- Out of character (large, overbearing, overshadow and dominant)
- Loss of amenity
- Detrimental to the Conservation Area
- Loss of privacy
- Loss of trees

No new matters have arisen following re-advertising of the revised proposals. Officers have responded to concerns and comments which are contained in the original officer report to members set out in the agenda.

8.0 CONSULTATION RESPONSES

Highways Development Management: For clarification, Highways Development Management reassessed the proposals and provided an updated response which has not been recognised in some of the responses to objections within the report in respect of matters relating to access and parking provision. Highways DM have fully considered the proposals and raise no objections to the development subject to a restriction regarding numbers of worshippers. Furthermore it is considered that the use of the existing site should be restricted to 40 and as such is updated in the conditions below.

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

1. 3 year time limit
2. Development to be carried out in accordance with the approved plans
3. Submission of landscape scheme (to include wild life attracting species)
4. Obscure glazing to the east elevation
5. Reporting unexpected contamination
6. Call to prayer (noise levels and time)
7. Sight lines to be provided
8. Areas to be surfaced and drained
9. Up-grade of Nowell Street
10. Travel Plan
11. Materials
12. Restriction of numbers of worshippers attending the Mosque to 100 and occupants of the existing building to 40 at any one time
13. Hours of use of the premises

Planning Application 2014/91242

Item 14 – Page 53

Reserved matters application for erection of 47 dwellings

Land off, Ashbourne Drive, Cleckheaton, BD19 5HZ

The applicant has confirmed agreement to provide five units of affordable housing on the site.

The comments of the KC Landscape Officer have not been resolved however Planning Officers consider that the level of tree loss is acceptable on this site

given the quality of the trees and the overriding need for housing delivery. Detailed design of the public open space areas and responsibilities can be resolved by planning condition including condition 7 of the outline planning permission.

Similarly detailed planting and boundary treatment to meet the concerns of the Biodiversity Officer and Crime Prevention Officer respectively can be resolved by planning condition.

Revised details have been received to address the concerns of the Highways Officer. However, Highways Officers consider that the proposals still do not address their concerns in that:

- Parking availability and garage sizes are not addressed thus parking provision is still considered to be below standard.
- Road gradients are shown to vary between 1 in 13 and 1 in 15 whereas the recommended standard is 1 in 20.
- A footway should be provided to the northern section of the site
- No bin storage and bin collection areas are shown.

The number of garages which are substandard in size is 34 (72%). However, this can be overcome by providing shed space in the gardens of the plots for the storage of domestic paraphernalia such as lawn mowers, cycles..etc which are normally accommodated in garages. The freed space will then adequately accommodate a private car.

There is limited scope to reduce road gradients on this steeply sloping site. However, Highway Officers consider that their concerns can be addressed by the provision of a footway on the northern access road. Officers consider that this would not involve significant movement of the dwellings to accommodate this.

Bin storage and bin collection areas can be provided without a significant alteration to the layout.

RECOMMENDATION:

In such circumstances Officers recommend that approval is delegated to the Head of Strategic Investment in order to negotiate amended plans to overcome the Highway officer's concerns and complete the list of conditions including those contained within this report.

Outline application for erection of 1 dwelling

rear of 371A, Halifax Road, Hightown, Liversedge, WF15 8DU

Further information has been received in support of the application from the applicant. This sets out the following:

Supporting information for the approval of Planning Application 2015/92941

Timescale-

14th September 2015- Planning application received
6th January 2016- Target date for decision
September 2015- Mining survey requested and carried out
May 2016- Ecological survey requested and carried out
October 2016- Further ecological survey requested and carried out
17th January 2017- Issue of Green Belt interpretation
2nd March 2017- Recommendation that application be refused on grounds of Green Belt

To summarise-

18 months to reach decision based on principle which should have been identified at the outset

Development approved for three large detached houses in garden of house next door to 371a Halifax Road

Development approved at 375 Halifax Road

Development approved at 377 Halifax Road

Development approved at 361 Halifax Road

Land at 373 Halifax Road to be removed from Green Belt in Kirklees Local Development Plan

Houses below 371a Halifax Road have no through access and therefore no further applications are likely to be made

On your site visit I would like you to view the above properties and would also ask you to consider which of the Five Principles of Green Belt the land at 371a addresses.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas
- to prevent neighbouring towns merging into one another
- to assist in safeguarding the countryside from encroachment
- to preserve the setting and special character of historic towns
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

(Excerpt from National Planning Policy Framework)

Officer's response:-

It is acknowledged that the application was received in September 2015 with a target decision being 6th January 2016. A Coal Mining Risk Assessment (CMRA) was requested at the outset in order to validate the application (the application is located within a High Risk Coal Mining Area and the requirement for a CMRA is set out in the 'Validation Checklist').

An Ecological/Bat Survey was requested on the 25th February 2016 but, due to the time sensitivity of the requirements of such an assessment, this was carried out and submitted in May 2016. A further report was required due to the findings of the bat survey and absence of any subsequent investigations at the time. This additional survey work was undertaken and submitted in October 2016 and a response received from the Biodiversity Officer in January 2017.

The above information was required in order to address material planning considerations.

The application submission is accompanied by a Design and Access Statement provided by the agent that sets out the development proposals. This refers to the site as being unallocated land. Officers visited the site and concluded at the time that there was no reason to query this. However, following further site assessment of the Kirklees Unitary Development Plan proposals map, it transpired that the Green Belt allocation actually included the application site. It is acknowledged that an early identification of the sites designation would have been helpful but it does not change the fact the site is within the Green Belt and needs to be assessed accordingly or for the other relevant material planning considerations to be addressed. The development needed to be assessed as a new dwelling within the allocated Green Belt (chapter 9 of the NPPF). The agent was notified and advised of this as soon as the matter came to light (January 2017) and Officers were asked by the agent to delay a decision.

The applicant has raised concern regarding the assessment of the planning application. The concerns raised by the applicant have been progressed through the Council's Stage 1 and Stage 2 complaints procedure. The circumstances are not considered relevant to the determination of the planning application, which, as previously set out, needs to be assessed against relevant material planning considerations. In this case, as set out in the main agenda, the proposal for a new dwelling constitutes inappropriate development in the Green Belt for which no very special circumstances have been demonstrated to outweigh the harm to the Green Belt and the purposes of including land within it.

Developments Approved:

The development to the west of the application site to the rear of 373 (and 375 now demolished) Halifax Road was approved in 2002. The officer concluded at the time that the gardens to the dwellings would solely be in the Green Belt. This was not actually the case as the buildings were constructed in designated Green Belt. This area is proposed to be removed as part of the Local Plan process.

The development to the rear of 377 Halifax Road is located on an unallocated site. It is not within the Green Belt.

The development approved at 361 Halifax Road is for demolition of the existing dwelling and the erection of a detached dwelling. This is an unallocated site on the Development Plan.

Paragraph 80 of the NPPF is recognised as the policy framework for making planning decisions and provides further justification as to why the development is not considered acceptable. The erection of a dwelling in the location proposed would result in encroachment into the Green Belt.

Summary:

There are no very special circumstances that would justify approval of what is considered to be inappropriate development in the Green Belt. The recommendation for refusal remains as follows:

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

Planning Application 2017/91339

Item 16 – Page 81

Erection of detached dwelling

Land Opp, 14, Bracken Hill, Mirfield, WF14 0EZ

7.0 PUBLIC/LOCAL RESPONSES

Representations received after amended plans were republicised on 5th June 2017. The amended plans show the rear dormer removed and slight alterations to the parking layout to achieve the intervisibility splays. A further letter of objection has also been received from the Consultant representing local objectors.

A summary of the issues raised, along with officers response, are as follows:

- Increase in height would affect the outlook of neighbouring properties on Bracken Hill.
Response: *This issue has been dealt with in the main report.*
- Overlooking from large roof light.
Response: *This issue has been dealt with in the main report.*
- Approving the plans would send a single to other developers who apply retrospectively for development which has been carried out.
Response: *A retrospective application should be dealt with in the same way as any other planning application.*

- Increase in parking requirement on Bracken Hill.
Response: *This issue has been dealt with in the main report.*
- Poor access for service vehicles.
Response: *This issue has been dealt with in the main report.*
- The removal of the dormer from the plans is welcomed however the increase in the roof height is not.
Response: *Noted.*
- The previous approval was on the margins of acceptability this now results in an overdevelopment of the site.
Response: *As noted in the main report there is no definition as to what the maximum development is on a site; an assessment is carried out on each particular application as to whether or not what is being proposed is acceptable in terms of the scale and resultant impact.*

8.0 CONSULTEE RESPONSES

Coal Authority: The Coal Authority is satisfied with the broad conclusions of the Rotary Drilling Report, and professional opinion of the report author set out therein, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority **does not object** to the proposed development and notes that no specific mitigation measures are recommended as part of this development proposal to address coal mining legacy issues.

K.C. Building Control: Further information received from the Building Control officer 14/06/17 which states that the structural engineers dealing with the site have not signed off the concrete garage slab for building on. Building Control has requested trial pits to be dug to assess the suitability of the slab; if it is not of a required standard it will need underpinning. It should be noted that this can usually be achieved without demolishing the building.

Planning Application 2017/90661

Item 17 – Page 95

Erection of 14 dwellings

Westfield Assessment Centre 13 Westfields Road Mirfield WF14 9PW

The applicant has requested that the application be deferred so that they can consider and respond to the independent viability assessor's conclusions.

This page is intentionally left blank