

Public Document Pack



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

Julie Muscroft

Governance and Democratic Services

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Please ask for: Andrea Woodside

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Wednesday 20 September 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 28 September 2017**.

(A coach will depart the Town Hall, at 9.40am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Town Hall, Dewsbury.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

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

9 Day Change

Under the provision of Council Procedure Rule 35(8) Councillor L Holmes will substitute for Councillor J Taylor.

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
N Patrick
G Wilson
D Firth

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.

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: 2017/90564

Erection of extensions and outhouse to rear of 55 Caledonian Road,
Savile Town, Dewsbury

(Estimated time of arrival at site – 9.50am)

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Dewsbury South

7: Site Visit - Site Visit - Application No: 2016/91287

Change of use of agricultural buildings to IT recycling business at
Brookfield Farm, Brookfields Road, Wyke

(Estimated time of arrival at site – 10.20am)

Contact Officer: Paul Wood, Planning Services

Wards

Affected: Cleckheaton

8: Site Visit - Application 2017/90272

Outline application for erection of residential development (2
dwellings) at land to rear of, 119/127, Marsh Lane, Shepley,
Huddersfield

(Estimated time of arrival at site – 11.10am)

Contact Officer: Katie Wilson, Planning Services

Wards

Affected: Kirkburton

9: Site Visit - Application 2017/91900

Erection of front and rear dormers at 120, Savile Road, Savile Town,
Dewsbury.

(Estimated time of arrival at site – 11.50am)

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Dewsbury South

10: Local Planning Authority Appeals

3 - 20

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

Contact Officer: Julia Steadman, Planning Services

Wards

Affected: Batley West; Cleckheaton; Kirkburton; Mirfield

Planning Applications

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The Planning Sub Committee will consider the following 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 25 September 2017.

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

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

11: Planning Application - Application No: 2014/91242

25 - 44

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

Contact Officer: John Ritchie, Planning Services

Wards

Affected: Cleckheaton

12: Planning Application - Application No: 2017/91267

45 - 60

Outline application for demolition of existing farm buildings and erection of 5 detached dwellings at Dry Hill Farm, Dry Hill Lane, Denby Dale, Huddersfield

Contact Officer: Sarah Longbottom, Planning Services

Wards

Affected: Denby Dale

13:	Planning Application - Application No: 2017/91046	61 - 72
	Outline application for demolition of existing buildings and structures and erection of residential development at Greenside Mill, Savile Road, Skelmanthorpe, Huddersfield	
	Contact Officer: Bill Topping, Planning Services	
	Wards Affected: Denby Dale	
14:	Planning Application - Application No: 2017/92147	73 - 82
	Erection of single storey extension at 7, Woodfield Avenue, Staincliffe, Batley	
	Contact Officer: Jennie Booth, Planning Services	
	Wards Affected: Batley West	
15:	Planning Application - Application No: 2016/91287	83 - 96
	Change of use of agricultural buildings to IT recycling business at Brookfield Farm, Brookfields Road, Wyke	
	Contact Officer: Paul Wood, Planning Services	
	Wards Affected: Cleckheaton	
16:	Planning Application - Application No: 2017/90272	97 - 110
	Outline application for erection of residential development (2 dwellings) at land to the rear of, 119/127, Marsh Lane, Shepley, Huddersfield.	
	Contact Officer: Katie Wilson, Planning Services	
	Wards Affected: Kirkburton	
17:	Planning Application - Application No: 2017/90564	111 - 120
	Erection of extensions and outhouse to rear of 55, Caledonian Road, Savile Town, Dewsbury	
	Contact Officer: Jennie Booth, Planning Services	
	Wards Affected: Dewsbury South	

18: Planning Application - Application No: 2017/91900

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Erection of front and rear dormers at 120, Savile Road, Savile Town,
Dewsbury

Contact: Jennie Booth, Planning Services

Wards

Affected: Dewsbury South

Planning Update

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

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KIRKLEES COUNCIL			
DECLARATION OF INTERESTS AND LOBBYING			
Planning Sub-Committee/Strategic Planning Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest
LOBBYING			

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

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: 28 September 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	Paul Kemp 19 September 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 (Strategic Planning, Regeneration & Transport) (Councillor P McBride)

Electoral wards affected: Mirfield; Kirkburton; Batley West; Cleckheaton

Ward councillors consulted: No

Public or private: Public

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** 2017/60/90154/E - Outline application for erection of detached dwelling at the rear of, 95, Shillbank Lane, Mirfield, WF14 0QP (Officer decision) (Dismissed).

- 2.2** 2016/62/93787/E - Erection of detached dwelling (within a Conservation Area) on land adj, 20, Manor Road, Farnley Tyas, Huddersfield, HD4 6UL (Officer decision) (Dismissed).
- 2.3** 2016/62/93750/E - Demolition of existing single storey rear extension and out building, and erection of single storey rear extension at 493, Penistone Road, Shelley, Huddersfield, HD8 8HY (Officer decision) (Allowed).
- 2.4** 2017/HHPD/91234E - Prior notification for single storey rear extension at 5, Thorncliffe Estate, Staincliffe, Batley, WF17 7BG (Officer decision) (Dismissed).
- 2.5** 2016/60/90203/E - Outline application for erection of one dwelling on Land between, 117-135, Latham Lane, Gomersal, Cleckheaton, BD19 4AP (Officer decision) (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

That the report be noted.

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 1 August 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 16 August 2017

Appeal Ref: APP/Z4718/W/17/3174505

Site at rear of 95 Shillbank Lane, Mirfield WF14 0QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Cliffe against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/60/90154/E, dated 9 February 2017, was refused by notice dated 5 April 2017.
 - The development proposed is described as the demolition of garage and sheds and the construction of a detached chalet bungalow.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters apart from access and layout reserved for future determination. Plans submitted with the application show an indicative height of the proposed bungalow. I have had regard to these in the determination of this appeal.

Main Issues

3. The main issues in the appeal are:
 - Whether the proposal is inappropriate development in the Green Belt.
 - The effect on the openness of the Green Belt.
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt and comprises a rectangular area of land that is located to the north of properties on Shillbank Lane with access proposed off Eastfield Road. Undeveloped and generally open land in the form of an area of scrub woodland is located to the north east. The site is

currently used as part of the garden serving No 95 Shillbank Lane and is partly occupied by a garage and sheds. The proposed development would involve the removal of the garage and sheds and the construction of a chalet style bungalow.

5. Eastfield Road is an unmade road that has properties in the form of ribbon development on its western side with the area of open land on the eastern side. Shillbank Lane in the vicinity of the appeal site has ribbon development along the road with the area of open land to the north. The appeal site forms part of this area of open land and contributes to its open character and generally undeveloped appearance leading into the scrub woodland.
6. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages.
7. Although the Council has not referred to a conflict with any policies contained within a relevant development plan in the reason for the refusal of planning permission, the Officer's report identifies that Saved Policy D3 of the Kirklees Unitary Development Plan (2007) (UDP) allows for infill development within small settlements where the site is surrounded by development or in an otherwise built-up frontage. The supporting text defines infill as development of vacant plots in an otherwise built up area or frontage.
8. The appeal proposal would constitute a form of backland tandem development. Its location with largely open and undeveloped land to the north east cannot be considered to comprise part of a built up area or frontage. The proposal would represent an encroachment of development into this open area. Although the appellant has described the proposed development to comprise the rounding off of an existing settlement, given these locational factors I am not persuaded that this can be construed as representing infilling within the context of the guidance provided in the Framework or Saved Policy D3 of the UDP.
9. Consequently, the proposal would not represent limited infilling in a village and in not comprising any of the listed categories of development that may be considered not inappropriate I therefore find that the proposed dwelling would amount to inappropriate development within the Green Belt. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

10. A fundamental characteristic of Green Belts, as set out in paragraph 79 of the Framework, is their openness and their permanence. The construction of a dwelling on this site would result in the provision of a substantial built development that considerably exceeds the scale and mass of the garage and sheds. The effect of the appeal scheme would be to introduce built development on land abutting the eastern side of Eastfield Road where there is currently none.
11. Although forming part of a garden, the sheds and garage are relatively small low height structures and it is clear that the character of the site, leading into

the area of open land, has a more open appearance that is visibly different to that of the built development on Shillbank Lane and Eastfield Road. As such, the appeal site makes a contribution to the generally open character of this part of the Green Belt.

12. The proposal would have a more profound urbanising impact on the site currently than exists with the sheds and garage. A greater area of the garden would be occupied by built development than is currently the case. Due to the scale, mass and height of the proposed dwelling it would inevitably and significantly reduce the openness of this part of the Green Belt
13. I conclude that the development would lead to a significant loss of openness and would lead to the sprawl of built up area of this part of Mirfield into open area. It would therefore be contrary to the guidance provided in paragraphs 79 and 80 of the Framework.

Other considerations

14. The appellant's case is founded mainly on the assertion that the proposed development constitutes the rounding off of an existing settlement. For the reasons outlined above, I am not persuaded that this is the case and I attach little weight to this matter. No other considerations have been cited to suggest that there are any very special circumstances that would outweigh the substantial weight to be given to Green Belt harm as identified in the Framework.

Conclusion

15. The proposed dwelling would be inappropriate development, which the Framework states is harmful to the Green Belt and should not be approved except in very special circumstances. It would also cause harm to the openness of the Green Belt. The Framework indicates that substantial weight should be given to harm to the Green Belt and very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. As explained, I have given only limited weight to the material consideration cited in support of the proposal and conclude that this does not outweigh the substantial weight to be given to Green Belt harm sufficient to demonstrate very special circumstances.
17. For the reasons given above and taking all matters into account, I conclude that the development would not accord with the Green Belt protection aims of the Framework. There are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Framework. Consequently, the appeal should be dismissed.

Stephen Normington

INSPECTOR

Appeal Decision

Site visit made on 1 August 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 17th August 2017

Appeal Ref: APP/Z4718/W/17/3174742

20 Manor Road, Farnley Tyas, Huddersfield HD4 6UL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Wood against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/93787/E, dated 8 November 2016, was refused by notice dated 29 March 2017.
 - The development proposed is a new dwelling on land adjacent to Farnley Manor.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Farnley Tyas Conservation Area.

Reasons

3. The appeal site fronts onto Manor Road and comprises part of the substantial garden of Farnley Manor. The front of the site, beyond the boundary wall, also includes a secondary access area, which is separated by a further wall and hedge arrangement from the garden. Trees are found around the site frontage, on the boundary with 20A Manor Road, as well as in a small area within the site itself. The boundary with the remaining rear garden area with the main dwelling is undefined.
4. Manor Road contains a mixture of residential properties and farm buildings that are interspersed with fields, side garden areas and paddocks. These spaces, including the site, contribute towards a pleasing semi-rural character. This is an important and unifying constituent of the significance of this part of the Conservation Area. It also differentiates the character and appearance from the centre of Farnley Tyas, where there is a clustered and a higher density form of development. The absence of an adopted appraisal by the Council does not lessen the importance of preserving or enhancing Manor Road's role in the character and appearance of the Conservation Area.
5. The proposal would erode the pattern of development along Manor Road with the proposed dwelling resulting in the loss of the spacing between Farnley Manor and No 20A, resulting in a more continual pattern of built up form. This consolidation of development would also be evident with the loss of trees

around the site frontage, the projection of the garage towards the road, and the creation of the new access and drive area, which is substantially greater in size than the existing access. The siting of the main part of the proposed dwelling back from the site frontage to reduce visibility would therefore not serve to adequately address the effects on the prevailing character.

6. There is no clearly defined building line on Manor Road, and this is in part due to the contribution of spaces between buildings that would be disrupted by this proposal. There is also more development on the south side of Manor Road, where the site is found, but this only serves to emphasise the importance of the site as a gap between existing development to ensure that the character is maintained.
7. My attention has been drawn to a number of other developments along Manor Road and in Farnley Tyas. The two dwellings which have been constructed adjacent to Manor Farm do not result in the same loss of the contribution to the character as they are clustered and sited around the access with the farm buildings. The house extensions are much more modest in scale and do not unduly increase the extent of built development along Manor Road. The housing site off Field Lane is close to the village centre, with its markedly different character.
8. The design of the proposal itself does not alter my views because the issue is the loss of the contribution of the garden area as a space between Farnley Manor and No 20A. Likewise, the imposition of conditions would not overcome this detrimental effect on the significance of this part of the Conservation Area as they could not address the loss of this character.
9. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of considerable weight and importance. I conclude the proposal would fail to preserve or enhance the character or appearance of the Conservation Area. Similarly, I also conclude it would not comply with 'Saved' Policy BE5 of the Kirklees Council Kirklees Unitary Development Plan (1999) which states that development within Conservation Areas should contribute to the preservation or enhancement of the character or appearance of the area.
10. The proposal would also not comply with paragraph 131 of the National Planning Policy Framework (Framework) as it would not make a positive contribution to local character and distinctiveness. Paragraph 132 is also clear that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The assessment of the harm I have identified therefore has to be assessed in this context.
11. For the purposes of paragraphs 132 to 134 of the Framework, the proposal would lead to less than substantial harm. Whilst a dwelling would be added to the housing stock, I consider this would be a modest contribution and although it is intended the proposal would be low maintenance and energy efficient, details have not been provided for me to consider. It would be expected that a dwelling would be provided where there are services and with access to public transport, so I only attach limited weight to this factor in favour of the proposal. The public benefits are therefore limited and would not outweigh the harm.

Conclusion

12. The proposal would fail to preserve or enhance the character or appearance of the Conservation Area, and would cause less than substantial harm to the significance of the designated asset that is not outweighed by the public benefits. Accordingly, I conclude the appeal should be dismissed.

Darren Hendley

INSPECTOR



Appeal Decision

Site visit made on 15 August 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 25th August 2017

Appeal Ref: APP/Z4718/W/17/3175159

493 Penistone Road, Shelley, Huddersfield HD8 8HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Pete Richardson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2016/62/93750/E, dated 24 October 2016, was approved on 10 April 2017 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing single storey rear extension and out building, and erection of single storey rear extension.
 - The condition in dispute is No. 2 which states that: The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
 - The reason given for the condition is: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan and guidance given in the National Planning Policy Framework.
-

Decision

1. The appeal is allowed and the planning permission Ref: 2016/62/93750/E for demolition of existing single storey rear extension and out building, and erection of single storey rear extension at 493 Penistone Road, Shelley, Huddersfield HD8 8HY granted on 1 April 2017 by Kirklees Metropolitan Borough Council, is varied by deleting condition 2 and substituting for it the following condition:

The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg no. 1592-D-20-001 - Location plan; Dwg no. 1592-D-20-002 - Existing site plan and ground floor plan; Dwg no. 1592-D-20-003 Revision B - Proposed site plan and ground floor plan; and Dwg no. 1592-D-20-004 Revision B - Existing and proposed elevations.

Procedural matter

2. During the determination of the planning application the Council altered the description of the proposal from that used on the planning application form. The revised description accurately sets out the development proposed and I note that the appellant has adopted this on the appeal form. I have therefore

also used the description from the decision notice for the purposes of the appeal.

3. The appeal, in effect, seeks to substitute an earlier drawing for that which has been approved. The grounds of appeal conclude that the appeal is to “revise the wording of condition 2 to allow the drawings showing the fully timber clad extension to be approved”. Drawings showing several iterations of the proposal were submitted with the appeal, however, the appellant subsequently confirmed that it was sought to substitute the version of the scheme shown on Drawing no. 1592-D-20-004, Revision B in place of the approved drawing. I have therefore considered the appeal on this basis.

Main Issue

4. The main issue in this appeal is whether the condition should be varied having regard to the effect on the appearance of the development on completion.

Reasons

5. Planning permission has been granted for a single storey flat roofed extension to the rear of the appeal building. The details that have been approved are shown on Drawing no. 1592-D-20-004, Revision D which is listed in the schedule of approved drawings on the decision notice. As permitted, the walls of the extension would be predominantly finished in vertically boarded timber cladding although the end elevation of the extension would also incorporate a stone plinth approximately 650mm high. This would not continue onto the side elevations of the extension.
6. The appeal building is a two storey, stone built, terraced property. The surrounding area consists of similar houses, mainly terraced in format with some detached and semi-detached properties. In the vicinity of the appeal site there are also a small number of larger former industrial buildings. Although there is some diversity in the architectural style of the houses, most of those in the immediately surrounding area are of a similar age to the appeal building and share features such as dressed stone window heads and sills, stone door surrounds, masonry corbel gutter supports, similarly proportioned window openings and low stone boundary walls, which give the street frontages of the area a very homogenous appearance.
7. To the rear of Penistone Road, on the same side as the appeal building, are a short street and a number of small courts giving access to garages and outbuildings. These are in a range of materials including pre-fabricated pebble dashed panels and timber boarding. A number of the dwellings have also been extended to the rear with single storey additions in a variety of forms.
8. When read together Saved Policies D2 and BE1 of the Kirklees Unitary Development Plan 1999 seek to ensure that all new development is of a high standard of design. Whilst Policy BE13 and BE14 expect that extensions to dwellings should respect existing design features and the character and appearance of the area, it is common ground between the parties that the contemporary design approach adopted for the proposed extension is acceptable. This is in line with the guidance in the National Planning policy Framework which seeks a high standard of design without stifling innovation or originality.

9. The area that is in dispute is with regard to the stone plinth on the end elevation of the building. The appellant's statement suggests that this was requested in order that the materials used on the extension reflect those of the main house.
10. Whilst this may have been the intention, the fact that the stonework is limited to the end elevation and would not continue along the base of the side elevations, in my opinion, undermines this aim as there would be a lack of continuity in the stonework. Whilst the small area of stone plinth would reference the main house, it would not form a visual link between the extension and the original building.
11. I consider that the appellant's suggested approach of facing all of the walls of the extension in vertical timber cladding would, in addition to providing greater integrity to the design of the extension, also clearly differentiate the extension as a new addition to the original fabric of the house when it is viewed as a whole.
12. The proposed extension is located at the rear of the house and, whilst there are some glimpses into the rear garden from Glen View Road, the extension would not be a prominent feature in the street scene. I also saw when I visited the site that the garden of the appeal building is separated from those to each side by a high fence which would prevent any views of the lower part of the extension from the gardens of the neighbouring properties.
13. From what I have read and from what I saw on my site visit, I am satisfied that the design approach shown on Drawing no. 1592-D-20-004, Revision B would not conflict with the requirements of Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan or the guidance in the Framework.
14. I therefore conclude that Condition 2 could be varied as proposed.

Conclusion

15. For the above reasons, and having regard to all other matters raised I conclude that the appeal should be allowed and the planning permission varied as set out above.

John Dowsett

INSPECTOR

Appeal Decision

Site visit made on 8 August 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/Z4718/D/17/3175899

5 Thorncliffe Estate, Batley, WF17 7BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr G Rasul against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/91234, dated 7 April 2017, was refused by notice dated 24 April 2017.
 - The development proposed is a single storey rear extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

3. The GPDO enables the enlargement, improvement or other alteration of a dwellinghouse, provided certain criteria are met. Until 30th May 2019, provisions exist under Schedule 2, Part 1, Paragraph A.1 (g) of the GPDO for the construction of a larger single storey rear extension of up to 6 metres in depth for a semi-detached or terraced property.
4. Paragraph A.1.(j) states that development is not permitted by Class A if "*the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would ... (iii) have a width greater than half the width of the original dwellinghouse*".
5. In this case, the proposed extension would extend across the full width of the property. In addition, the Council has provided evidence indicating that the original dwelling had a small single storey rear projection that was set in from the main side elevation. Some of the neighbouring properties retain this feature, which appears to be original. This is not disputed by the appellant. Whilst the original single storey rear projection to No 5 has since been replaced, it comprised part of the original dwelling. The proposed extension

would therefore clearly "*extend beyond a wall forming a side elevation of the original dwellinghouse*", for the purposes of Paragraph A.1.(j).

6. Accordingly, I conclude that the development would not meet the requirements of the 2015 GPDO for it to be considered as permitted development under Schedule 2, Part 1, Class A of the Order.

Conclusion

7. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

Appeal Decision

Site visit made on 30 August 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 7 September 2017

Appeal Ref: APP/Z4718/W/17/3172053

Land between 117-135 Latham Lane, Gomersal, West Yorkshire BD19 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Valente against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/90203/E, dated 21 December 2015, was refused by notice dated 5 December 2016.
 - The development proposed is erection of one detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for subsequent approval. I have treated the position of the access, as shown on the site location plan, as indicative only.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

4. The appeal site lies within the Green Belt, and is currently in agricultural use. The Framework establishes that new buildings within the Green Belt are inappropriate development. Exceptions to this include limited infilling within villages.

5. Saved Policy D13 of the Unitary Development Plan¹ (UDP) states that within existing settlements in the Green Belt infill development will normally be permitted where: (i) the site is small, normally sufficient for not more than two dwellings, and within an otherwise continuously built-up frontage, or (ii) the site is small and is largely surrounded by development, and (iii) no detriment will be caused to adjoining occupiers of land or to the character and appearance of the surrounding area. Infill development should be in harmony with existing development in terms of design and density and capable of safe access from the highway. The appellant states that the proposal would comply with local plan policy as there is development either side and immediately opposite, and the site has a frontage width and overall size that would be comparable with other properties in the vicinity. However, the Council contends that the site is not within an existing settlement and, as such, the proposal would not constitute infill development under Policy D13.
6. Whilst the UDP pre-dates the Framework, Policy D13 is consistent with its policies in relation to protecting Green Belt land, as it permits limited infill development in existing settlements. Consequently, I attach significant weight to Policy D13. Nonetheless, the Framework is a material consideration of substantial weight and it is necessary to consider the proposal against its policies. The first matter to address is whether or not the site lies within a village, and a useful starting point is the settlement boundary.
7. The settlement boundary of Gomersal is defined in the UDP, and the site is outside the boundary for development plan purposes. However, the settlement boundary was drawn up some time ago and I have considered whether it remains logical. The centre of the village lies to the south of the site, where the majority of development is focussed. There are a number of roads extending from the village core and linear development along these roads is evident in several areas. Latham Lane extends northwards from the village centre and comprises development either side. North of the junction with Drub Lane, the development becomes less dense and there is a clear distinction between the development closer to the village core and that further north, which forms a transition between the settlement and the countryside.
8. The settlement boundary includes a row of houses on the western side of Latham Lane, which backs onto development on the northern side of Drub Lane. The boundary excludes the houses further north, including the appeal site, which have open fields to the rear. The settlement boundary on the eastern side of Latham Lane extends further north. It includes the houses that adjoin other development to the rear but excludes those that adjoin open countryside. On the south side of Drub Lane, the settlement boundary closely follows the built development, and open land is excluded. Overall, I consider that the settlement boundary in this location has been drawn up in a consistent manner and is logical.
9. There is no definition of village in the Framework. Therefore, I have considered the character of the site and its immediate surroundings, and whether it relates more to the village or the countryside. There is no doubt that Gomersal itself is a village. However, as explained above, the site is located on one of the roads leading from the village core which comprises linear development. It is a matter of judgement at what point the "village" ends.

¹ Kirklees Unitary Development Plan (Adopted 1999, revised with effect from 2007)

10. Although development extends along Latham Lane, north of its junction with Drub Lane it does not have the appearance of a continuously built-up frontage. This is because there are gaps in development formed by open fields, such as the appeal site, or by the relatively large gardens or grounds which include mature trees and shrubs. The development has a lower density than that further south and the lack of pavement contributes to the semi-rural character of the area. In front of the appeal site, the road narrows slightly and there are extensive views across the site to the open countryside beyond. Despite the residential development opposite the site, this part of Latham Lane is more akin to the countryside further north than the village core to the south.
11. Therefore, taking into account the established and logical settlement boundary, the semi-rural character and appearance of the area and the open appearance of the appeal site itself, I find that the site is not within a village for the purposes of the exception set out in the Framework. Although the development may be considered limited infill development, it would be inappropriate due its location outside the village. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

12. The site forms a gap in the development along Latham Lane. The proposal would result in built development and, consequently, it would inevitably affect the openness of the Green Belt. The adverse effect would be moderate as the existing field is relatively large in terms of its frontage with Latham Lane, and it enables views to the open countryside beyond, which would be interrupted by the development.

Character and Appearance

13. Latham Lane comprises relatively large properties set within plots of varying size, some of which are substantial houses. I accept that there is development either side of the site and the plot size would be comparable with the low density development in the vicinity. However, as set out above, this part of Latham Lane has a distinctly semi-rural character and appearance, which becomes more pronounced at the appeal site. This is, in part, due to the narrowing of the road but is equally due to the appeal site itself and its contribution to the appearance of the area. The open nature of the site, combined with the hedgerow along its frontage, has a positive impact on the street scene. Therefore, the proposal would have a moderate adverse effect on the character and appearance of the area.

Other considerations

14. The parties are satisfied that a dwelling could be accommodated on the site and designed so as to protect the living conditions of adjoining occupiers. However, the lack of harm is a neutral factor that does not weigh for or against the proposal.
15. The appellant cites a case in Shepley (Ref 2011/93043) where the Council apparently considered the site to be within the settlement, despite it being outside the boundary. From the limited information before me, I am unable to assess whether the site-specific circumstances in that case were comparable to the appeal before me. In any event, I have found that the settlement boundary

in relation to the appeal proposal is logical, and therefore, I give this consideration limited weight.

16. I am referred to a High Court Judgement,² which considered, amongst other things, the meanings of “village” and “limited infilling” in the context of national policy. On reading the Judgement it is clear that whether a settlement is, or is not, a village is inevitably a matter of planning judgement. Consequently, this does not change my assessment, as set out above.
17. I appreciate that the development would make a very small contribution to the local housing supply, but this benefit would be very limited and carries limited weight.
18. I note that the Council appears to have given positive pre-application advice in relation to the proposal. Nonetheless, this was quickly retracted and, moreover, such advice is not binding to the Council.

Conclusion

19. Policy D13 of the UDP permits development within existing settlements in the Green Belt. Although the site is within the environs of Gomersal village, it is outside of the settlement boundary and the development would be detrimental to the character of the surrounding area. Consequently, the proposal would be in conflict with Policy D13.
20. Also, I have found that the site is not within a village for the purposes of the exception set out in the Framework. Therefore, it would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a moderate loss of openness and a moderate adverse effect on the character and appearance of the area.
21. On balance, I find that the other considerations identified do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.
22. For these reasons given above, the appeal is dismissed.

Debbie Moore

Inspector

² [2017] EWHC 664 (Admin)

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

PLANNING POLICY

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

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

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Originator: John Ritchie

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-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

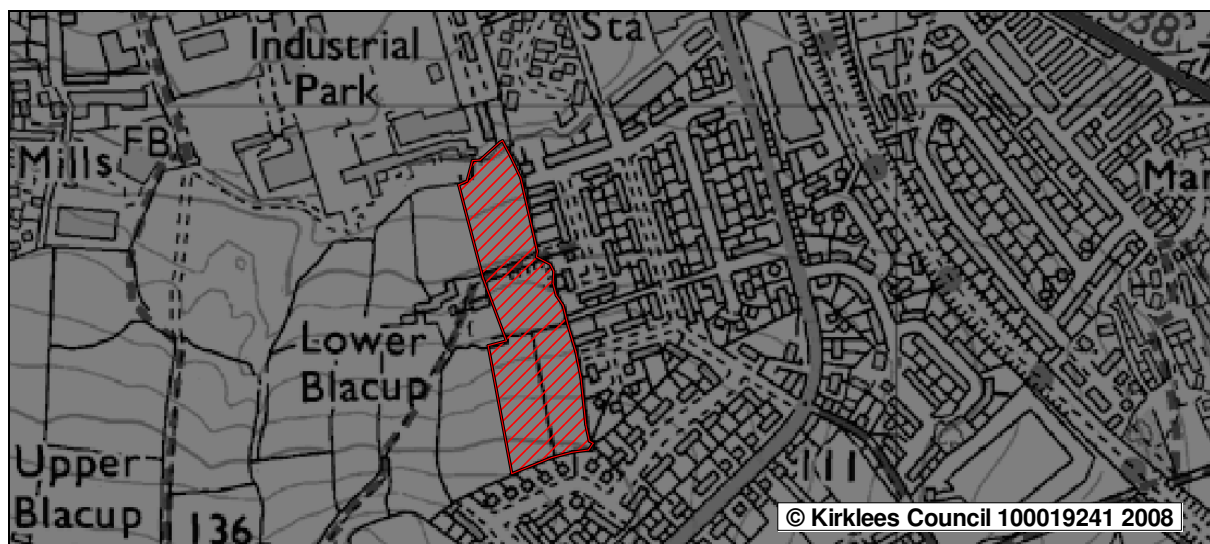
EXTENSION EXPIRY DATE

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 was referred to the Heavy Woollen Planning Sub-Committee on 29 June 2017 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 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 Planning Sub-Committee deferred a decision for the applicant to address their concerns regarding:
- The crossing of the farm track / public footpath to Lower Blacup Farm by the proposed estate road which was seen as harmful to road safety .
 - The extent of retaining walls and clarification of their facing material in order to protect visual amenity.
 - An individual Member also asked that the development be faced in brick to match the adjoining residential properties rather than artificial stone in the interests of visual amenity.

As requested by Officers Members also required the applicant to address the comments of the Highway Officer regarding parking availability and private garage sizes, road gradients, bin storage and collection positions and the provision of an additional footway to the northern cul de sac.

The application is brought back to the Sub-Committee following discussion with the applicant.

- 1.3 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. An indicative layout plan at outline stage showed two access points from Ashbourne Drive and Ashbourne View. 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 46 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.

The Inspector imposed conditions regarding:

- Timing and maintenance / replacement of planting
- Provision of a landscape management plan.
- Arrangements for public open space provision
- Wildlife habitat provision.
- Protection of the sewer crossing the site.
- Drainage details.
- Potential contamination investigation and remediation measures
- Development free zone adjacent to Lower Blacup Farm.

2014/93145 – Application to remove the requirement for affordable housing on the site – Delegated to Officers to determine. The application seeks 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 Prior to the application first being reported to the Area Planning Sub-Committee 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 surface water flood routing.
 - 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.

As a result of the resolution of the Area Planning Sub-Committee on 29 June 2017 Officers requested the following:

- An amended layout to avoid the proposed roads crossing the farm track / public right of way.
- The layout to provide sufficient parking provision or domestic storage space to compensate for the below standard internal garage space.
- Road gradients to be to recommended standards
- A footway to be provided to the northern cul de sac.
- Sufficient bin storage and collection points to be provided.
- Retaining walls to be faced in materials to match the dwellings.
- Dwellings to be faced in brick to match those adjacent

In response the applicant has declined to segregate the farm track / public right of way from the proposed road layout. Amended plans have been submitted to address the Highways Officer's comments regarding road gradient, footway provision and bin storage. The Highways Officer's comments regarding inadequate parking provision has been partially addressed through the provision of separate cycle / domestic storage provision on some plots. Discussions are continuing with the applicant to extend this provision within the site.

The applicant has addressed Members' issues of retaining walls and materials.

Following the receipt of further comments from the KC Landscape Officer amended plans have been requested to address the accessibility, extent and management of the public open space areas together with planting detail. It is anticipated that these discussion will be concluded prior to the Sub-Committee meeting.

The subject and outcome of these discussions are explained in greater detail below.

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. Subsequent 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:

8.1 Statutory:

K.C Highways Development Management – Initial comments were 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.

Following the receipt of amended plans Highways Officers are satisfied that their comments are satisfactorily addressed subject to cycle / domestic storage buildings being provided to all 4-bed units.

- **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.

KC Flood Management – Following the receipt of amended plans Officers consider that satisfactory surface water attenuation has been provided. Flood routing is not completely satisfied but this can be addressed by specific mitigation techniques. The broad layout is acceptable.

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 Officer 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 subject to conditions.

KC Landscape – concerns at tree loss, request further details of the gradients of the public open space areas relating to public and disabled accessibility; their relationship to the adjacent proposed dwellings and the privacy of those occupants and clarification of the maintenance responsibilities of the open space areas and planting within the plots. The Officer also notes that the extent of useable public open space is less than that shown on the submitted layout plan.

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

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

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 The proposed layout is similar to the indicative plan included in the Design & Access Statement accompanying the outline planning permission. Two cul de sacs were shown from Ashbourne Drive and Ashbourne View. The southern (up-slope) cul de sac crossed the farm track as repeated in the current plans.
- 10.2 The Inspector confirmed that access to the site was to be determined at outline stage while access within the site was reserved as part of layout. He expressed no view on the relationship of the farm track and the indicative estate roads and accepted that “the indicative layout is partly to demonstrate that the proposed number of dwellings can be accommodated and is subject to change at the detailed stage.”
- 10.3 In their initial response to the concerns of local residents and Cllr Kath Pinnock regarding the crossing by the estate road of the footpath and access track as previously reported to Sub-Committee 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.

- 10.4 In response to the views of the Sub-Committee the applicant has stated that it is not possible to physically segregate the farm track as access is required to plots 14-23. The applicant has suggested that signage is a fair compromise as it can be placed to make people aware of the presence of the farm track and would not need managing on a daily basis. The applicant considers that the current arrangement would encourage and enhance pedestrian connectivity across the site and encourage the enjoyment of the urban greenspace areas beyond the site boundary. The applicant considers that separating new development from existing "is not a precedent that the Council should be encouraging."

Officers are continuing discussions and the response will be reported at the Sub-Committee meeting.

- 10.5 The Highways Officer 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.
- 10.6 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 traversing the better standard new residential road, Officers consider it unlikely that the track would be seen as the preferred route from a highways point of view.
- 10.7 Officers consider that the close relationship of the proposed dwellings to each other could be improved. 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.
- 10.8 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.
- 10.9 The applicant was requested to amend the layout to provide a greater separation between dwellings but has declined.

- 10.10 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. On balance Officers conclude that the visual harm is outweighed by the benefit of housing delivery and they could not recommend refusal on the basis of the spacing of the dwellings.
- 10.11 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.
- 10.12 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.
- 10.13 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.
- 10.14 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 the harm is outweighed by the benefit of housing delivery.
- 10.15 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 is outweighed by the benefit of housing delivery.
- 10.16 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.

10.17 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 ameliorated by removing permitted development rights for further extensions.

10.18 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.

10.19 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.

- 10.20 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.
- 10.21 The proposed public open space (POS) areas have been assessed for accessibility and accordance with UDP policy H18
- 10.22 The KC Landscape Officer has detailed comments on the public open space (POS) provision and layout which the applicant has been asked to address. Whilst the layout appears to show extensive pos the accessible area is significantly less. The areas contain slopes of 1 in 4 and 1 in 3 which are not accessible for walking down nor could they be safely managed and maintained. The applicant has been asked to provide a management plan showing how these areas would be maintained.
- 10.23 The latest sections show a 2.75 metre high retaining wall to the northern boundary of the centrally located POS. This would need a suitably high fence on top for safety reasons which in total could be an oppressive feature from the gardens of plots 16, 17 & 23 adjoining the POS as well as the rear habitable room windows of plots 16 & 17 which directly face it. The applicant has been asked to address this.
- 10.24 The applicant has proposed to include the northern verge of the farm track crossing the site as POS. However, the steep slope and narrow width gives it little public value therefore whilst useful as a landscaped area it could not be taken into account in the overall POS provision within the site.
- 10.25 Other areas would benefit from improving access to able and disabled people albeit requiring a series of extensive ramps.
- 10.26 Discussions are continuing between Officers and the applicant to resolve the public open space issues. It is recognised that the steeply sloping nature of the site makes accessibility a problem and there is a balance to be struck between optimising accessibility and the extent of ramps which would detract from the value and use of the remaining space. These can be resolved by condition.

Appearance

- 10.27 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. The applicant has considered the Member's suggestion to build the development in brick to match the surrounding dwellings. However the applicant states that there is a current nationwide shortage of facing bricks which is severely affecting housebuilding production. The use of alternative materials is essential to maintain building rates.

- 10.28 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.
- 10.29 The applicant states that the extent of retaining walls is proportional to the overall gradient as the maximum slope is 1 in 6 and influenced by the maximum road gradient allowed by the Local Highways Authority given that this is less than the natural slope of the site. This results in significant retaining structures particularly on the boundaries of the site. The applicant states that in order to minimise the visual impact of the walls they are positioned within garden areas where possible.
- 10.30 Sample section drawings have been submitted showing the following:
- A retaining wall of 0.95m to the garden of plot 6 facing the rear garden of no 10 Ashbourne Way.
 - No retaining wall to the rear boundary of plot 20 to the rear garden of no 24 Ashbourne Way.
 - A retaining wall of 0.47 metre to the side and rear garden of 2 Ashbourne Croft facing into the rear garden of plot 46.
 - A retaining wall of 0.53 metre to the rear garden of plot 39 facing into the rear garden of 8 Ashbourne Croft.
 - A retaining wall of 2 metres to the rear garden of 30 Penn Drive facing into the rear garden of plot 36.
 - A retaining wall of 3 metres to the rear garden of 36 Penn Drive facing into the rear garden of plot 32.
- 10.31 Given the sloping nature of the site, the heights involved and the partial screening offered by the proposed and existing dwellings it is considered that these features are acceptable in terms of visual and residential amenity. The walls would be gabions which the applicant argues are an established retaining system that is both attractive and durable. The applicant states that alternative masonry solutions are more expensive (between 20-30% depending on height) and also require a significant amount of facing bricks with the inherent problems as referred to above. However, in the light of Members' request discussions are continuing with the applicant to face the gabion walls with artificial stone to match the proposed dwellings.
- 10.32 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.
- 10.33 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.

10.34 In response to the initial 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.

Access

10.35 The access points into the site were agreed at outline stage.

10.36 In response to the Highways Officer's comments regarding road gradients the applicant has amended the proposal to include a shared surface on the northern side which has satisfied the Officer.

10.37 The layout plan shows a width of the public bridleway in accordance with that shown on the Definitive Map.

10.38 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.

Landscaping

10.39 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.

10.40 The KC Landscape officer has no objections to the proposed landscaping but has requested a detailed landscape scheme showing species, planting densities and the exact position of tree planting to avoid conflict between properties. These details are awaited from the applicant however, they could be reserved by condition should the Sub-Committee wish.

- 10.41 The submission of a landscape management plan to optimise long-term biodiversity interests together with the eradication of invasive species is a requirement of a condition of the outline planning permission as is the provision of bat roost and bird nesting opportunities within the development site.

Scale

- 10.42 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

- 10.43 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. Construction Management Plan
6. Detailed road construction including flood water routing.
7. Retention of 6.1 metres width for the public bridleway crossing the site.

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>

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/91267 Outline application for demolition of existing farm buildings and erection of 5 detached dwellings Dry Hill Farm, Dry Hill Lane, Denby Dale, Huddersfield, HD8 8YN

APPLICANT

S Blyth, C/O Agent

DATE VALID

12-Apr-2017

TARGET DATE

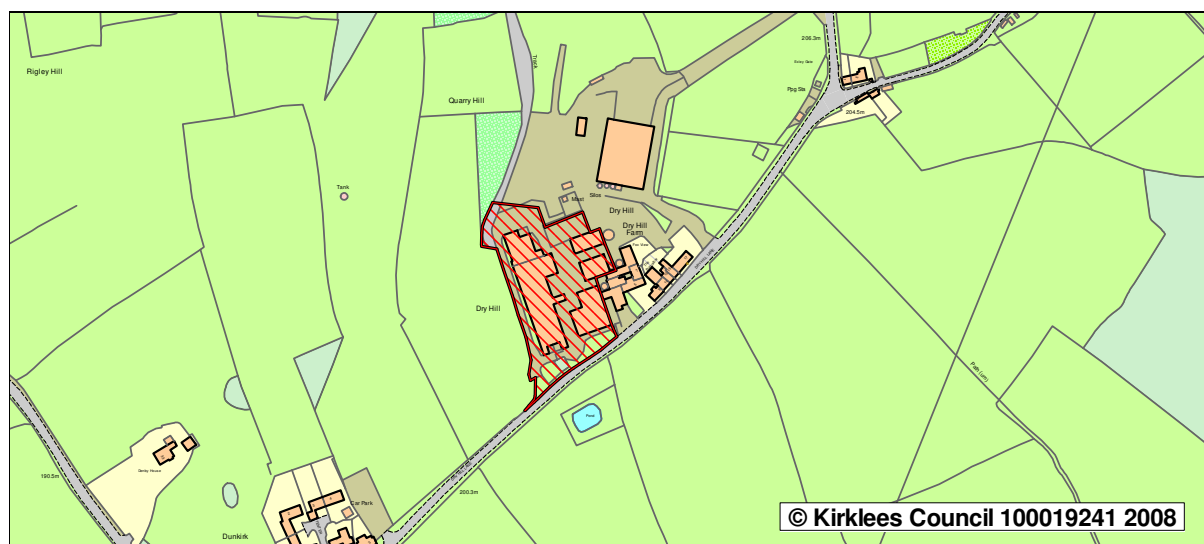
07-Jun-2017

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: Denby Dale

Yes

Ward Members consulted

RECOMMENDATION:

REFUSE

1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub Committee for determination due to previous Committee interest and because the site area exceeds 0.5ha. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application was deferred at the last Sub Committee to allow further discussions to take place between Officers and the applicant regarding very special circumstances. A meeting was held with the agent in this regard where discussions centred around two options: the financial connection between the proposed development and the applicant's new farming enterprise, and need for further information to evidence this, and the potential for the provision of affordable housing on the site.
- 1.3 The applicant's agent has confirmed that they have given consideration to the suggestions put forward by Officers, but will not be providing any further information.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises of a large farm complex of approximately 0.7ha and contains a number of redundant agricultural buildings of typical, modern construction. The site is accessed directly from Dry Hill Lane and located adjacent to existing dwellings to the east and a large food processing plant to the north east. The land to the north and south is characterised by open countryside, also extending to the west where it meets a small residential development complex of converted buildings and a public house.

3.0 PROPOSAL:

- 3.1 The proposals relate to an outline application for the erection of 5 dwellings. This would involve the demolition of the existing farm buildings. The application seeks the matters of access and layout to be determined at this stage, and the submitted plans demonstrate a development of detached dwellings with central access road leading to a turning head. Plots 1 to 3 would address Dry Hill Lane, whilst Plots 4 and 5 would be located to the north west of Plot 3, facing the access road.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2016/93148 – Outline application for the erection of 7 dwellings - refused
- 2016/93033 – Prior approval for proposed change use of agricultural building to one dwelling – approved
- 2016/91863 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved
- 2016/90950 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn
- 2016/90866 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn
- 2015/93255 – Outline application for erection of 8 dwellings – withdrawn
- 2014/93557 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved
- 2001/92858 – Erection of Dairy – approved
- Land at Clough House Lane (in applicant's ownership)
- 2015/91740 – Erection of temporary farm workers dwelling – approved
- 2015/91728 – Prior notification for erection of agricultural building – details approved
- 2014/93951 – Erection of cattle shed – approved
- 2014/93799 – Erection of agricultural building and farm workers dwelling – withdrawn

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The application was deferred at the last Heavy Woollen Planning Sub Committee on 17 August. The application was deferred at the last Sub Committee to allow further discussions to take place between Officers and the applicant regarding very special circumstances. A meeting was held with the agent where discussions centred around two options: the financial connection between the proposed development and the applicant's new farming enterprise, and need for further information to evidence this, and the provision of affordable housing on the site.
- 5.2 The applicant's agent has confirmed that they have given consideration to the suggestions put forward by Officers, but will not be providing any further information. The agent confirms that whilst the work requested by Officers could be carried out, this would be at substantial expense and may still leave the Council unsatisfied. The applicant therefore considers the cost-effectiveness of such a proposal to be prohibitive.

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 The site is located within the Green Belt on the Kirklees Unitary Development Plan.

BE1 – Design Principles
BE2 – Quality of Design
BE12 – Space about Buildings
T10 – Highway Safety
G6 – Land contamination
EP11 – Ecological landscaping

Kirklees Publication Draft Local Plan:

6.3 The application site is allocated as Green Belt on the Draft Local Plan.

PLP1 - Presumption in favour of sustainable development

PLP11 - Housing

PLP21 - Highway safety and access

PLP22 - Parking

PLP24 – Design

PLP53 – Contaminated and unstable land

National Planning Guidance:

6.4 National Planning Policy Framework.

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 7 - Requiring Good Design

Chapter 8 - Promoting healthy communities

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised by site notice and neighbour notification letter. As a result of site publicity, 4 representations have been received. The concerns raised can be summarised as follows:

- Development could result in overshadowing and overlooking to adjacent dwellings
- Development may cause access issues along Dry Hill Lane for all current residents. Increased traffic at the 'Dunkirk' junction on Barnsley Road can only have a negative effect as this is already a busy and dangerous junction
- The houses are taking away the history of the farm and turning a once working farm into another housing estate
- Demolition of on the site has taken place without consideration to wildlife and welfare of the animals which remain on the site
- Development will result in noise disturbance to adjacent occupiers
- Development will spoil the landscape
- Applicant was given this land on the understanding that it would be kept as a farm
- Reduction from 7 dwellings to 5 is still too many dwellings

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

The Coal Authority: No specific observations at this stage

KC Highways Development Management: No objections subject to imposition of conditions

8.2 **Non-statutory:**

KC Biodiversity officer: No objections

KC Environmental Services: recommend imposition of conditions

9.0 **MAIN ISSUES**

- Principle of development
- Impact on openness of Green Belt/Very Special Circumstances
- Layout
- Scale and Appearance
- Residential Amenity
- Landscaping
- Highway issues
- Drainage issues
- Ecology
- Representations
- Other matters

10.0 **APPRAISAL**

Principle of development

- 10.1 The site is within the Green Belt and paragraphs 87 and 88 of the National Planning Policy Framework (NPPF) apply. Paragraph 87 of the NPPF advises that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 requires that Local Planning Authorities should ensure that substantial weight is 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.
- 10.2 Paragraph 89 advises that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.3 The NPPF definition of previously developed land specifically excludes land that is or has been occupied by agricultural or forestry buildings.
- 10.4 The redevelopment of land in agricultural use does not form one of the exceptions set out in the NPPF. The development proposed is therefore considered to be inappropriate within the Green Belt.

- 10.5 The NPPF advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except where very special circumstances clearly and demonstrably outweigh the harm. Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
- 10.6 The potential harm to the Green Belt arises from the impact of development upon the purposes of including land within it, the impact upon its openness and the impact that arises from any other harm.
- 10.7 Paragraph 79 of the NPPF stipulates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.
- 10.8 Paragraph 80 sets out the five purposes of Green Belt:
- 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; and
 - To assist in urban regeneration by encouraging the recycling of derelict and other urban land

Impact on openness of the Green Belt

- 10.9 The application site comprises a group of modern agricultural buildings on a concrete yard, some of which have been partially dismantled. The buildings are located to the east of a cluster of residential properties and a food processing plant, historically connected with the farm. The aspect to the north, south and west is significantly open.
- 10.10 Such agricultural buildings are characteristic of the Green Belt landscape. The proposed development would result in a significant change to the existing agricultural landscape, however the applicant asserts that it will serve to enhance the openness and character of the Green Belt when compared to the present form and position of the buildings on the site, and that the eventual appearance of the development will be in keeping and continuing the form and character of the existing residential development to the east, south and south east of the site.
- 10.11 The applicant states that they have arrived at the proposed number of dwellings through examination of the existing financial liabilities associated with the site. Officers acknowledge that the proposed development is likely to be constructed of good quality materials, in keeping with the character of existing residential development. Notwithstanding this, the proposed dwellings would appear as a new form of development on the site and one that would provide a significant change to the existing agricultural landscape, being highly visible from the northern, southern and western aspects. As such it is considered that the proposal would be a visual form of development within the Green Belt that would impact negatively on its openness and character. Therefore, the development would be harmful to the Green Belt and be contrary to guidance contained within Chapter 9 of the NPPF.

Very Special Circumstances

10.12 The considerations presented by the applicant are set out in the supporting planning statement and supplementary information. These are as follows:

10.13 **Existing Farming Operation and Proposed Farming Enterprise**

Dry Hill Farm is a redundant Farm. Permission has been granted for a new beef farming operation on Clough House Lane further to the north east (see relevant history). The existing buildings and farm yard are not appropriate for the applicant's proposed beef farming operation - the farm buildings and farmyard are not suitable to house the beef cattle due to modern farming requirements, more stringent regulations in hygiene and feeding arrangements. There would need to be significant investment and due to the complications stated above, the applicant considers that farming operations at this site must be moved with the site undergoing a change of use and re-development to residential. The applicant considers that where planning permission is not granted, the site is likely to fall into disrepair, become a blot on the landscape and pose a health and safety risk to the nearby residential properties and food processing plant.

10.14 **Funding and Conversion of existing barns under the Prior Approval process**

In order to fund the applicant's proposed farming enterprise and pay significant legal fees attached to his Father's will, he has submitted several applications for prior approval for change of use of the existing agricultural buildings to form dwellings. Approval has been given for the change of use of two of the modern agricultural buildings, in addition to a third stone building to the north east (just outside the red line boundary of the application site). However, the applicant states that the profit received from the sale of these will not fully cover existing costs and self-fund the development of the new farming enterprise.

The applicant states that where he cannot self-fund the construction of the new farming site at Clough House Lane, whilst there are other finance options potentially available, this will severely restrict the optimisation of the intended modern and sustainable agricultural facility, which he considers should be supported due to its rural location and the downturn in viable farming options locally, regionally and nationally.

10.15 **Comparison of uses on the site and impact on openness and visual amenity**

The applicant has provided the following comparison of the existing and proposed uses of the site:

	Existing %	Proposed %
Buildings	36	8.5
Concrete Hardstanding	45	8.2
Waste Land, sepsit and grain stores	19	
Open land		43.3

The applicant calculates that the existing volume of buildings on site is 16264 cubic metres. The proposed residential development represents a total volume of 4924.9 cubic metres. As such, this contributes to a 69.7% reduction in the volume of buildings on the site. The applicant considers that the removal of the large volume of buildings and the movement of the vehicle store to the new farm location would improve visual amenity for the adjacent residential properties and should be considered to have less of an impact on the visual amenity of the Green Belt than the existing development.

10.16 Marketing of the site

Since refusal of the previous application ref: 2016/93148, the applicant has undertaken a marketing exercise in relation to the site. The site was marketed for 6 months and 3 enquiries were received. The applicant states that all enquirers were interested in the site due to the size and number of buildings available, however concerns were raised regarding the differing levels, poor condition of the concrete yard, and close proximity to the food processing plant and neighbouring dwellings.

The applicant considers that feedback resulting from enquiries supports the view that the farm buildings and yard surface require significant upgrading for any other uses permitted under the General Permitted Development Order. In addition, they state that piecemeal development would not be appropriate in this instance; therefore the cost to redevelop the site for other uses would be unworkable.

10.17 Location of the site and its suitability for residential use

The applicant accepts that the site is not in a central village location but is served by a bus route that runs hourly, and the school bus also serves the area. The site is located 15 mins walk from the centre of Denby Dale. Apart from the food processing plant to the rear of the site and the Dunkirk Public house, the remaining properties in close proximity are all residential properties. Furthermore, the applicant contends that the proposed development will contribute to much needed housing in the area and that this site should be welcomed by the Council as contributing towards improving housing figures

10.18 Recycling of Materials and Renewable Forms of Energy

The applicant considers that existing materials on the site could be re-used on the new farming operation at Clough House Lane, and that there are benefits to using renewables such as Ground Source Heat Pumps and Photovoltaics, which could be discussed at the reserved matters stage.

10.19 Contribution to new and sustained local employment

The applicant is of the view that the development would contribute to local employment through the construction phases and in the continuation of the farming operation at Clough House Lane. In particular, this would enable the continued employment of the existing herdsman who has been employed by the applicant for over 30 years.

10.20 The circumstances put forward by the applicant are material considerations, however they would only overcome the presumption against inappropriate development if they were considered (either by themselves or together with other circumstances) to constitute very special circumstances that clearly outweigh the harm caused to the Green Belt by inappropriateness and any other harm.

- 10.21 The existing development is appropriate within the Green Belt and therefore is not considered to be of harm to the openness of the Green Belt or the purposes of including land within it. The impact of the proposed development on the visual amenity of the Green Belt is not in itself a very special circumstance matter but can be weighed alongside other material considerations outside of the Green Belt assessment.
- 10.22 At the time of the applications relating to the applicant's new farming enterprise at Clough House Lane, the financial connection between that and the current proposal for residential development at Dry Hill Farm was not put forward. Those applications were assessed on the basis of the information submitted at the time.
- 10.23 Approval has been granted for the change of use of two of the modern agricultural buildings within the red line boundary of the application site to form dwellings under Part 1, Schedule 2, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. Prior to these, another Prior Approval was granted for the change of use of a stone barn to dwelling adjacent the site to the north west. Under Class Q, applicants can seek approval for the change of use of agricultural buildings to form up to 3 dwellings. The current application seeks approval for 5 detached dwellings which would have a greater impact upon the openness of the Green Belt compared to the conversion of 3 existing agricultural buildings (which is a potential alternative based on the above circumstances).
- 10.24 The Council is unable to demonstrate a five year supply of available housing land sufficient to satisfy the requirements of the NPPF. Notwithstanding this, advice in National Planning Practice Guidance clarifies that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt. Despite the lack of a 5-year supply of available housing land therefore, the proposed development is not considered to constitute 'sustainable development' in principle.
- 10.25 Officers consider that the information put forward by the agent does not constitute very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness or other harm and has not sufficiently overcome the previous reasons for refusal.
- 10.26 The applicant considers that the Council as Local Planning Authority has not acted consistently in dealing with this application, citing application ref: 2015/93850 at New Dunsley Poultry Farm which was approved at the Strategic Planning Committee, which they consider has strong parallels with the proposed scheme at Dry Hill Farm for the following reasons:
- The Dunsley scheme was agricultural land with unattractive agricultural buildings;
 - The farming operation was no longer viable;
 - The redevelopment for residential use was the appropriate option in planning terms for the site and there were significant benefits to openness and visual amenity from and across far reaching open valley views with a significant reduction in the footprint and layout of the proposed dwellings

- 10.27 The applicant also asserts that the ‘level and magnitude of harm’ resulting from the proposed development should be taken into account, and that in the case of the application at Dry Hill Farm, very special circumstances are demonstrated because *“the proposals clearly outweigh the very low level of what amounts to nothing more than technical and negligible harm (limited, at worst) from the proposed development”*.
- 10.28 With respect to the Dunsley Scheme, Officers would respond to this firstly by stating that each application is assessed on its own merits. Secondly, the geographical context and nature of the existing buildings on the Dunsley site differs from Dry Hill Farm. In addition, the Dunsley scheme was accompanied by a detailed Agricultural Report and Marketing Appraisal.
- 10.29 With respect to the matter of ‘harm’, para 87 of the NPPF advises that.. *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”*. Para 88 goes on to state that *“local planning authorities should ensure that substantial weight is 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”*. The wording of Paragraphs 88 and 89 of the NPPF does not provide for any flexibility in the extent of harm caused. If less than significant harm was permitted, this would be set out within the NPPF.

Layout

- 10.30 The proposed development would constitute a cul-de-sac form of development, although Plots 1-3 would address Dry Hill Lane. This is out of keeping with the pattern of surrounding development; however it is acknowledged that the most recent Prior Approvals granted under Class Q could result in the siting of two conversions in similar positions to those of Plots 3 and 5.

Scale and Appearance

- 10.31 The matters of the scale and appearance of the development are reserved for subsequent approval at the detailed stage, however the submitted information states that the proposed dwellings would be constructed of natural reclaimed stone with stone slate roofs. The use of such materials would be in keeping with the predominant character of existing residential development to the east, and would ensure that the development would accord with Policies BE1 and BE2 of the Unitary Development Plan and emerging Policy PLP24 of the PDLP which states that proposals should promote good design by ensuring (amongst other things) ‘the form, layout and details of all development respects and enhances the character of the townscape...’

Residential Amenity

- 10.32 The impact of the development on residential amenity needs to be considered in relation to Policy BE12 of the Unitary Development Plan. Policy BE12 sets out recommended distances that should be achieved between existing and proposed dwellings.

- 10.33 The layout of the proposed development is such that the aims of Policy BE12 would be met both within the development itself and in relation to adjacent existing residential development.
- 10.34 The site is located in close proximity to the adjacent dairy/food processing plant, therefore in order to protect the amenity of future occupiers of the development arising from noise, it would be necessary for the applicant to submit a noise report to be approved by the Local Planning Authority, to ensure that the development would accord with Policy EP4 of the Unitary Development Plan.

Landscaping

- 10.35 The submitted plans indicate that the front and rear portions of the site would take the form of paddocks, with some planting shown along plot boundaries and to the northern boundary of the site. As the matter of landscaping is reserved for subsequent approval, it is expected that further details would be submitted at the reserved matters stage.

Highway issues

- 10.36 The proposed development would be accessed via a private driveway leading to Dry Hill Lane. Each dwelling would have a double garage and adequate off-street parking provision. The proposed layout indicates the access road to be 6.0m in width leading to a shared turning area.
- 10.37 There is an accident cluster at the junction of Dry Hill Lane and the A635 Barnsley Road (Dunkirk Pub). However, various improvements have been undertaken at the crossroads, with 1 accident within the last 2 years, attributed to low sun.
- 10.38 Speed surveys and an amended site layout plan were submitted prior to the last Sub Committee meeting and assessed by KC Highways DM. The vehicle tracking as presented on the amended site layout plan is considered to be acceptable. The applicant proposes a 2m footway with a raised kerb to the site frontage in order to improve the carriageway alignment and this is considered to be acceptable. The revised speed survey data has informed the requirement for visibility splays of 2.4m x 43m to the east and 2.4m x 59m to the west. This could be secured by condition.
- 10.39 On the above basis, the proposals would accord with Policy T10 of the Unitary Development Plan and emerging Policies PLP21 and PLP22 of the PDLP relating to highway safety, access and parking.

Drainage issues

- 10.40 The development proposes to dispose of foul drainage via the existing mains sewer and surface water drainage to soakaways. No adverse comments have been received from consultees in respect of this matter.

Ecology

- 10.41 Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments. Considering the site location and nature of the buildings, the potential for roosting bats to be present is limited, and no further information is required to support the application.
- 10.42 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. This matter could be dealt with by condition, should the application be approved.

Representations

- 10.43 Four representations have been received from the occupiers of Fox View to the east of the site. Their concerns are addressed as follows:

Development could result in overshadowing and overlooking to adjacent dwellings

Response: The proposed development would be located an adequate distance from existing dwellings so as to prevent any detrimental impact upon residential amenity.

Development may cause access issues along Dry Hill Lane for all current residents. Increased traffic at the ‘Dunkirk’ junction on Barnsley Road can only have a negative effect as this is already a busy and dangerous junction

Response: The highway impacts of the proposed development have been assessed by KC Highways Development Management and are considered to be acceptable.

The houses are taking away the history of the farm and turning a once working farm into another housing estate

Reason: The history of the farm in itself is not a material consideration in the assessment of the application

Demolition of on the site has taken place without consideration to wildlife and welfare of the animals which remain on the site

Response: The welfare of the animals remaining on the site is not a material consideration in the assessment of this application. With respect to wildlife, considering the site location and nature of the buildings, the potential for roosting bats to be present is limited, and no further information is required to support the application.

Development will result in noise disturbance to adjacent occupiers

Response: Some disturbance would result as part of any construction process, however this is an inevitable and usually shortlived aspect of development.

Development will spoil the landscape

Response: The development is considered to constitute inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt

Applicant was given this land on the understanding that it would be kept as a farm

Response: This is not a material consideration in the assessment of the application

Reduction from 7 dwellings to 5 is still too many dwellings

Response: This point is noted

Other Matters

10.44 **Air Quality:** Paragraph 109 of the NPPF states that “the planning system should contribute to and enhance the natural and local environment by....preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution”. On relatively small new developments, this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This could be secured by planning condition, if the proposals were considered to be acceptable.

10.45 **Land Contamination:** The land may be contaminated due to the former use of the site as a working farm. As such, a series of conditions would need to be imposed to ensure this matter is addressed, should the proposals be considered to be acceptable, to ensure that the development accords with Chapter 11 of the NPPF and emerging Policy PLP53 of the PDLF.

11.0 CONCLUSION

11.1 The proposed development is considered to represent inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt.

11.2 The justification submitted by the Agent has been assessed. However, this is not considered to demonstrate very special circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm.

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

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

12.0 Reason for Refusal

1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with 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=2017%2f91267>

Certificate of Ownership – Certificate A signed

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/91046 Outline application for demolition of existing buildings and structures and erection of residential development Greenside Mill, Savile Road, Skelmanthorpe, Huddersfield, HD8 9EE

APPLICANT

Paramount Retail Group
Holdings Ltd, c/o agent

DATE VALID

24-Mar-2017

TARGET DATE

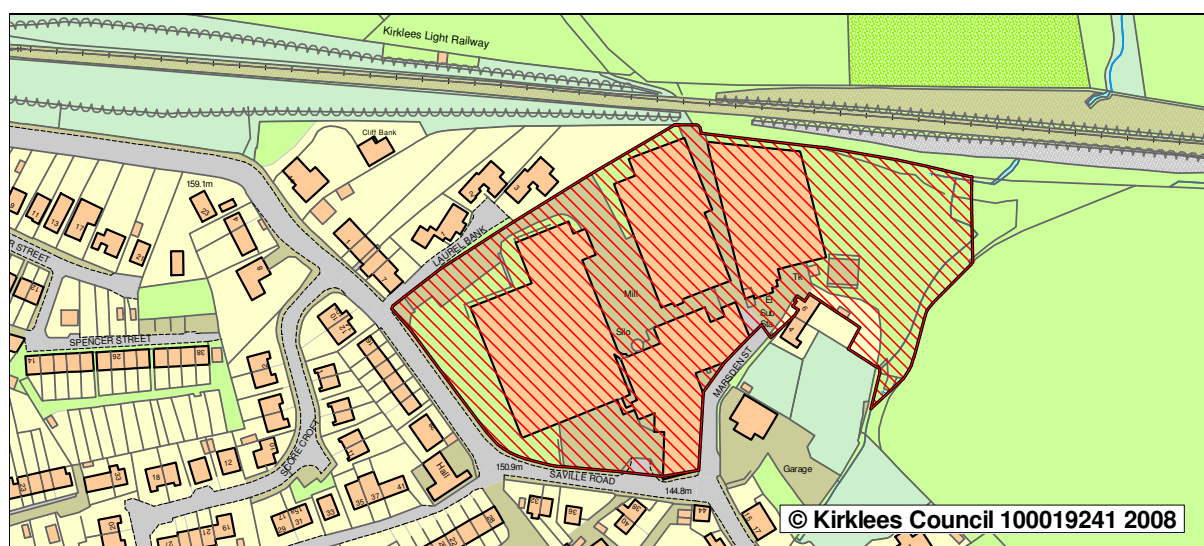
23-Jun-2017

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: Denby Dale

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE TO OFFICERS TO REFUSE FOR FOLLOWING REASONS.

- 1. The proposal fails to make any provision for Public Open Space, contrary to Policy H18 of the Kirklees Unitary Plan.**
- 2. The proposal fails to make any provision towards Education Improvements, contrary to the Councils policy “Providing for Education Needs generated by New Developments”.**

1.0 INTRODUCTION:

- 1.1 This site is brought to the Heavy Woollen Planning Sub-Committee as the application is for a residential development on a site is in excess of 0.5 hectares. This is in accordance with the Council’s Scheme of Delegation.
- 1.2 The application was deferred from the 17 August 2017 Heavy Woollen Planning Sub-Committee at the request of the applicant who submitted additional viability information which needed additional independent assessment.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of 1.8 ha, currently occupied by a mill complex (former Greenside Mills). The site has frontages onto Saville Road and Marsden Street, and backs onto Laurel Bank, in Skelmanthorpe. To the north of the site runs the Kirklees Light Railway, and there is a public footpath that crosses the site from Marsden Street, to a crossing point with the Light Railway.
- 2.2 The site for the majority of its area is covered in buildings and hard standing areas. However to the east adjacent to the Kirklees Light Railway, and neighbouring Green Belt is an area containing some trees and vegetation. There are also some water features, principally a former dying pit and brick channels surrounding it, linking back to the industrial complex.
- 2.3 The site is within a mixed use area, with dwellings facing and backing onto the site on Saville Road, Marsden Street, and Laurel Bank. Also near the site is a garage business on Marsden Road and a factory with access on the opposite side of Saville Road.

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

3.0 PROPOSAL:

3.1 Outline permission is sought for the demolition of the existing buildings and the use of the site with all matters reserved.

3.2 The application is accompanied by an illustrative layout, indicating a total of 55 dwellings (detached and semi-detached), with the principle access being taken off Savile Road.

4.0 RELEVANT PLANNING HISTORY:

4.1 None relevant

5.0 HISTORY OF NEGOTIATIONS:

5.1 The applicants have submitted a viability appraisal with the application. This includes details of the existing floor areas, to consider if Vacant Building Credit (VBC) is applicable.

5.2 This appraisal has been independently assessed at the expense of the applicant, and this confirms that full VBC would be available for a scheme of 55 as contained on the “indicative “ layout. Other required contributions towards Public Open Space and Education would be deliverable.

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 D2 – Unallocated land
B4 – Change of use of land and buildings last used for business or industry
BE1 – Design principles
BE2 – Quality of design
BE23 – Crime prevention
T10 – Highway safety
T16 - Footpaths within sites

T19 – Parking standards
G6 – Land contamination
NE9 – Retention of mature trees
H10 – Affordable housing
H18 – Provision of open space

Supplementary Planning Guidance / Documents:

- 6.3 SPD2 Affordable Housing;
Kirklees Council Interim policy on affordable housing
Councils Education Contributions policy
West Yorkshire Low Emissions Strategy

National Planning Guidance:

- 6.4 Chapter 1 - Building a strong, competitive economy
Chapter 4 -Promoting sustainable development
Chapter 6 -Delivering a wide choice of high quality homes
Chapter 7 - Requiring good design
Chapter 8 - Promoting healthy communities
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11 - Conserving and enhancing the natural environment

6.5 Draft Local Plan

PLP1 - Presumption in favour of sustainable development
PLP3 - Location of new development
PLP7 - Efficient use of land and buildings
PLP8 - Safeguarding employment premises
PLP11 - Housing mix and economy
PLP 20 - Sustainable travel
PLP21 - Highway safety and access
PLP22 - Parking
PLP24 - Design
PLP28 - Drainage
PLP30 - Biodiversity and Geodiversity
PLP32 - Landscape
PLP33 - Trees
PLP35 - Historic Environment
PLP49 - Education and Healthcare needs
PLP53 - Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

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

10 representation have been received, the main points of concern being.

- The proposal will result in existing residents being unable to park outside their own homes;
- The road network around this site is congested and narrow, any access to housing here must be safe;

- The Traffic Survey submitted is not sufficient, and has not covered appropriate times;
- Extra dwellings will put pressure on already oversubscribed schools and doctors services;
- If permission is allowed then the density should be reduced;
- If residential is allowed, then conversion of the buildings would be preferable, and safeguard an element of Skelmanthorpe's heritage;
- There are 2 very specific comments about siting's and positions of accesses.

7.2 A significant number of the letters do not object to residential in principle and support the development of brownfield sites instead of greenfield.

7.3 Denby Dale Parish Council - No objections, however there are concerns regarding the amount of traffic on Savile Road an access to the site

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management - No objections to the proposal, recommend conditions if planning permission is granted.

The Environment Agency - No objections

The Coal Authority - No objection subject to imposition of condition

K.C Strategic Drainage - Request further information from the Flood Risk Assessment. No objection in principle, any drawings to be marked "indicative" only.

Forestry Commission - Raise no objection.

8.2 Non-statutory:

K.C Arboricultural officer - No objections - request conditions and provision of new planting as part of any Reserved Matters application.

K.C Conservation and Design - No objections to the principle of development. None of the buildings on site are of heritage value. This is an outline application with layout still to be agreed. There are issues with the indicative layout that would need to be addressed, at Reserved Matters stage.

K.C Business and Economy/ Regeneration - Acknowledge that the site has been vacant for some time and that the applicant has demonstrated that prolonged marketing has be not generated. Given the scale of the proposed development he Business Team could support the application based on the number of direct and indirect employees engaged in the sites design and construction.

K.C Education Services - An Education Contribution would be required in this case. Based on 55 family units it would be £68,260.

Yorkshire Water - Recommend conditions in the event of approval.

K.C Environmental Health - No objection recommend conditions in the event of an approval.

K.C Strategic Housing - There is a demonstrable need for affordable housing in this area. The Councils Interim Affordable Housing Policy is applicable here, and the provision of on-site affordable units should be sought via condition.

K.C Landscape and Parks - A contribution of £100,000 towards equipment would be required in this case.

K.C Ecology - No objections, recommend conditions in the event of approval.

K.C Police Architectural Liaison Officer - No comments adverse to the approval of outline permission. Detailed comments and conditions will be considered in the event of a Reserved Matters application being submitted.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Highways Issues
- Drainage Issues
- Environmental Issues (De-contamination/ Remediation; Noise; Air Quality)
- Biodiversity
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 The site was last in employment use, and as the guidance contained in part 1 of the NPPF and Policy B4 of the Unitary Development Plan is relevant.
- 10.2 Paragraph 22 of the NPPF states:
“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocation should be regularly reviewed. Where there is no reasonable prospect of the site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to the market signals and the relative need for different land uses to support sustainable communities”.
- 10.3. The site has been vacant since 2013, and marketed for 3 years with minimal interest being received. The surrounding road network is narrow, steep in parts, and access for large lorries is difficult. In addition there is limited scope within the site to expand or grow a business, and residential properties physically abut the site on certain boundaries.
- 10.4 It is considered that it has been satisfactorily demonstrated that there is no reasonable prospect of this site being brought back into employment use, and as such it is appropriate to consider alternative uses for the site.

- 10.5 The site is not allocated for employment in the Emerging Local Plan, whereas the employment area on the opposite side of Savile Road has been designated as an Employment Protection Zone (ie the loss of this site for employment does not conflict with the policies of the Emerging Local Plan).
- 10.6 Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant housing policies should be considered to be out of date, in the event that the Council is unable to demonstrate a 5 year supply of deliverable housing sites.
- 10.7 The Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, and the site is within a sustainable location. As such there is no objection to the site coming forward for residential development at this stage
- 10.8 Given the size of the site, and the number of dwellings that could be delivered, the Council's policies regarding Affordable Housing; Public Open Space and Education Contributions are relevant. As the proposal does not seek approval of numbers or layout, the levels of contributions necessary to comply with policy cannot be quantified at this stage.
- 10.9 Notwithstanding the above, the applicant has submitted a Viability appraisal, which has been independently assessed. This independent assessment confirms that given the scale of the existing vacant industrial buildings on the site (ie 102,500 sq ft), that a scheme of the scale of the indicative layout ie 55 family homes(ie 59,650 sq ft), will benefit from full vacant building credit, and in accordance with the criteria detailed in the National Planning Practice Guidance. The appraisal also confirmed on the basis of indicative layout full contributions towards both the provision of Public Open Space and Education.
- 10.10 Taking the above into account, it is unlikely that any affordable housing can be secured on the future scheme. However, as no specific numbers are applied for, and Vacant Building Credit cannot be applied retrospectively (ie if the buildings were to be demolished first), it is still appropriate to impose the relevant affordable housing condition at this stage, together with those for Public Open Space and Education.
- 10.12. The applicant submitted additional viability information, which claimed, that notwithstanding there was no requirement for any affordable housing provision on this site, the POS and Education contributions (amounting to £168,000) rendered the development of this site unviable.
- 10.13. This additional viability information has been assessed, and the Independent Assessors have maintained their original recommendation, that the scheme can sustain the POS and Education contributions.
- 10.14 The applicants have been advised of this conclusion, yet maintain their position, and have not agreed to these contributions. As such the proposal is contrary to the Councils adopted policies on Public Open Space, and Education Contributions.

Urban Design issues

- 10.15 The site currently comprises an industrial grouping, which has evolved over the years with subdivisions and various additions and adaptations. The buildings are unremarkable and none are considered to be of any heritage value. The site is not within a Conservation Area. As such there is no objection to the removal of the buildings.
- 10.16 An indicative layout has been submitted with the development, indicating a total of 55 dwellings (comprising a mixture of detached and semi-detached) that would deliver a density of just over 30 dwellings per Ha. The surrounding housing is a mixture of types of residential units, some of which are close to the back edge of pavement. The issue of layout and scale will be the subject of a Reserved Matters layout, however it is considered that the site can deliver an efficient level of development whilst delivering good design and scale, and in terms of appearance, improve upon an existing industrial complex.
- 10.17 The site contains an existing public footpath from Marsden Street to the crossing point of the Light Railway. Currently this is flanked by tall industrial blocks and equipment; a residential solution will be a significant benefit for the character and safety of this path for pedestrian users.
- 10.18 In terms of residential, the use of the site for residential is compatible with the neighbouring residential uses and no objection is raised to the use. The indicative layout has attracted some detailed comments from specific neighbours however layout is not applied for. Also some concerns about the indicative layout from a Highways perspective have also been received (see below). All matters are reserved for approval at a later stage, and when received will be the subject of fresh notification and consultation as part of any subsequent reserved matters application.

Highways Issues

- 10.19 This application seeks outline approval (with all matters reserved) to the demolition of existing buildings and structures and erection of residential development at Greenside Mill, Savile Road, Skelmanthorpe.
- 10.20 The application site accommodates the existing Greenside Mill complex, which is made up of 4 large industrial buildings and ancillary offices. These industrial buildings have a combined gross floor area of 102,500sq ft and are located off Saville Road and Marsden Street.
- 10.21 Access to the site is gained via Saville Road by way of two gated accesses and from Marsden Street which runs from Saville Road into the site. These provide access to various parking and servicing areas. Given the location at the centre of Skelmanthorpe, and the size of the existing buildings, it is likely that the residential use will generate less traffic, and in particular, less HGV traffic, than the existing use.

- 10.22 The indicative layout shows 55 proposed dwellings to be served off Saville Road. The proposed development shown on the indicative plans includes a mix of detached and semi-detached houses. A traditional estate road is shown to run approximately north to south through the site serving as access to two adoptable shared surface carriageways and private driveways. An area of public open space is shown located centrally within the development site. A pedestrian link is shown through to public footpath DEN/28.
- 10.23 Whilst it is acknowledged that the layout plan is indicative there are 3 separate private driveway accesses onto Saville Road in addition to the main access road. One of the three proposed private driveways is a particular concern sited on the inside of the bend. Highways DM would recommend that this site is served by a single point of access from Saville Road. This matter can be dealt with at Reserved Matters stage when the internal Layout and the Access are applied for.
- 10.24 Given the location close to the centre of Skelmanthorpe and that the residential development could potentially generate less traffic and in particular less HGV traffic than the existing permitted use, Highway DM have no objection to these proposals and have no wish to resist the granting of planning, subject to the imposition of appropriate conditions.

Drainage issues

- 10.25 The site is located within Flood Zone 1 (ie the area least likely to flood), but given the size of the site (ie in excess of 1ha), a Flood Risk Assessment has been submitted to deal with surface water drainage. The site does contain an area to the eastern edge of the site which contains an old brick lined pond (formerly an old dying pit, with a number of brick channels located nearby apparently accessing it). The remainder of the site, which is the bulk of the site is covered with industrial buildings and hard surfacing.
- 10.26 This is an outline application for residential on a brownfield site, with all matters reserved. Kirklees Flood Management do not object to the principle of a housing development, but are concerned that the current assessments do not provide satisfactory information to properly assess any potential risk, and that therefore all plans should be labelled clearly as “indicative” only.
- 10.27 The layout submitted is indicative, and it is proposed to require the submission of a series of conditions relating to drainage, including an updated Flood Risk Strategy, to properly inform any drainage proposals at a detailed or reserved matters stage.

Environmental Matters (Decontamination/ remediation; Noise; Air Quality)

- 10.28 *Decontamination / Remediation* - The site is an existing industrial complex, and the proposed residential use is a more sensitive end user. A Phase 1 Contaminated Land report has been submitted, which indicates that the site can be decontaminated and made fit to receive a new development. To this end conditions are recommended (these conditions will extend to include the level of survey work the Coal Authority are recommending) in order to ensure that the proposal complies with the aims of policy G6 of the UDP and chapter 11 of the NPPF.

- 10.29 *Noise* - The site is in an area where there are a number of other employment uses, including a motor repair business directly opposite on Marsden Road, and also accessed off Savile Road is the Skelmanthorpe Business Park - which is also safeguarded as an Employment Protection Zone, in the Emerging Local Plan. In the interests of residential amenity for future residents, conditions requiring the submission of a scheme of noise attenuation measures including acoustic fencing and ventilation are submitted for all parts of the site are recommended. This would ensure that the proposal complies with the aims of chapter 11 of the NPPF.
- 10.30 *Air Quality* - Given the scale of the development, in accordance with the guidance contained in the West Yorkshire Low Emissions Strategy, a condition requiring the provision of electric charging points is recommended.

Biodiversity

- 10.31 The application is accompanied by an Ecological Survey that is considered to be robust and makes realistic recommendations as to its potential enhancement. The level of bat activity is low, and therefore enhancements aimed at roosting bats are likely to provide benefits.
- 10.32 Towards the eastern end of the site there is the old pond, and associated channels, which, though currently are of little value, are outside the footprints of existing buildings and represents an opportunity to provide wetland enhancement which would in turn improve foraging opportunities for bats.
- 10.33 To the north of the site is the Kirklees Light Railway, the route of which forms part of the Kirklees Wildlife Habitat Network. The planting and trees within this habitat are adjacent to the site, and accordingly should not be affected by any new buildings. A landscape scheme would form one of the reserved matters, should outline permission be granted, and will need to detail species to augment the existing planting, and improve the space around the existing footpath, and its exit out of the site and across the railway.
- 10.34 It is considered that the proposed site is capable of delivering significant biodiversity enhancement in accordance with the guidance contained in chapter 11 of the NPPF.

Representations

- 10.35 Officers responses to the representations received are as follows:-

- The proposal will result in existing residents being unable to park outside their own homes;
Response: No layout is actually applied for at this stage, layout including access and parking arrangements will be the subject of a future reserved matters application, which will be the subject to re-consultation.
- The road network around this site is congested and narrow, any access to housing here must be safe;
Response: Only the principle of residential is being considered at this stage, and access is still to be approved. It must be considered that the current use of the site allows for an intensive use of existing accesses for vehicles and

large HGV's. It is considered that the residential, use will represents a potential reduction in the level of use, and that satisfactory access can be achieved.

- The Traffic Survey submitted is not sufficient, and has not covered appropriate times;
Response; Highway Services have raised no objection to the Traffic Survey, and it must be remembered any survey needs to pay regard to the existing and potential uses of the site and the associated traffic uses.
- Extra dwellings will put pressure on already oversubscribed schools and doctors services;
Response - Education Services have raised no objection to the scheme and a condition securing an appropriate level of contribution is proposed. The provision of doctor's services is not a material planning consideration, rather a matter for the Health Authority.
- If permission is allowed then the density should be reduced;
Response - A specific density is not actually applied for. However the indicative plan shows a density of 30 per ha, which is not an excessive density nor is it inappropriate for this part of Skelmanthorpe which includes a range of house types in immediate proximity to the site.
- If residential is allowed, then conversion of the buildings would be preferable, and safeguard an element of Skelmanthorpe's heritage;
Response - The site is not within a Conservation Area, and buildings and structures within complex is unremarkable. There is no legitimate justification to require part of the site to be retained for conversion in this case.
- There are 2 very specific comments about siting's and positions of accesses;
Response - No access is specifically applied for and Highways Services have expressed their own reservations on the positions and numbers of accesses shown on the "indicative" layout. Although having Access confirmed at Outline stage is useful it is not a formal requirement and cannot be insisted upon.

11.0 CONCLUSION

- 11.1 The site is currently occupied by industrial buildings, that, it is considered are unlikely to come back into employment use, as such in accordance with the guidance contained in paragraph 22 of the NPPF, an alternative use can be considered. This is a brownfield site in a sustainable location, and as such a residential use would be appropriate, and in accordance with the allocation on both the UDP and the Emerging Local Plan which for decision making purposes means approving development proposals without delay.
- 11.2. The proposal is in outline only with all matters reserved. The residential use is compatible with the neighbouring properties, and it is consider that the site can be safely accessed, and that a residential use, represents a less intensive vehicle use for the surrounding network, than the existing large factory complex.
- 11.3 Issues such as drainage and noise are capable of being satisfactorily dealt with by condition, and there is significant opportunity for biodiversity enhancement.

11.4. Notwithstanding this the scheme fails to deliver any contributions towards the provision of Public Open Space, or Education provision, and the applicant has failed to demonstrate that these contributions would make the scheme unviable. As such refusal is recommended.

12.0 Recommendation

REFUSE for the following reasons.

1. The proposal fails to make any provision for Public Open Space, contrary to Policy H18 of the Kirklees Unitary Plan.

2. The proposal fails to make any provision towards Education Improvements, contrary to the Councils policy “Providing for Education Needs generated by New Developments”.

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%2f91046>

Certificate of Ownership –Certificate A signed by Mr Nick Willock and dated 24 March 2017.



Originator: Jennifer Booth

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/92147 Erection of single storey extension
7, Woodfield Avenue, Staincliffe, Batley, WF17 7EA

APPLICANT

G Hussain

DATE VALID

22-Jun-2017

TARGET DATE

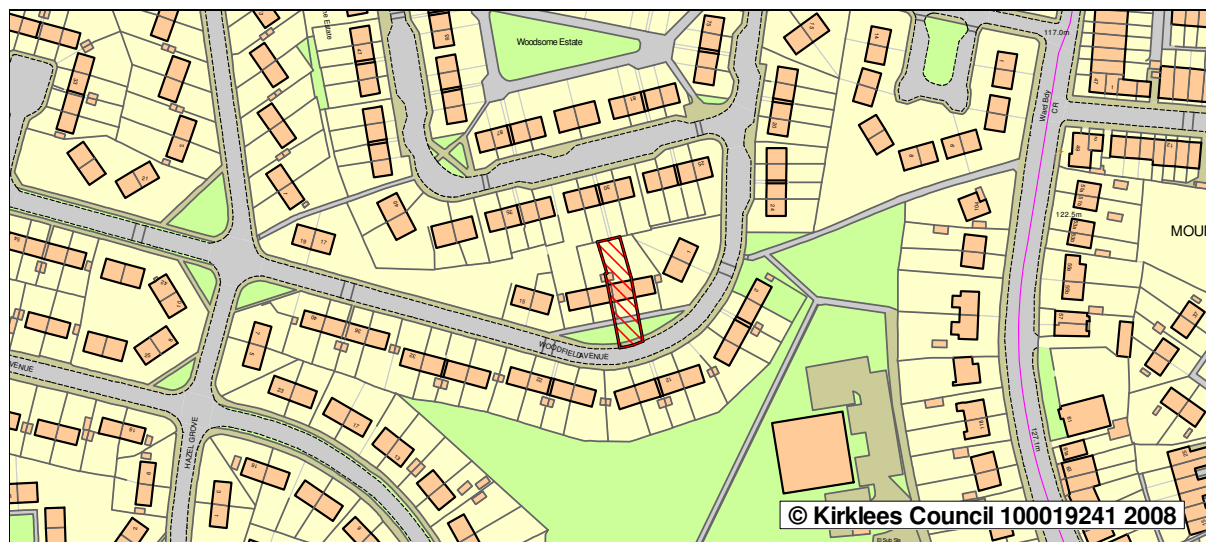
17-Aug-2017

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:
Batley West Ward**

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 was originally brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Gwen Lowe for the following reason:

"I would request that the application is considered by members, with a site visit, to better appreciate the planning application. Whilst I understand that there are some concerns of the scale of the proposed rear extension in addition an existing extension to the rear of the dwelling, I hope that members of the committee would give additional and sympathetic consideration to the needs of the disabled resident. It cannot be easy for the disabled resident, or the family, to be confined to one small room. As such the additional accommodation proposed, to allow access to the kitchen in the wheel chair as well as having a wet room large enough for family members to help with bathing and use the toilet, would have a huge impact on the quality of life for the disabled resident and the other members of the family. Also whilst I appreciate that normally ground floor extensions for disability would normally be considered in terms of facilities for sleeping and bathing, the additional space proposed within the kitchen would also allow the disabled resident to join in with the family more instead of the disabled resident being isolated in the small bedroom."

- 1.2 The Chair of the Sub-Committee has previously confirmed that Cllr Lowe's reason for making this request is valid having regard to the Councillors' protocol for planning committees.
- 1.3 The application was subsequently considered by members of the Heavy Woollen Planning Sub-Committee on 17th August 2017 following their site visit, which was carried out on the same date.
- 1.4 Members resolved to defer the application in order to provide the applicant with the opportunity to amend the scheme to reduce the impact on the occupants of the adjoining no.5 Woodfield Avenue, in accordance with advice provided by both officers and members. Revised plans have now been submitted for consideration.

2.0 SITE AND SURROUNDINGS:

- 2.1 No. 7 Woodfield Avenue, Staincliffe, Batley is a red brick mid terraced property with an existing porch and enclosed yard area to the front; a shared passageway between the host property and the adjoining no.9 Woodfield Avenue to the side; and existing single and two storey extensions to the rear, along with an enclosed rear yard. There are solar panels on the front roof plane.
- 2.2 The surrounding properties are similarly aged residential properties with some degree of variety in terms of extensions and alterations.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for the erection of a single storey rear extension. The extension would project a further 3m from the existing 3m two storey rear extension and 1m over 1.7m of the existing 5m single storey element. The extension would have a lean to roof form.
- 3.2 The extension would increase the floor area of the existing kitchen (from 3m by 4.4m to 6m by 4.4m). The bedroom would retain the existing footprint; a lobby area would be formed as the orientation of bathroom would alter from the existing 1.15m by 2.9m across the width of the property to 3m by 1.4m along the depth of the extension.
- 3.3 The plans also show ramped access being formed into the rear of the property.
- 3.4 The walls of the extension are proposed to be constructed using red brick with tiles for the roof covering.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2006/91981 – permission was granted for a porch to the front and single and two storey extensions to the rear of the property. The two storey rear extension had a projection of 3m which was in line with policy and an additional 2m part width single storey was approved to provide ground floor bedroom and bathing facilities of a disabled resident.
- 4.2 2016/94228 – permission was refused for a single storey extension to the rear as the cumulative bulk and massing of the proposed extension in addition to the existing extension would result in an overbearing and oppressive impact in terms of the amenities of the occupiers of the adjoining 5 Woodfield Avenue.
- 4.3 2017/91337 – the applicant submitted a larger home notification. This application was disqualified as it did not meet the criteria of permitted development in terms of its height.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The officer met with the applicant and Cllr Lowe in May 2017 to discuss if any scheme for further extending the property could be supported. The officer discussed the additional space the applicant is trying to achieve and why the applicant had proposed to increase projection and layout. The Officer

explained to the applicant and Cllr Lowe that without the support of the Accessible Homes Team, specifically stating that there is no other way to meet the need of the disabled resident, the proposal would have to be assessed against UDP policy. Advice by officers was that the scheme could not be supported. It was agreed that the officer would discuss with the Accessible Homes Team to see if they would be able to support the application.

- 5.2 The officer spoke with the Accessible Homes team, who was aware of the disabled resident and the history of the previous applications. They had assessed the needs of the disabled resident last year and they would have met the needs of the client within the existing footprint of the property.
- 5.3 A response was provided after the meeting and discussions with the Accessible Homes team to the effect that officers would not be able to support any further extension in terms of planning policy and the officer outlined a number of options to Cllr Lowe on 10/05/2017, Cllr Pandor on 16/06/2017 and the applicant on 17/05/2017 as follows:-
1. The applicant appeals the existing refusal (2016/94228) through the Planning Inspectorate – this would need to be started before July 2017 as applicants only have 12 weeks from the issue of the decision to start an appeal;
 2. The applicant submits the proposals again and ward councillors request the application is determined by the Planning Committee.
- 5.4 The officer also advised the applicant of a possible alternative to gain some additional floor space by infilling the area to the side of the existing extension. The applicant did not wish to pursue the suggested option because it would involve the remodelling of the interior of the property.
- 5.5 Members asked the applicant to consider reducing the rear corner of the extension along the common boundary with the adjoining no.5 Woodfield Avenue and deferred the decision from the committee held on 17th August 2017 in order to provide the applicant with the opportunity to amend the plans accordingly.

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. At this stage Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

- 6.2 The land is without allocation/designation within the UDP and the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D2** – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE13 – Extensions to dwellings (design principles)
BE14 – Extensions to dwellings (scale)
T19 – car parking

National Planning Guidance:

- 6.3 **Chapter 7** – Requiring good design

Kirklees Publication Draft Local Plan: Submitted for examination April 2017 (PDLP)

- 6.4 **PLP1** – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP24 – Design

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of publicity, no response has been received from neighbouring residents.
- 7.2 Representations of support have been received from Cllr Gwen Lowe (set out in paragraph 1.1 of this report), Cllr Shabir Pandor, and Tracy Brabin MP.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

K.C. Accessible Homes Team – Aware of the disabled need and would offset the cost of works. However, they consider the needs could be met within the existing footprint of the building.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).
- 10.2 The general principle of making alterations to a property, including extensions, are assessed against policies BE1, BE2, BE13, and BE14 of the UDP and advise within chapter 7 of the NPPF. In addition, Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application.

Visual Amenity

- 10.3 The properties on Woodfield Avenue are similarly aged properties which would have been originally alike in design and scale. However, a number of the properties in the area have been extended and altered including the host property. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 The property does have a single storey porch to the front and single and two storey extensions to the rear. The proposals now under consideration would increase the development to the rear of the property. However, as the property has a long rear yard area, much of which would be retained, together with a paved front garden, the proposals are not considered to represent overdevelopment of the property.
- 10.5 Furthermore, given the position of the extension to the rear of the dwelling there would be limited views of the property in the wider area, mainly from the gardens of the neighbouring properties. The materials proposed would be to match the main house and the fenestration detail would be acceptable in terms of the domestic character of the host property.
- 10.6 Having taken the above into account, the proposed extension would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policies D2, BE1, BE13 and BE14 of the UDP and the aims of chapter 7 of the NPPF. Furthermore, the amended proposal will accord with the emerging policy PLP24 of the PDLP.

Residential Amenity

- 10.7 The property to the rear, no.30 Woodsome Estate occupies a position some 23m to the rear of the proposed extension and at a considerably lower level. Given the single storey nature of the extension, together with the separation distance between the properties and the land level difference, there would be no significant harm caused to the amenities of the occupiers of the neighbouring no.30 Woodsome Estate.

- 10.8 The adjoining neighbour to the west, no.9 Woodfield Avenue shares an outbuilding with the host property, which would mitigate the impact of the proposed single storey extension. The extension would therefore not cause any significant harm to the amenities of the occupiers of this property.
- 10.9 The adjoining property to the east, no.5 Woodfield Avenue does have a current planning permission to build an extension which would project 5m on the ground floor. However, at the time of the site visit, work had not been commenced on the approved extension. It is therefore considered by officers that, although there is a live permission for the adjoining no.5 Woodfield Avenue, this is afforded minimal weight at present because it has not been implemented.
- 10.10 Following the deferral of the application at the 17th August Heavy Woollen Planning Sub-Committee, the extension has been amended to remove the originally proposed section of extension adjacent to the boundary with no.5 in order to reduce the bulk and massing along the common boundary. Following receipt of this amendment, it is now considered by officers that the harm caused would be minimal and the scheme now complies with policy.
- 10.11 Having considered the above factors, the proposals are not considered to result in any significant harm upon the residential amenity of the adjoining occupants at no.5 Woodfield Avenue, or on any other surrounding occupants. As such the proposal does comply with policies D2, BE1 and BE14 of the UDP, as well as the relevant paragraphs of the NPPF. Furthermore, the amendments would be in line with the emerging policy PLP24 as it would maintain a standard of amenity between the properties.

Highway issues

- 10.12 The proposals will result in some intensification of the domestic use. However the parking area to the front of the property would not be affected by the proposed extension and is considered to provide a sufficient provision. The scheme would not represent any additional harm in terms of highway safety and efficiency, complying with policies D2, T10 and T19 of the UDP.

Representations

- 10.13 Representations have been received from Local MP Tracy Brabin and Local Councillor's Gwen Lowe and Shabir Pandor which support the proposed extension in terms of the benefits for the disabled resident. Tracey Brabin MP and Cllr Lowe have both expressed their opinion that the proposals represent a holistic approach to improving the facilities for the disabled resident and allowing for integration for the family as a whole. Cllr Shabir Pandor also supports the proposal in terms of enabling the disabled resident to have a better quality of life.

Other matters

- 10.14 A member of the family has physical disabilities with very limited mobility. The resident has been assessed by the appropriate professionals and it has been confirmed that there is a need for further adaptations to be made to the family home.

- 10.15 Members are advised that it is not unusual for larger extensions than would usually be permitted to be granted planning permission when taking account of the special circumstances of an applicant, particularly when disability and mobility issues of the occupiers are the driver behind requiring a larger extension than planning policy would normally allow. This approach is consistent with the requirements of Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
- 10.16 The accommodation proposed within this application will retain the existing ground floor bedroom; alter the existing bathing facilities for the disabled member of the family by re-positioning the shower room and the formation of a lobby area. It is also the intention of the applicant to increase the size of the kitchen and install a ramp to the back of the property.
- 10.17 Therefore consultation has been carried out with the Council's Accessible Homes team who confirmed that they are aware of the family and the nature of the disabled resident's needs. As part of their consultation response, the Accessible Homes Team have responded that although they can see the benefits in the proposal in terms of the bathroom, they could provide for the needs of the client within the footprint of the existing dwelling. The Accessible Homes Team are not supporting the proposal as the only option to provide the required facilities in this case. Therefore, there is insufficient weight regarding this issue to override the concerns relating to the impact on the amenities of the occupants of the adjoining property.
- 10.18 Officers and Members have suggested an alternative scheme which would limit any harm to the amenities of the occupiers of the adjoining 5 Woodfield Avenue. The applicant has provided amended plans in line with the suggestions.

11.0 CONCLUSION

- 11.1 This application to erect a single storey extension to the rear of no.7 Woodfield Avenue has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations including the relevant emerging policies with the PDLP.
- 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. This application has been assessed against relevant policies in the development plan and other material considerations.

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

1. Time limit (3 years) for implementation of development.
2. Development to be carried out in accordance with the approved plans and information.
3. The external walls of the extension to be faced in red brick and the roof covered with tiles to match that used on the host dwelling.

Background Papers:

Application and history files:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2006%2f919811>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f942288>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f913377>

Certificate of Ownership – Certificate B completed with notice served on: *Rehana Hussain, 5 Woodfield Avenue*

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Originator: Paul Wood

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2016/91287 Change of use of agricultural buildings to IT recycling business Brookfield Farm, Brookfields Road, Wyke, BD12 9LU

APPLICANT

R Seal, U Can Recycling

DATE VALID

20-Apr-2016

TARGET DATE

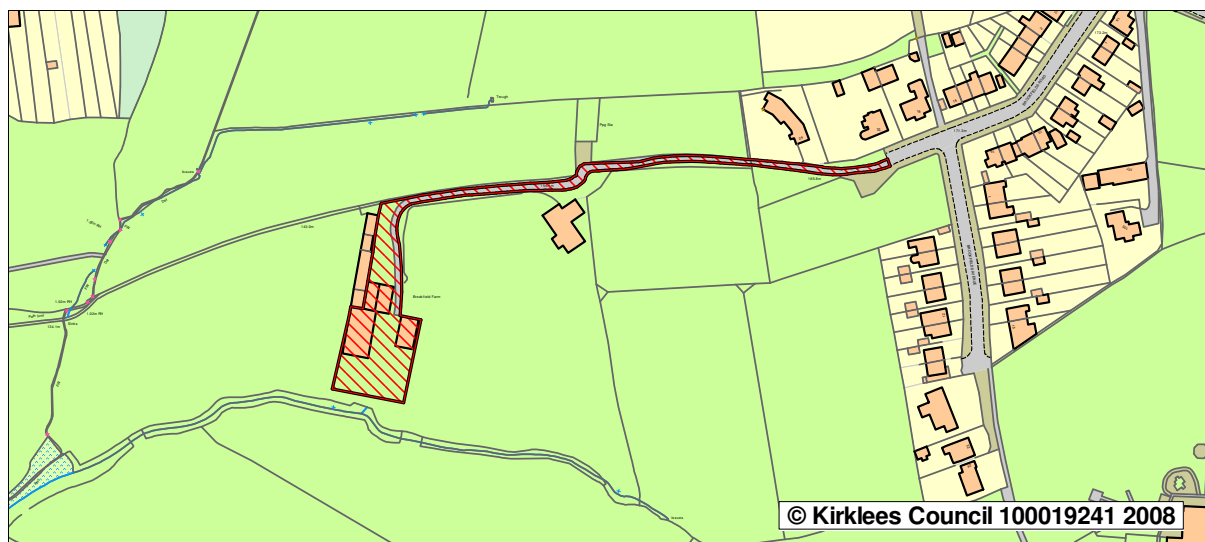
15-Jun-2016

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: Cleckheaton

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.
- 1.2 Councillor Andrew Pinnock has also requested that the application be considered at the Heavy Woollen Planning Sub-Committee for the following reasons:
 - (a) The activity is a business operation in the Green Belt
 - (b) The amount of vehicle movement to the site, which is already causing annoyance to the residents on Brookfields Road.
 - (c) The access to the site, beyond 22 Brookfields Road, is inadequate, both in width and, possibly, surface.
- 1.3 Councillor A. Pinnock has requested that the site be visited by members in order for them to see how the new use impacts on its neighbours.
- 1.4 The Chair of the Sub-Committee has confirmed that Councillor A Pinnock's reasons for making his request are valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises of two farm buildings adjacent to other buildings used as stables. It is located at the end of a single lane farm track (which also forms a public footpath), approximately 200m long that provides access to the farm from Brookfields Road.
- 2.2 200m to the north and east of the site are residential estates, but otherwise the site is set within farmland in the allocated Green Belt. The closest dwelling is Brookfield Farm itself which is 70m from the subject buildings and shares the same access.

3.0 PROPOSAL:

- 3.1 Full planning permission is sought for the change of use of agricultural buildings to IT recycling. The proposal is made retrospectively and concerns two buildings either side of the farm yard. It involves the dismantling of computers etc. into their component parts for reuse or recycling.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 93/02867 change of use of farm buildings to livery stables conditionally approved 4 August 1993.
- 4.2 July 2015 – an investigation began into an alleged change of use of agricultural buildings to IT recycling – this has resulted in the submission of this application for planning permission and, if refused, the council will consider formal enforcement.
- 4.3 2015/92310 Erection of 6 dwellings at land off, Brookfields Road (adjacent site) – this application is undecided.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 A significant amount of negotiation has been had regarding concerns for highway safety. This has resulted in the submission of a traffic management plan which has also been amended from its original submission.

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.

The site is located within the designated Green Belt on the Kirklees Unitary Development Plan proposals map. The site is also designated as Green Belt on the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **EP4** – Noise sensitive development
 EP6 – Noise generating development
 WD7 – Provides guidance on proposals to use land for the storage, processing and transfer of waste
 T10 – Highway safety
 T19 – Parking standards

Supplementary Planning Guidance / Documents:

- 6.3 n/a

National Planning Guidance:

- 6.4 **National Planning Policy Framework (NPPF)**

Chapter 1 - Building a strong, competitive economy
Chapter 4 - Promoting sustainable transport
Chapter 8 - Promoting healthy communities
Chapter 9 - Protecting Green Belt land

National Planning Policy for Waste (NPPW)

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 Policies:
 PLP1 – Sustainable development
 PLP9 – Employment and economy
 PLP21 – Highway safety and access
 PLP43 - Waste management hierarchy
 PLP44 – New waste management facilities
 PLP59 – Infilling and redevelopment of brownfield sites (Green Belt)

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 21 letters of objection have been received, all of which remark on the effect large articulated HGV's have on highway safety as the site is accessed via a residential street where children play and the farm track is also a public footpath. Following the submission of a revised transport plan and further public consultation, another 13 letters of objection have been submitted commenting on continuing problems with articulated HGV's etc. on Brookfields Road.

Other concerns are summarised as follows:

- The impact on the ecology in dealing with electronics waste and associated heavy metals,
- It is within the Green Belt,
- Noise from processing the waste,
- It will open the floodgates to expand this business,
- The farm track has new sewage pipes under it, laid by Yorkshire Water, that might crack with the weight of the lorries,

- Because of the position of the proposed development, the removal of sewage will be problematic,
- The associated farmhouse has a planning condition restricting occupation of the dwelling to those who work on the farm,
- Approving this application might lead to processing of other waste, such as food or animal waste,
- Chemicals should not be used in the processing of waste as this could contaminate the land,
- External storage of waste could lead to contamination of the land.
- The public footpath is used by children and parents attending Scholes First School and it will be dangerous for children to cross Brookfields Road when HGV's use it.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – Object on the grounds that the access to the application site carries public footpath Spenborough 30 and is approximately 250m in length with an average surface width of 3.5 metres. There would still be limited passing places especially for HGV's along this route which could lead to vehicles potentially reversing long distances along this narrow access. Given that public pedestrian rights exist along this route which is substandard in width and has a lack of passing places with no separation between HGV and pedestrian use the increase in the use by HGVs is not considered to be in the best interests of highway safety.

8.2 Non-statutory:

K.C Environmental Health - No objection in principle subject to conditions controlling hours of operation and restricting waste processing to electronics such as computers.

9.0 MAIN ISSUES

- Principle of development
- Waste management issues
- Residential amenity
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals 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 impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or – specific policies in this Framework indicate development should be restricted.

- 10.2 The site is within the Green Belt on the UDP proposals map. Policy PLP59 of the emerging Local Plan is consistent with the UDP and the National Planning Policy Framework (NPPF) and is therefore a material consideration that carries considerable weight. Proposals for partial or complete redevelopment of existing brownfield sites will normally be acceptable provided that, amongst other things:
- the existing footprint is not exceeded, unless the resulting development would bring about significant and demonstrable environmental or other improvements; and
 - the development does not result in any detrimental cumulative impact on the openness of the Green Belt. Paragraph 90 of the NPPF explains that the re-use of buildings within the Green Belt, provided they are of permanent and substantial construction, is not inappropriate in the Green Belt. The reuse of otherwise redundant buildings in this brownfield site accords with these policies, provided permitted development rights under Part 7 of the General Permitted Development Order 2015 are removed for enlargement of buildings.
- 10.3 Paragraphs 18 and 19 of the NPPF explains that the government is committed to securing economic growth in order to create jobs and prosperity, and to ensuring that the planning system does everything it can to support sustainable economic growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
- 10.4 The proposed change of use provides employment for 8 people on a full-time basis, and as explained below, accords with the National Planning Policy for Waste.
- 10.5 The principle of the proposed development is therefore considered acceptable, unless other material considerations outweigh the benefits to the environment and the economy.

Waste management issues

- 10.6 The proposed material change of use to recycling waste computers would generally comply with the National Planning Policy for Waste and Policy WD7 of the UDP. Policies PLP43 and PLP44 of the draft Local Plan are consistent with the UDP and the National Planning Policy for Waste and as such are a material consideration and are given considerable weight in the determination of this application.
- 10.7 The waste hierarchy shown in Policy PLP43 and in Appendix A of the National Planning Policy for Waste shows that the most effective environmental solution to dealing with waste is prevention, followed by re-use, recycling, other recovery and finally disposal. The supporting information shows that redundant IT equipment is received on site and, where possible, repaired, or, if repair is not possible, then the equipment is stripped down for recycling parts etc., meaning that the proposed use falls within the preferred methods of dealing with treating waste. The concrete pad immediately adjacent to the buildings is utilised in the storage and sorting of the IT equipment. Whilst that is considered reasonable and acceptable, it would not be acceptable, in the interest of visual amenity and the openness of the Green Belt for that to spread anywhere else, so a condition is recommended to be imposed to control external storage to the concrete pad only.

Residential Amenity

- 10.8 Policy EP4 of the UDP relates to noise generating uses/operations, emerging draft local plan policy PLP44 concerns the impact of new waste management facilities on residential amenity, and chapter 11 of the NPPF sets out that planning decisions should 'avoid noise giving rise to significant adverse impacts on health and quality of life arising from noise from new development'.
- 10.9 The process involved in the recycling of IT equipment at this site generates little noise; the most audible of which is reversing beepers on forklifts etc. The distance however to neighbouring homes is considered sufficient so as not to adversely affect residential amenity. Kirklees Environmental Health do however consider it necessary to impose a condition restricting the hours of deliveries and collections to protect neighbours from the noise of passing vehicles at unsociable times.
- 10.10 From the information submitted with the application, the consultation response of Kirklees Environmental Health and inspection of the process involved in recycling IT equipment during the officer's site visit, this proposed change of use would not likely have any adverse impact on the environment or local ecology; and in any event, such is controlled by the Environment Agency. Kirklees Environmental Health do however have concerns regarding the suitability of this site for the recycling and / or processing other types of waste which may have a potential significant adverse effect on the occupiers of nearby residential properties. It is considered reasonable therefore that in the interests of residential amenity a condition be imposed restricting activities at this site to recycling of IT equipment only.

Highway issues

- 10.11 The applicant has proposed improvements to the access to the site where it is reduced to a single lane that is surfaced with a geogrid with granular infill. The improvements are set out in the amended travel plan received on 27th April 2017. The plan shows two passing places for HGVs which provide adequate visibility in either direction to minimise the chances of vehicle conflict causing reversing manoeuvres.
- 10.12 Policy T10 of the UDP states that new development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, if it cannot be served adequately by the existing highway network and by public transport. Proposals will be expected to incorporate appropriate highway infrastructure designed to meet relevant safety standards and to complement the appearance of the development.
- 10.13 Policies PLP20 and 21 of the draft Local Plan encourage the provision of vehicle charging points, and although go to greater detail than policy T10 of the UDP, state that new development will not normally be permitted if in the case of development which will attract or generate a significant number of journeys, cannot be served adequately by the existing highway network and by public transport.

- 10.14 Chapter 4 of the National Planning Policy Framework requires that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe.
- 10.15 No improvements are proposed to the highway network beyond that part of the track that is within the red line boundary of the location plan. Beyond that is a 60m section of single track that joins to the adopted part of Brookfield Road which is two lanes wide and passes through a small housing estate. The majority of dwellings here have the benefit of off street parking; so on-street parking is considered limited.
- 10.16 Further negotiations to improve highway safety on this single track have led to a verbal proposal to simplify the council's control of the width of the track so as to minimise highway safety. The applicant proposes that the width of the hard surface on the track that is within the control of the applicant be increased to 4.5m throughout its length in accordance with the government's guidance on creating permeable hard surfaces for front gardens (a lower standard than would be required for an adoptable highway), and that the track be maintained and hedges cut so as to not intrude within this width. In addition it is proposed to include three refuge areas on the north side of the far western part of the track and to set the fence back 1.2m on the north side of the other part of the track and erect a hand rail to keep pedestrians safe. Further details of these proposals can be required by condition.
- 10.17 The amended Travel Plan dated April 2017 provides a mechanism for controlling the frequency and times of HGV visits. However, it was considered that the inclusion of multi-axle articulated HGV's capable of carrying up to 44 tonnes would have a significant and adverse effect on highway safety. After a lot of negotiation the applicant has proposed to limit the size of HGV's to 18 tonnes (2 axle rigid) and to limit the number of visits to 17 per week and limited to differing times of the day so that no HGV traffic overlap occurs with HGV movements limited to between 8am and 4pm Monday to Friday on the delivery days. All suppliers and contractors at the site shall be informed of these delivery/ collection times, and shall expect rigid enforcement. The applicants will continue to communicate directly with hauliers/ suppliers/ contractors so that HGVs can only access the site in accordance with this Traffic Management Plan. Hauliers will wait at appropriate holding areas as appropriate on the wider network if required, so that delivery times and number of HGVs arriving at the site can be managed to minimise the impact on local residents of Brookfields Road and Brookfields Avenue."
- 10.18 Nearly all of the letters of objection focus on concern for highway safety on Brookfields Road. This is a two lane highway with 2.5m wide pavements on either side serving a total of 42 dwellings in this small estate and Brookfield Farm. Reports have been made of conflicts with HGVs waiting on Brookfields Road for other vehicles to leave the farm before they enter, or parking up to finish their paperwork when they leave, or even have their lunch. There is also a lot of concern for the safety of children playing in the street. It is accepted that using Brookfields Road and a waiting place for HGV's is detrimental to highway safety and potentially residential amenity. Such large vehicles could obstruct the view of motorist exiting their drives and so it is considered reasonable to impose a condition preventing such parking and waiting of

HGV's. In *Davenport v Hammersmith and Fulham LBC*, *The Times*, April 26, 1999 the Divisional Court (Rose L.J and Richards J.) held that a planning permission relating to land that was outside an application site, or that was outside the control of the applicant for such permission, was valid so long as it could be complied with.

- 10.19 Due to the short length of Brookfields Road at a right angle to Westfield Lane, large vehicles will not likely achieve the speed limit (30mph), and will likely be travelling at lower speeds than other vehicles that use this highway. There are no reports contrary to this in the many objections received. Due to the benefit of wide pavements, driver visibility is good. There is no evidence to suggest therefore that the infrequent use of this highway by HGV's will significantly increase the risk to children or other pedestrians.
- 10.20 The applicant explains that through management of delivery and collection times, and the low frequency of such vehicles visiting the site, that the risk of HGV's meeting on a section of the track that does not have a passing place, is minimal. In the two years of operating this site, even with the existing track conditions, there have been no reports of HGV's or other vehicles being forced to reverse on it. The applicant hopes that the proposed improvements to the track and compliance with the Travel Plan will overcome concerns for highway safety.
- 10.21 Kirklees Highways Development Management commented as follows: "this site remains unchanged given that the access to the application site carries public footpath Spenborough 30 and is approximately 250m in length with an average surface width of 3.5 metres. It is not suitable for use by articulated HGV's. There would still be limited passing places especially for HGV's along this route which could lead to vehicles potentially reversing long distances along this narrow access. Given that public pedestrian rights exist along this route which is substandard in width and has a lack of passing places with no separation between HGV and pedestrian use the increase in the use by HGV's is not considered to be in the best interests of highway safety.
- 10.22 Officers have visited this site on numerous occasions to try and reach an acceptable compromise in view of concerns raised above by Kirklees Highways Development Management. Officers are of the opinion that delivery and collection times should accord with those specified in the submitted Travel Plan, except that the start time should be 9am and not 8am. The applicant says "HGV's would inevitably set off early in the morning and, if restricted to not arriving until 9am, would most likely park up on nearby public roads." The applicant has proposed to limit the weight of HGV's entering the site to 18 tonnes maximum gross weight with no articulated HGV's. Due to the reduction in size of vehicles he proposes to increase the number of visits to the site to 17 per week.
- 10.23 Kirklees Highways Development Management has considered the proposal to restrict the size of vehicles entering the site and the subsequent increase in number of vehicles to 17 week. Although the proposal is less than ideal in terms of highway safety, it is considered that these further proposed restrictions significantly reduce the adverse effect on highway safety.
- 10.24 The provision of vehicle charging points, although not proposed, will meet the requirements of the NPPF and Policy PLP21(g)

Drainage issues

- 10.25 The processes involved in recycling IT equipment as proposed will have no adverse effect on existing drainage demands at this site.

Representations

- 10.26 As noted above, 21 letter of representation have been received in response to the first site notice and 13 letters have been received in response to the second site notice (following submission of the first transport management plan).

Officers respond to the issues raised as follows:

- Highway safety on a residential street where children play and the farm track is also a public footpath.

Response: *Although the impact on the highways is not ideal, it is considered that a restriction on size, numbers, and delivery times of HGV's is adequate to mitigate the significant harm that could otherwise arise and substantiating a reason for refusal on this basis would be difficult to defend on appeal.*

- The impact on the ecology in dealing with electronics waste and associated heavy metals.

Response: *The day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013. There is no evidence to show that this activity will otherwise adversely affect the environment.*

- It is within the Green Belt.

Response: *the re-use of agricultural buildings is not inappropriate within the Green Belt provided it does not affect its openness.*

- Noise from processing the waste.

Response: *The site is considered to be far enough away so as to not adversely affect residential amenity.*

- It will open the floodgates to expand this business

Response: *Planning permission will be required for the expansion of this use outside the red line boundary and for any enlargement of buildings as permitted development rights are withdrawn.*

- The farm track has new sewage pipes under it, laid by Yorkshire Water, that might crack with the weight of the HGV's.

Response: *It is the responsibility of the statutory provider (Yorkshire Water) to ensure that pipes laid under a highway used by vehicles can withstand such use. This is a historic farm track where it is reasonable to expect heavy vehicular use.*

- Because of the position of the proposed development, the removal of sewage will be problematic.

Response: *These buildings already exist. The proposed use is not expected to have any significant effect on how sewage is already dealt with.*

- The associated farmhouse has a planning condition restricting occupation of the dwelling to those who work on the farm.
Response: *This is not a necessary to the determination of this application.*
- Approving this application might lead to processing of other waste, such as food or animal waste.
Response: *It is recommended that a condition be imposed to prevent this.*
- Chemicals should not be used in the processing of waste as this could contaminate the land.
Response: *Again, the day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013.*
- External storage of waste could lead to contamination of the land.
Response: *Again, the day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013.*
- The public footpath is used by children and parents attending Scholes First School and it will be dangerous for children to cross Brookfields Road when HGV's use it.
Response: *The public footpath is open to use by all public. It is recognised however that school crossing patrols are often used in areas of heavy volumes of traffic. The Travel Plan will not significantly add to the volume of traffic. The use of the public footpath by parents and children does not therefore materially increase concerns for highway safety over and above existing concerns for the safety of the general public.*

11.0 CONCLUSION

- 11.1 The Unitary Development Plan comments on the Council's vision statement at the time of its inception in 1999. There are three corporate goals; a thriving economy, a flourishing community and a healthy environment. Although that plan is now out of date, a thriving economy is still of significant importance. Considering that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth, (paragraph 19 of the NPPF), substantial weight has to be given to the benefits that this application brings to the local economy and provision of employment. Substantial weight should also be given to the benefits of re-using and recycling electrical equipment.
- 11.2 Highway safety also carries substantial weight in applications for planning permission. It is therefore a question of balance as to whether or not the highway safety concerns outweigh the benefits this application brings to the environment and the local economy. Given the proposed improvements to the single lane road increasing its width for most of its length to 4.5m (enough for two cars to pass each other or an HGV and pedestrians), the low frequency of HGV's as controlled by the Travel Plan and the proposal to limit the size of HGV's, officers recommend approval of the application subject to conditions detailed below.

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

1. Restrict operations to IT recycling only and specifically excluding any other type of waste processing
2. Restrict delivery and collection operations those prescribed in the Travel Plan (subject to amendment of the start times, a limit the gross weight of HGV's to 18 tonnes and limit the number of HGV's visiting the site to 17 per week).
3. HGV's delivering or collecting from the site shall not park Brookfields Road or Brookfields Avenue at any time, be it for waiting to enter the site or for any other reason.
4. Require details to be submitted for approval of the proposed refuge areas, the setting back of the fence, provision of a path with protective hand-rail and the increase in width of the single track road that is within the control of the applicant to 4.5m (to the government's standard for permeable hard surfaces). That within 28 days of approval the scheme be completed and retained.
5. That access road be kept clear of mud and debris, that hedgerows be controlled so as to not intrude within the 4.5m width of the road.
6. Remove permitted development rights for enlargements of buildings
7. Open storage shall be limited to the existing concrete hard surface immediately adjacent to the buildings
8. One vehicle charging point to be provided within 2 months of this decision notice.
9. Hours of use of the premises including deliveries to be controlled

Background Papers:

Application and history files web links.

2016/91287 -

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91287>

2015/92310 -

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f92310>

93/02867 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=93%2f02867>

Certificate of Ownership – Certificate B completed with notice served on:- Mr Seal, Brooksfield Road, Wyke, BD12 9LU and Mrs B Lewin, 24 Brookfields Road, Wyke. Dated 18 April 2016.

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Originator: Katie Wilson

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/90272 Outline application for erection of residential development (2 dwellings) Land to rear of, 119/127, Marsh Lane, Shepley, Huddersfield, HD8 8AS

APPLICANT

Marcus Hall Builders

DATE VALID

25-Jan-2017

TARGET DATE

22-Mar-2017

EXTENSION EXPIRY DATE

21-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: Kirkburton Ward

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation at the request of Cllr John Taylor for the following reason:

"This application, if approved will detrimentally affect the open aspect of the land and the adjoining greenbelt land. This plot is actually a small section of a much larger agricultural field, the remainder of which is in greenbelt and the anomaly of this small proportion of the field not being in greenbelt has been recognised by the Council and in fact is planned to be addressed in the Local Plan.

There is a strong argument for retaining this as agricultural land which is currently in use so that it can be added to the greenbelt to create a far stronger greenbelt boundary around the village footprint. To allow development on this site would permanently weaken the greenbelt boundary at this point and this needs to be avoided at all costs. There are no exceptional circumstances that would suggest that this should approve, there are 5 development sites within the village currently or planned in the Local Plan for housing which should more than meet the local need and are more appropriate sites for development than this greenfield site".

- 1.2 In addition, there have been a significant number of representations received during the course of the application.
- 1.3 The Chair of the Sub-Committee has confirmed that Councillor Taylor's reason for making this request is valid having regard to the Councillors' protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is an L-shaped piece of land approximately 0.3 hectares in area. It is relatively level grassland currently divided into two rectangular areas by a drystone wall and gateway.

2.2 The site is located to the rear of 119 to 127, Marsh Lane, Shepley and accessed between 127 & 129, Marsh Lane, Shepley. These properties are to the north west of the application site and comprise detached and semi-detached houses of various ages and designs, two storey or single storey with rooms in the roof space and several have extensions and outbuildings at the back. To the north east of the application site is single and two storey, red brick building, whilst the south east and south west are open fields with several large trees on the boundary subject to a Tree Preservation Order.

2.3 This section of Marsh Lane is characterised by residential properties lining either side of the road, many with long gardens at the back and open fields beyond that are in the allocated Green Belt. There is also a small cul-de-sac of houses set back from Marsh Lane to the north east of the site.

3.0 PROPOSAL:

3.1 The application is in outline with access only being considered at this stage. All other matters are reserved.

3.2 The access would be taken from Marsh Lane.

3.3 Whilst layout is a reserved matter, a block / site plan shows one indicative layout option with two rectangular footprints on land to the rear of 119 to 127, Marsh Lane. They are parallel to each other and the south eastern boundary of the site and some annotated separation distances are provided. This is indicative only as layout is a reserved matter showing how the site could potentially be developed to accommodate two dwellings.

4.0 RELEVANT PLANNING HISTORY:

4.1 99/91477 – Erection of 4no. detached houses with garages - Conditional full permission.

00/93239 – Outline application for erection of 2 dwellings - Refused.

02/90734 – Erection of 1no 5 bedroom detached house with integral garage - Conditional full permission.

5.0 HISTORY OF NEGOTIATIONS:

5.1 During the course of the application an indicative layout plan (shown on the block / site plan) was submitted.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was 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 **D2** – Land without notation on the UDP
BE1 – Design Principles
BE2 – Quality of design
BE12 – Space about dwellings
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 11 – Conserving and enhancing the natural environment

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 The site is without notation on the draft local plan.

Policies:

PLP1 – Presumption in favour of sustainable development
PLP3 – Location of new development
PLP21 – Highway safety and access
PLP24 – Design
PLP30 – Biodiversity and geodiversity

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 19 individual letters of representation received and one petition with 39 signatures (including some who have made individual representations).

Issues raised are summarised as follows:

- Loss of visual amenity from this 'back development'
- Loss of prime greenfield land.
- Previous similar application (ref: 2000/93239) was refused on grounds of inadequate visibility splays and contrary to Planning Guidance (PPG3) in that development is proposed on greenfield land.
- The site is designated green belt and the proposal could lead to development of the entire green belt.
- The land is susceptible to standing water and building on it may cause flooding issues.

- The site is a haven for wildlife.
- It will change the whole complexion of the village and Marsh Lane in particular.
- Adverse impact upon highway safety from increased traffic in the area and unsuitable junction onto Marsh Lane.
- There would be a loss of views.
- Adverse impact upon protected trees
- There would be loss of privacy.
- There would be an overbearing impact.
- The proposal is not in-keeping with the existing pattern of development along Marsh Lane.
- Local amenities cannot support increased development.
- Mains sewers already inadequate.
- It would oppose intensions of the Local Plan which has rejected development on the site.
- The site could possibly accept a greater number of houses. If principle is established it would soon be re-submitted with increased number of houses.
- The block plan refers to access already granted via 99/91477, however this was denied in subsequent 2000/93239 refusal.
- Shepley annual folk festival is held on adjacent land.
- It is a greenfield site.

7.2 Kirkburton Parish Council: Confirmed 'no comments'.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways (Development Management) – the proposals in principle are considered acceptable from a highways point of view subject to conditions ensuring adequate visibility at the junction with Marsh Lane, and vehicle parking areas shall be of a permeable surface.

8.2 Non-statutory:

K C Pollution and Noise Control: No objections subject to condition relating to reporting unexpected contamination and provision of charging plug-in facilities for electric vehicles

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 (UDP) proposals map and as such 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 The site is also unallocated on the emerging Local Plan. Policy PLP1 sets out that the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF; Policy PLP3 sets out that development will be permitted where it supports the delivery of housing and employment growth in a sustainable way; Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application.
- 10.3 It is noted that some representations received in response to this application refer to the application site being designated Green Belt. To clarify, as part of the preparation of the Local Plan, the Council undertook an exercise to capture the Green Belt boundary in electronic format on an up to date Ordnance Survey base. As part of that exercise a change to the position of the boundary was originally proposed in this location to place the field (at the rear of 119 to 127 Marsh Lane) within the Green Belt. This was advertised as change reference 1809/01 in the Green Belt Review and Outcomes report November 2015 and formed part of the consultation on the draft Local Plan which took place between November 2015 and February 2016.
- 10.4 Following that consultation the Council reviewed all the advertised changes to the position of the Green Belt boundary and deleted change reference 1809/01 from the plan, as the exceptional circumstances required by national policy (NPPF paragraph 83) to justify an amendment to the position of the boundary could not be demonstrated in this instance. The Green Belt boundary is now proposed to remain in the same position as it is in the Unitary Development Plan and this formed part of the consultation on the Publication Draft Local Plan that took place between November and December 2016.
- 10.5 Until the adoption of the Local Plan the statutory position of the Green Belt boundary remains as shown on the Unitary Development Plan.
- 10.6 Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant housing policies should be considered to be out of date, in the event that the Council is unable to demonstrate a 5 year supply of deliverable housing sites.
- 10.7 The Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, and the site is in a sustainable location. As such there is no objection to the site coming forward for residential development at this stage.

- 10.8 Whilst the term 'greenfield' is not used in the NPPF, the site is not previously developed, however it is on land without notation where there is a presumption in favour of sustainable development.

Urban Design issues

- 10.8 UDP policies BE1 and BE2 are considerations in relation to design, materials and layout. They require development to respect the scale, height, and design of adjoining buildings, and in keeping with the character of the area.
- 10.9 Other than access, the application is submitted with all other matters reserved. The indicative layout, which is for illustrative purposes only, shows how the site could be developed with houses set back from the road frontage, as already occurs nearby along this stretch of Marsh Lane at 103a, 105a, and 105b Marsh lane and at Dob Royd. Should outline planning permission be granted this would not approve the indicative layout submitted with this application. A full assessment of the layout, scale, landscaping and appearance of the proposed development would be made upon receipt of any subsequent application for approval of reserved matters if outline permission is granted. It is however, considered that a scheme can be achieved on the site which would be in-keeping with the character of the surrounding area and in accordance with Policies D2, BE1, and BE2 of the UDP, chapters 6 and 7 of the NPPF, and emerging Policy PLP24 of the Publication Draft Local Plan.

Residential Amenity

- 10.10 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises.
- 10.11 In this instance, the layout plan submitted is for indicative purposes only, but shows that it may be possible to provide two houses on the site and maintain normally recommended distances between habitable and non-habitable room windows. Officers are satisfied that details of layout, scale and design could be designed so as to safeguard the residential amenities of future occupants as well as those that are located within close proximity to the application site in accordance with Policies D2 and BE12 of the UDP and emerging Policy PLP24 of the Publication Draft Local Plan.

Landscape issues

- 10.12 UDP policies BE2 and NE9 seek to ensure that mature trees are retained for their amenity value.

- 10.13 In this instance there are several mature trees subject to Tree Preservation Orders adjacent to the south eastern boundary of the site. The Council's Arboricultural officer has been consulted and commented that as layout is a reserved matter, they are content that there is room for two properties on the site whilst allowing sufficient space for the protected trees. At this stage they request a footnote for an Arboricultural Method Statement and Tree Survey to BS5837, should the outline application be approved. This should ensure that any future application takes into account the adjacent trees and compliant with the aims of policies BE2 and NE9 of the UDP.

Highway issues

- 10.14 UDP policy T10 states that "New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network ...". Policy T19 addresses car parking in relation to the maximum standards set out in Appendix 2 to the UDP. Guidance in the NPPF states under paragraph 32 that plans and decisions should take account of whether, amongst other things, "safe and suitable access to the site can be achieved for all people".
- 10.15 The site is accessed from Marsh Lane, a classified and adopted road which serves numerous other residential properties on either side of the road. It is also subject to a 30 mph speed limit along the section of highway where the site is situated.
- 10.16 Access details for the current proposal are for consideration at this stage. No specific details on plan have been submitted, however the application form states that new or altered pedestrian and vehicular access would be formed from the public highway and reference is made to planning permission 99/91477 (also annotated on the indicative layout plan). This approval was for the erection of 4 no detached houses on the western part of the site between 127 and 131, Marsh Lane. There does not appear to be evidence that this application was implemented. Subsequently planning permission was granted for one house (reference 2002/90734) on site of plot 2 reference 99/91477 which is built and is known as 129, Marsh Lane.
- 10.17 It is also noted that the application site has outline planning refusal for the erection of 2 dwellings (reference 2000/93239). One of the reasons for refusal being that the proposed development cannot provide satisfactory improved visibility for drivers leaving the site and joining Marsh Lane, when visibility to the right is taken into account.
- 10.18 The Council's Highways officers have been consulted and commented that visibility onto Marsh Lane is good in both directions. The proposals are in principle considered acceptable from a highways point of view subject to conditions relating to ensuring visibility along the carriageway edge along the full frontage of the site and provision of permeable surfacing. It is also noted that since the previous refusal, highways consultation document 'Manual for Streets' has been introduced and the proposal would comply with this document.

- 10.19 As such, officers are satisfied that an adequate access point to accommodate the principle of development of the site for residential purposes can be achieved subject to conditions without creating or materially adding to highway safety or environmental problems on the surrounding highway network, in accordance with Policy T10 of the UDP and emerging Policy PLP21 of the Publication Draft Local Plan.

Drainage issues

- 10.20 The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.
- 10.21 The application site is within Flood Zone 1 (ie. the lowest risk) and as the site area is under 1ha and less than 10 houses, Yorkshire Water are not consulted. The application form also declares that surface water would be disposed to a soakaway and foul water to a mains sewer. The standing advice from the Council's Strategic Drainage section is that soakaways cannot be agreed without evidence that they will work and must be located 5m from any property. If outline planning permission is granted, it is recommended that a footnote is attached for consideration at reserved matters stage.

Representations

- 10.22 Officer response to the concerns set out in the representations are as follows:

- Loss of visual amenity from this 'back development'.
- It will change the whole complexion of the village and Marsh Lane in particular.
Response: the proposal seeks the principle of developing the site for residential development with details of access only at this stage. Scale, layout, landscape and appearance at matters to be considered at reserved matters on subsequent applications.
- Loss of prime greenfield land.
Response: the site is not previously developed, however it is on land without notation where there is a presumption in favour of sustainable development.
- Previous similar application (ref: 2000/93239) was refused on grounds of inadequate visibility splays and contrary to Planning Guidance (PPG3) in that development is proposed on greenfield land.
Response: With regards to visibility splays, Highways officers have commented that visibility onto Marsh Lane is good in both directions and the proposals are in principle considered acceptable from a highways point of view subject to conditions relating to ensuring visibility along the carriageway edge along the full frontage of the site and provision of permeable surfacing. It is also noted that since the previous refusal, highways consultation document 'Manual for Streets' has been introduced and the proposal would comply with this document.

With regards to the site being on contrary to PPG3 in that it was development on greenfield land. Since the previous refusal, PPG3 has been replaced by the NPPF and at the heart of this is a presumption in favour of sustainable development. Pending adoption of the Local Plan, the UDP is the statutory development plan and whilst the site is not previously developed, it is on land without notation where there is a presumption in favour of sustainable development.

- The site is designated Green Belt and the proposal could lead to development of the entire Green Belt.
- It would oppose intentions of the Local Plan which has rejected development on the site.

Response: The site is unallocated on the UDP proposals map and the draft Local Plan. To clarify, as part of the preparation of the Local Plan, the Council undertook an exercise to capture the Green Belt boundary in electronic format on an up to date Ordnance Survey base. As part of that exercise a change to the position of the boundary was originally proposed in this location to place the field (at the rear of 119 to 127 Marsh Lane) within the Green Belt. This was advertised as change reference 1809/01 in the Green Belt Review and Outcomes report November 2015 and formed part of the consultation on the draft Local Plan which took place between November 2015 and February 2016.

Following that consultation the Council reviewed all the advertised changes to the position of the Green Belt boundary and deleted change reference 1809/01 from the plan, as the exceptional circumstances required by national policy (NPPF paragraph 83) to justify an amendment to the position of the boundary could not be demonstrated in this instance. The Green Belt boundary is now proposed to remain in the same position as it is in the Unitary Development Plan and this formed part of the consultation on the Publication Draft Local Plan that took place between November and December 2016.

Until the adoption of the Local Plan the statutory position of the Green Belt boundary remains as shown on the Unitary Development Plan.

- The land is susceptible to standing water and building on it may cause flooding issues.

Response: details of how the site would be drained to be conditioned.

- The site is a haven for wildlife.

Response: This is noted and a condition requiring a preliminary ecological appraisal and any follow up work or assessment is recommended.

- Adverse impact upon highway safety from increased traffic in the area and unsuitable junction onto Marsh Lane.

Response: Highways DM officers have advised that the proposal is acceptable in principle subject to conditions.

- There would be a loss of views.
- Local amenities cannot support increased development.

Response: These are not valid planning considerations.

- Adverse impact upon protected trees
- There would be loss of privacy.
- There would be an overbearing impact.
- The proposal is not in-keeping with the existing pattern of development along Marsh Lane.

Response: the proposal seeks the principle of developing the site for residential development with details of access only at this stage. Scale, layout, landscape and appearance at matters to be considered at reserved matters on subsequent applications.

- Mains sewers already inadequate

Response: this is noted.

- The site could possibly accept a greater number of houses. If principle is established it would soon be re-submitted with increased number of houses.

Response: This is noted, however each application is assessed on its own merits and the current proposal is for the principle of 2 dwelling within the red line site boundary.

- The block plan refers to access already granted via 99/91477, however this was denied in subsequent 2000/93239 refusal.

Response: Notwithstanding the above, access to the site for the current proposal has been considered by highways development management officers and found to be acceptable.

- Shepley annual folk festival is held on adjacent land.

Response: This is noted, however access rights would be a separate matter between the landowners.

Planning obligations

10.23 Not applicable to this application

Other Matters

Air quality:

10.24 In order to promote sustainable methods of transport and to address district wide issues surrounding poor air quality, any approval would be conditional upon a scheme for plug-in points for electric vehicles. This would be in accordance with the NPPF as well as 'air quality and emissions – technical guidance.

Contaminated land:

10.25 Environmental Health also recommend a condition relating to reporting unexpected contamination at the site in order to ensure compliance with the aims of policy G6 of the UDP and chapter 11 of the NPPF.

Ecological considerations:

The NPPF requires planning to aim to conserve and enhance biodiversity by amongst other things encouraging opportunities for biodiversity in and around development.

In this instance the Council's ecologist has assessed the proposal and raises no objections subject to condition requiring preliminary ecological appraisal and any follow up work or assessment. Provided this is applied, the proposal would comply with the aims of the NPPF.

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

11.0 CONCLUSION

- 11.1 To conclude the site is unallocated on the UDP where there is a presumption in favour of development. It is also in a sustainable location adjacent to existing residential development. As such a residential use would be appropriate and in accordance with both the UDP and the emerging local plan.

- 11.2 The proposal is in outline with all matters reserved except access and this has been assessed and found to be acceptable subject to conditions.

- 11.3 Outline approval is recommended subject to appropriate conditions.

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

1. Approval of the details of the layout, scale, appearance, and the landscaping (standard outline condition).
2. Plans and particulars of the reserved matters (standard outline condition).
3. Application for approval of any reserved matters (standard outline condition)
4. The timeframe for implementation of the development (standard outline condition).
5. Adequate sight lines at the access onto Marsh Lane, along the full frontage of the site.
6. Surfacing and drainage of access, parking, and turning areas.
7. Method of storage / access for waste
8. Details of surface water disposal.
9. Provision of electric vehicle recharging point (one per dwelling).
10. Reporting of unexpected land contamination.
11. Requiring preliminary ecological appraisal and any follow up work or assessment

Background Papers:

Application and history files – As noted above under section 4.

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90272>

Certificate of Ownership – Notice served on Richard Haigh and Certificate B signed.

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Originator: Jennifer Booth

Tel: 01484 221000

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

Subject: Planning Application 2017/90564 Erection of extensions and outhouse to rear 55, Caledonian Road, Savile Town, Dewsbury, WF12 9NT

APPLICANT

Mr A Mitha

DATE VALID

20-Feb-2017

TARGET DATE

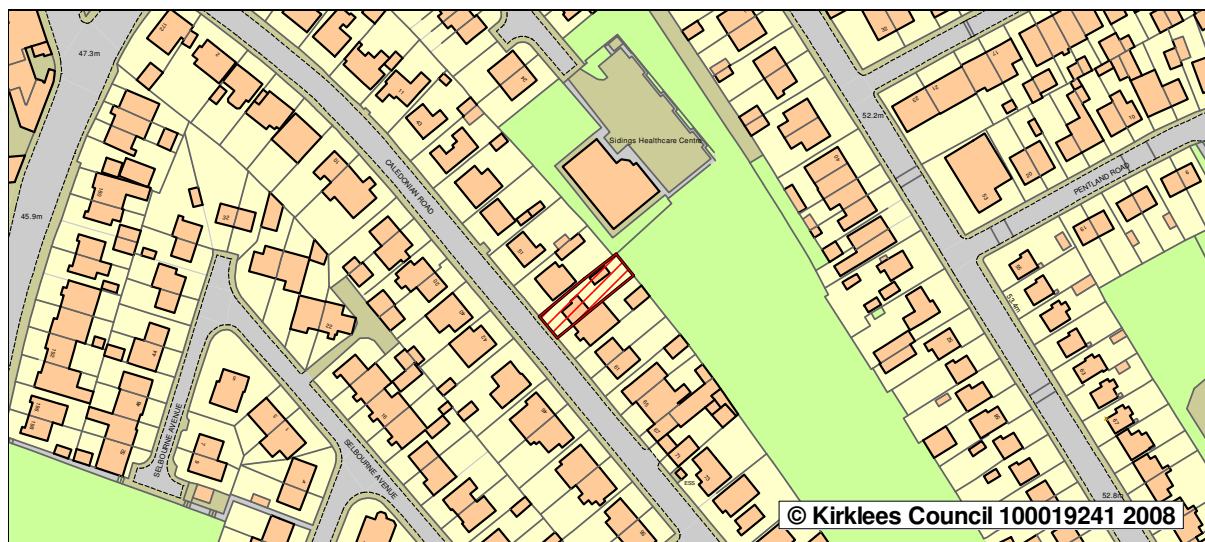
17-Apr-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury South

No

Ward Members consulted
(referred to in report)

RECOMMENDATION: REFUSE

1. The scale of the rear extension, by reason of its size and projection, would form an unacceptable relationship with the host property in terms of visual amenity due to the resultant bulk and massing. To permit the extension would be contrary to Policies D2, BE1 and BE13 of the Kirklees Unitary Development Plan and advice within the National Planning Policy Framework and Policy PLP24 (a and c) of the Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Committee at the request of the Cllr Ahmed for the following reason: *I would like to request the application for extensions to 55 Caledonian Road be heard by Planning Committee for the members to consider the proposal having regard to the recent approval issued for 59 & 61 Caledonian Road, to extend 4.5m on the first floor. The adjoining property, 57 Caledonian Road does have its own two storey extension with a projection of 3m and the adjacent, 53 Caledonian Road is separated from the host property by the applicants drive and their own modest rear extension. As such, I do not believe the impacts of the proposed 5.1m projection for the two storey rear extension would be so harmful to the amenities of the occupiers of the neighbouring properties.*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Ahmed's reason for making this request is valid having regard to the Councillors' protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 55 Caledonian Road is a semi-detached property which is faced in red brick. The dwelling has a modest single storey extension setback to the side and another modest extension across the rear of the dwelling. The property has a garden to the front with large trees, a drive to the side leading to a detached garage, and an enclosed rear garden.
- 2.2 The property backs onto land which has planning permission to be developed. The dwellings to each side and the front are similarly aged although there is some variation in terms of style. The attached property, no.57 (to the south), has single and two storey extensions to the rear. The adjacent property, no.53, which is located to the northern boundary was originally a bungalow, but has had a two storey rear extension erected.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for the erection of a single storey front extension, two storey side extension, and two storey rear extension, plus a replacement detached outbuilding.
- 3.2 The single storey extension is proposed to extend across the width of the dwelling including the area to the front of the proposed two storey side extension. The projection is proposed to be 1.5m and the roof form would be a lean to roof form with a pitch over the front door.
- 3.3 The two storey side extension is proposed to project 1.7m from the original side elevation of the dwelling and would extend the full depth of the dwelling and out past the original rear elevation with a hipped roof form.
- 3.4 The two storey rear extension is proposed to project 5.1m from the original rear wall of the dwelling and would extend across the width of the dwelling. The roof form is proposed to be pitched.
- 3.5 The outbuilding is proposed to be sited at the far end of the rear garden. It would be 3m deep, 9m wide with a height to the eaves of 2.5m and an overall height of 3.5m. The roof form is proposed to be pitched.
- 3.6 The walls of the extensions and the outbuilding are proposed to be faced in brick with tiles for the roof.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2012/91993 – Erection of extensions – withdrawn
- 4.2 2017/91090 – Prior notification of larger home extension – agreed
- 4.3 2008/92254 – Partially implemented permission for housing to the rear - approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 During the course of the application, the agent was offered the opportunity to apply for a larger home notification for the ground floor to justify the additional projection over and above the normal recommended 3.0m set out in Policy BE14 of the UDP. The agent took advantage of this opportunity and a larger home notification was received, processed, and agreed. At the same time the agent was also asked to reduce the first floor element to 3m, in line with Policy BE14, because there were no mitigating or justifying factors on site to justify the proposed projection. The agent declined the opportunity to amend the projection of the first floor level.

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. At this stage Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The land is without allocation/designation within the UDP and the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE13 – Extensions to dwellings (design principles)
BE14 – Extensions to dwellings (scale)
T19 – car parking

National Planning Guidance:

- 6.3 Chapter 7 – Requiring good design

Kirklees Publication Draft Local Plan: Submitted for examination April 2017 (PDLP)

- 6.4 PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP24 – Design

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 None

8.0 CONSULTATION RESPONSES:

- 8.1 **Statutory: None**

- 8.2 **Non-statutory: None**

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).
- 10.2 The general principle of making alterations to a property, including extensions, are assessed against policies BE1, BE2, BE13, and BE14 of the UDP and advise within chapter 7 of the NPPF. In addition, Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application. The scheme under consideration consists of 4 distinct elements which shall be addressed in terms of visual amenity and then residential amenity below.

Visual Amenity

Single storey front extension

- 10.3 Policy BE14 of the UDP does support modest front extensions. In this instance, given the modest proportions of the front extension together with the single storey nature of the extension and the proposed use of matching materials with appropriate fenestration detail, the single storey front extension is considered to be acceptable in terms of visual amenity.

Two storey side extension

- 10.4 The side extension does not include a setback or set down which would normally be encouraged for a side extension. However, given the adjacent property, 53 Caledonian Road which is a detached bungalow, the extension as proposed would not result in the formation of an undesirable terracing effect. The scale can be considered to be acceptable relative to the size of the host property and its associated curtilage. Furthermore, the use of matching materials and similar fenestration detailing to main house is considered to result in an extension which is acceptable in terms of visual amenity.

Two storey rear extension

- 10.5 The ground floor has been agreed through the larger home notification scheme with a projection of 5.1m. Consideration therefore needs to be given to the impact of the first floor element.
- 10.6 The projection at first floor is larger than would normally be supported in terms of Policy BE14 of the UDP and there are no mitigating features on site which would justify the projection proposed. As such, the scale of the first floor rear extension is considered to be unacceptable in terms of visual amenity, resulting in an overly dominant feature on the rear elevation of the property.

Detached Outbuilding

- 10.7 The scale of the outbuilding could, on its own, be considered to be acceptable relative to the size of the host property. The materials proposed would be to match the main house and the fenestration detail is considered to be acceptable for a development of this type.

Overall

- 10.8 Cumulatively, the extent of works proposed would be significant. However, given the size of the host property and its associated curtilage, the works would not represent overdevelopment of the host property. The scale of the rear extension is of concern given the projection of the extension proposed at first floor level. This element of the proposal is considered, by officers, to be unacceptable in terms of its impact upon visual amenity because of its resultant bulk and massing. The proposals would therefore fail to comply with policies D2, BE1 and BE14 of the Kirklees Unitary Development Plan. Furthermore, the proposal would not accord with emerging policy PLP24 of the PDL which states that proposals should promote good design by ensuring (amongst other things) 'the form, layout and details of all development respects and enhances the character of the townscapes . . .' as well as extensions being 'in keeping with the existing buildings in terms of scale, materials and details . . .'

Residential Amenity

Single storey front extension

- 10.9 Given the limited scale of the front extension proposed, there would be no significant harm caused to the amenities of the occupiers of the neighbouring properties.

Two storey side extension

- 10.10 The adjacent neighbour also has three first floor windows in the side elevation, one of which appears to serve a bedroom which would be considered to be habitable and the proposed side extension would reduce the space between the host property and the adjacent neighbour. The modest projection of the side extension together with the modest separation which would be retained is considered to be sufficient to minimise the harm.
- 10.11 Whilst the proposed plans show two first floor windows in the side extension, these serve the landing and the bathroom, neither of which is considered to be habitable.

- 10.12 There are no properties on the opposite side of Caledonian Road, which would face onto the host property and the position of the side extension is such that the approved development to the rear of the property would also be unaffected by the proposed two storey side extension.

Two storey rear extension

- 10.13 The ground floor has been agreed through the larger home notification scheme with a projection of 5.1m. Consideration therefore needs to be given to the impact of the first floor element.
- 10.14 The land to the rear of the property between Caledonian Road and Headfield Road is currently under development to implement a planning permission which includes town houses to the rear of the host property. However, these would be sited some 28m to the rear of the host property and at a lower level. Taking this into account, there would be no undue harm caused to amenity of the future occupants of these properties.
- 10.15 Given the projection of the extension proposed, there would be the potential for some overshadowing in the morning and an oppressive and overbearing impact upon the amenity of the occupants of the adjacent 53 Caledonian Road. However there would be a modest separation between the host property and the adjacent neighbour, 53 Caledonian Road and the neighbour does have their own two storey extension (built onto the original bungalow) which would mitigate the impact of the proposed two storey rear extension. The rear extension is therefore not considered to be significantly harmful to the amenities of the occupiers of the adjacent 53 Caledonian Road.
- 10.16 The extension would be built along the common boundary with the adjoining property, no.57 Caledonian Road. As such, the proposed 5.1m projection would have the potential to harm the amenities of the occupiers of the adjoining property in terms of resulting in an overbearing and oppressive impact.
- 10.17 However the adjoining neighbour has their own two storey rear extension with a projection of 3m. This would mitigate the initial 3m of the extension and the remaining 2.1m would have some impact on the first floor windows in terms of overbearing. Therefore the two storey rear extension would not be significantly harmful to the residential amenity of the occupiers of the neighbouring 57 Caledonian Road. It is noted that the UDP policy would normally permit 3m extensions and regard is had to this policy when considering whether reasons for refusal exist in relation to harm to the neighbours amenity.

Detached Outbuilding

- 10.18 The detached outbuilding is a single storey structure proposed to the rear boundary of the property. Given the relatively limited scale, together with its single storey nature, there would be no significant harm caused to the amenities of the neighbouring properties as a result of the detached outbuilding.

- 10.19 Having considered the above factors, although the first floor rear extension would have some impact upon the occupants of the neighbouring 57 & 53 Caledonian Road, in terms of overbearing and oppressive, the harm caused would not be significant. Therefore the proposal complies with Policy D2 of the UDP. Furthermore it would be in line with the emerging Policy PLP24 of the PDLP.

Highway issues

- 10.19 The proposals will result in some intensification of the domestic use. However the parking area to the front of the property would not be affected by the proposed extensions or outbuilding and is considered to provide sufficient parking provision. The scheme would not represent any additional harm in terms of highway safety and efficiency, complying with Policies D2, T10 and T19 of the UDP.

Representations

- 10.20 None Received

Other Matters

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

11.0 CONCLUSION

- 11.1 This application to for extensions to the front, side and rear of 55 Caledonian Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.
- 11.2 The scale of the rear extension would form an unacceptable relationship with the rear elevation of the host property due to its resultant bulk and massing. The proposed rear extension is considered to be detrimental in terms of visual amenity, contrary to Policies D2, BE1, BE13, and BE14 of the Kirklees UDP and guidance given in the NPPF. Furthermore, the proposals would not comply with the emerging policy PLP24 of the PDLP.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration. Recommendation is to refuse the application.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f91993+>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91090>

Certificate of Ownership – Certificate A signed and dated 15/02/17

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 28-Sep-2017

**Subject: Planning Application 2017/91900 Erection of front and rear dormers
120, Savile Road, Savile Town, Dewsbury, WF12 9LP**

APPLICANT

Nazir Musa

DATE VALID

05-Jun-2017

TARGET DATE

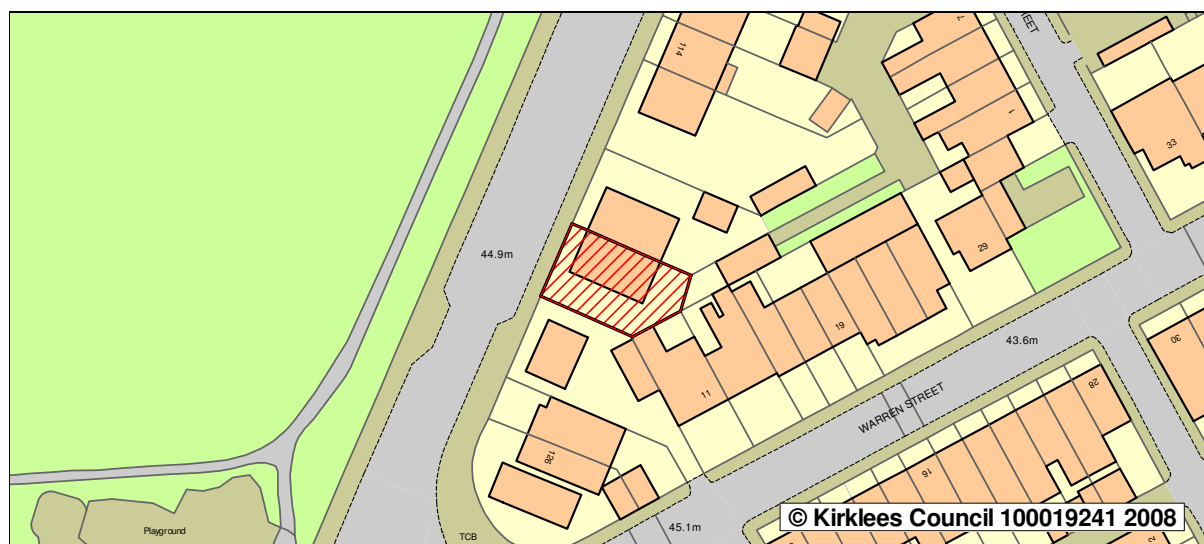
31-Jul-2017

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 South Ward

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: REFUSE

1. The proposed front dormer, by virtue of its scale and position, would form an incongruous feature along Savile Road which would result in substantial harm to the character of the host property and the wider street scene. To permit the front dormer would be harmful to visual amenity and contrary to Policies D2, BE1, BE13 and BE15 of the Kirklees Unitary Development Plan as well as the aims of chapter 7 of the National Planning Policy Framework and Policy PLP24 (a and c) of the Publication Draft Local Plan.

2. The rear dormer, due to its elevated position, would result in an unacceptable loss of privacy for the occupants of no.11 Warren Street. To permit the rear dormer would be harmful in terms of residential amenity and contrary to Policy D2 of the Kirklees Unitary Development Plan and the aims of chapter 7 of the National Planning Policy Framework and Policy PLP24 (c) of the Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Committee at the request of Cllr Masood Ahmed for the following reason: *"I would like the planning application for dormers to the front and rear of 120 Savile Road to be considered by the members of the Planning Committee with a site visit to appreciate the works proposed. Given the diversity of property type in the Savile Road area in terms of age, size and style together with the presence of other dormer extensions on the terraces nearby, I would like members to consider if the proposed front dormer would form such an incongruous feature within the street scene. Furthermore, I would like members to consider whether the harm in terms of overlooking is really so severe between the proposed rear dormer and the neighbour to the rear given that the neighbour to the rear, 11 Warren Street has their own rear dormer (2011/91100), which I think already overlooks the applicants property"*.
- 1.2 Cllr Ahmed has requested a site visit for members to appreciate the arrangements on site.
- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Ahmed's reason for making this request is valid having regard to the Councillors' protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 120 Savile Road, Savile Town is a semi-detached property with stone walls on the ground floor and pebble dash render at first floor on the ground elevation. The side and rear elevations were originally pebble dashed render too. The property has gardens to the front and rear and originally had a drive to the side of the property. However at the time of the officer site visit, the applicant had substantially completed the side extension and formed dormers within the front and rear roof planes.
- 2.2 There are other residential properties to the side and rear with a variety of house types, styles and ages. Furthermore, nos.11 & 13 Warren Street to the rear have rear extensions, the adjacent no.122 Savile Road has single and two storey extensions to the side & rear, and the adjoining no.118 Savile Road has a single storey rear extension. Some of the properties further along Savile Road have had modest sized, pitch roof dormers formed in their front roof slopes.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for the formation of dormers within the front and rear roof plane of the side extension.
- 3.2 The front dormer would have a width of 3.5m, would be set up 0.7m from the eaves, and would have a height to the eaves of 1.3m and an overall height of 3m. The roof would be pitched and the dormer cheeks would be clad with vertically hung tiles.
- 3.3 The rear dormer would have a width of 3.5m, would be set up 0.7m from the eaves, and would have a height to the eaves of 1.3m and an overall height of 3m. The roof would be pitched and the dormer cheeks would be clad with vertically hung tiles.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 1996/92420 – Erection of detached garage – Granted
- 4.2 2005/92090 – Erection of replacement detached garage – Withdrawn
- 4.3 2013/90022 – Erection of single and two storey extension – Approved
- 4.4 2017/90623 – Erection of two storey side extension and external alterations – Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The previous application, 2017/90623 was initially submitted with the dormers proposed in the front and rear elevations. The applicant was informed that the dormers would not be supported given the impacts in terms of visual and residential amenity and offered the opportunity to amend the proposals to remove this element. The previous proposals were amended in line with the officer's advice and an approval was issued for the two storey side extension and external alterations.

- 5.2 The agent has been offered the opportunity to withdraw this application as amending the scheme in almost any other way would not address the concerns of officers. If the applicant were to remove the front dormer, the rear dormer would still result in unacceptable overlooking, unless the openings were obscure glazed. If the plans were to be amended to remove the rear dormer, the front dormer would still be considered to result in the formation of an incongruous feature within the street scene due to its scale.

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:

- 6.2 D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE13 – Extensions to dwellings (design principles)
BE14 – Extensions to dwellings (scale)
BE15 – Front Dormer
T19 – car parking

National Planning Policy Framework:

- 6.3 Chapter 7 – Requiring good design

Kirklees Publication Draft Local Plan: Submitted for examination April 2017 (PDLP)

- 6.4 PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP24 – Design

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of publicity, two representations have been received from residents. The issues raised are summarised below:
- The dormers are too large and look out of scale with the properties on Savile Road,
 - The rear dormer would be overbearing given the size, height and proximity to the neighbour to the rear,
 - Loss of privacy for the neighbours limited amenity space, living room window and bedroom windows.

8.0 CONSULTATION RESPONSES:

- 8.1 **Statutory:** None

8.2 **Non-statutory:** None

9.0 **MAIN ISSUES**

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

10.0 **APPRAISAL**

Principle of development

- 10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land). These issues, along with other policy considerations, will be addressed in the main assessment below.
- 10.2 The general principle of making alterations to a property, including extensions, are assessed against policies BE1, BE2, BE13, and BE14 of the UDP and advise within chapter 7 of the NPPF. In addition, Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application.

Visual Amenity

- 10.3 Savile Road is a main road with residential properties on the south east side and a large playing field on the north-west side. The residential properties vary both in terms of style and age. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 Permission has been granted previously for significant extensions to the side and rear of the host property. Indeed the dormers did originally form part of the last application and were removed as the front dormer was considered to be unacceptable as it would form an incongruous feature within the streetscene. The rear dormer would have less impact in terms of visual amenity given the siting to the rear of the property and could potentially be supported in terms of visual amenity, provided there were no other concerns.
- 10.5 The design and scale of the front dormer has not changed from the previous application (when it was removed) and it is considered that the dormer would still form an incongruous feature within the roof of the already substantial side extension.

- 10.6 In terms of policy BE15 of the UDP, although the original roof would remain the dominant feature, the proposed dormer is not centrally sited and is considered to unbalance the front elevation of the property. Furthermore, the distance between the gutter line of the dwelling and the base of the dormer is recommended to be 1m in Policy BE15 of the UDP however, this has not been achieved.
- 10.7 It is noted that there are other dormers within Savile Road. However these dormers are smaller in scale and are positioned centrally within the roof forms of terraced properties, some distance from the host property.
- 10.8 Having taken the above into account, the proposed front dormer would form an incongruous feature within the street scene which would be harmful in terms of visual amenity for both the host dwelling and the wider street scene. Therefore it is considered that the proposed front dormer fails to comply with Policies D2, BE1, BE13 and BE15 of the UDP and the aims of chapter 7 of the NPPF. Furthermore, the proposal would not accord with emerging policy PLP24 of the PDLP which states that proposals should promote good design by ensuring (amongst other things) 'the form, layout and details of all development respects and enhances the character of the townscapes . . .' as well as extensions being 'in keeping with the existing buildings in terms of scale, materials and details . . .'

Residential Amenity

- 10.9 The proposed front dormer, due to its position, is not considered to result in any undue harm caused to the amenities of the occupiers of the neighbouring properties.
- 10.10 The scale of the rear dormer would have limited impact on the amenities of the occupiers of the adjacent 122 Savile Road. The position within the roof plane of the side extension is such that there would be no impact on the amenities of the occupiers of the adjoining 18 Savile Road either.
- 10.11 The dormer would not bring the roof structure any closer to the property to the rear, 11 Warren Street, than the existing rear elevation and would not add significantly to the overall height of the dwelling as approved in terms of the side extension. As such, there would be no significant overbearing impact caused to the amenities of the occupiers of the neighbouring 11 Warren Street.
- 10.12 The rear dormer does however include a habitable room window which would result a significant loss of privacy for the occupants of 11 Warren Street. The impact would be exacerbated by the close orientation of the dwellings, along with the elevated position of the proposed dormer window.
- 10.13 Having considered the above factors, the rear dormer would represent a significant loss of privacy for the occupants of the neighbouring 11 Warren Street. Therefore the proposal fails to comply with Policy D2 of the UDP. Furthermore it would be contrary to emerging Policy PLP24 of the PDLP in that it would not 'provide a high standard of amenity for . . . neighbouring occupiers'.

Highway issues

- 10.14 The proposals will result in a very limited intensification of the domestic use. Therefore the existing parking arrangements are considered to be satisfactory. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with policies D2, T10 and T19 of the UDP.

Representations

- 10.15 Concerns relating to visual amenity and residential amenity have been addressed in the relevant sections of the report above but at highlights here, together with the response of the officer.

- The dormers are too large and look out of scale with the properties on Savile Road,

Response: this is a material consideration and the scale and design of the front dormer has been assessed as being inappropriate as it would form an incongruous feature within the street scene. The rear dormer is not as prominently sited and would be considered acceptable in terms of visual amenity.

- The rear dormer would be overbearing given the size, height and proximity to the neighbour to the rear,

Response: this is a material consideration and the impact of the rear dormer has been assessed as not forming an overbearing structure. The rear dormer would not bring the roof structure any closer to the property to the rear, 11 Warren Street, than the existing rear elevation and would not add significantly to the overall height of the dwelling as approved in terms of the side extension. As such, there would be no significant overbearing impact caused to the amenities of the occupiers of the neighbouring 11 Warren Street.

- Loss of privacy for the neighbours limited amenity space, living room window and bedroom windows.

Reason: this is a material consideration and the rear dormer does include a habitable room window which would result a significant loss of privacy for the occupants of 11 Warren Street. The impact would be exacerbated by the close orientation of the dwellings, along with the elevated position of the proposed dormer window.

Other Matters

- 10.16 Should the application be refused, appropriate enforcement action will then need to be considered because the dormers have already begun to be formed in the roof slope of the approved two storey extension.

- 10.17 There are no other matters relevant for consideration.

11.0 CONCLUSION

- 11.1 This application to erect dormers within the front and rear roof planes of no.120 Savile Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

- 11.2 The front dormer would harm the character of the host property and does not comply with Policy BE15 of the UDP in terms of its position within the roof plane. Furthermore, the design, scale and siting of the dormer would represent an incongruous feature in a prominent position along Savile Road. The proposal therefore fails to comply with policies D2, BE1, BE13, and BE15 of the UDP, chapter 7 of the NPPF, as well as emerging policy PLP24 of the PDLF.
- 11.3 The rear dormer would provide an unreasonable opportunity to overlook the occupants of 11 Warren Street in close quarters given the elevated position of the dormer. The proposal therefore fails to comply with policies D2 of the UDP as well as emerging policy PLP24 of the PDLF.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration. Recommendation is to refuse the application.

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91900>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2005%2f92090>+

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2013%2f90022>+

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90623>+

Certificate of Ownership – Certificate A signed by Mr Nazir Musa and dated 05/06/2017.

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE HEAVY WOOLLEN

28 SEPTEMBER 2017

PLANNING APPLICATION 2014/91242 ITEM 11 – PAGE 25

**RESERVED MATTERS APPLICATION FOR ERECTION OF 47
DWELLINGS**

LAND OFF, ASHBOURNE DRIVE, CLECKHEATON, BD19 5HZ

For clarification, the dwellings would be faced in artificial stone with the exception of nine in white render.

PLANNING APPLICATION 2017/91046 ITEM 13– PAGE 61

**OUTLINE APPLICATION FOR DEMOLITION OF EXISTING BUILDINGS
AND STRUCTURES AND ERECTION OF RESIDENTIAL DEVELOPMENT**

**GREENSIDE MILL, SAVILE ROAD, SKELMANTHORPE, HUDDERSFIELD,
HD8 9EE**

A letter has been received on behalf of the applicant requesting a further deferral (this application has been deferred twice previously with late submissions).

The letter is attached below in its entirety

Robert Halstead

Planning & Development Surveyors

N.C. Willock MRICS MRTPI

57 Bowers Mill Barkisland Halifax HX4 0AD

Tel: 01422 379841 e mail: nick@roberthalstead.co.uk

Planning Development

FAO Mr Bill Topping

Investment & Regeneration Service

PO Box B93

Market Street

Huddersfield

HD1 2JR

27th September 2017

Application Ref: 2017/91046

RE: RESPONSE AND CONDUCT OF COUNCIL'S INDEPENDENT VIABILITY ASSESSORS FOR GREENSIDE MILLS, SKELMANTHORPE CASE

Dear Mr Topping,

In the run up to this week's committee, we've been instructed to lodge a complaint about the general conduct and response from the Council's assessors (GVA) following our submission of additional comments and evidence on the 15th August. Our view is that the application ought to be deferred.

Our client has no complaint whatsoever about the way the application has been handled by officers, and we know that the Council have assessed the application fairly and objectively. Unfortunately, the same cannot be said about the issue of development viability, following our joint meeting with the Council and their independent assessors on the 5th September.

This has left us in a very difficult position because whilst our client is keen to receive a positive decision on the planning application, we have decided after careful consideration, that we cannot accept the conclusions of the Council's assessors with regard to S106 contributions. The reasons for this are set out below, however before discussing aspects of viability, our client would like to raise the following points and ask the Council to consider whether it would be reasonable in the circumstances to determine the application this week.

We agreed that once our additional / rebuttal evidence had been submitted, the Council's assessors would consider this in readiness for a meeting where a S106 figure would be finally agreed. There was a period of three weeks between the submission of this evidence and the meeting with the Council's assessors at their offices in Leeds. However, when we arrived at the meeting in Leeds, GVA colleagues informed us that they hadn't actually properly assessed our evidence and could not therefore debate certain aspects of our evidence.

As such, an agreement could not be reached and it seems our client has been penalised as a result, because a final written response from GVA has since been received and we have not been afforded the opportunity to respond (as we would've been able to if the matter had been concluded through a verbal exchange, as expected at our meeting).

In submitting our additional evidence, we genuinely attempted to narrow down the areas of difference in the interests of co-operation, so that only the key matters of contention needed to be debated.

However, we didn't feel that our points were properly listened to, and crucially, little in the way of counter-evidence was produced by GVA. We fully expect a robust assessment and debate about various viability inputs. However, unfortunately we didn't feel we received an objective or fair response from the Council's assessors.

It is also worth noting that whilst we have provided an open book assessment, providing our viability spreadsheets to the Council's assessors to allow them to fully interrogate our figures and calculations, we have not been afforded the courtesy of seeing their spreadsheet or calculations.

The matters discussed at the meeting were as follows:

Construction cost per sq.ft

We pointed out our independent quantity surveyor's full breakdown of a house type on a development he is currently working on in Morley (immediately adjoining the Kirklees boundary and therefore arguably little different), and highlighted the fact that this was the best 'real life' evidence we had. The Council's assessors said they would look at the additional evidence, but have since replied that they are not prepared to take this into account.

To be clear about the roles of independent quantity surveyor costs versus BCIS information, the RICS guidance (Financial Viability in Planning) advises at 4.2.2:

"It is common practice for the practitioner to rely upon and form opinions in respect of various components of a viability assessment; for example, it may be appropriate that build cost information is prepared by a quantity surveyor (QS). This may be essential for nonstandard developments and complex schemes where to adopt build costs quoted by the Building Cost Information Service (BCIS) may lack the level of detail and robustness required. In general, a QS input will be necessary in many instances, to ensure that the cost element of the appraisal is viewed as fully independent."

Our view remains that the use of independent QS inputs represents a legitimate and acceptable means of estimating build costs, and should not be automatically dismissed in favour of the Council's independent assessors' use of BCIS costs.

Finance

The Council's assessors argued we should 'cash-flow' the finance. We pointed out that this is not mandatory and we had in fact represented a simplified cash flow by only applying interest charges for 50% of the construction costs and 75% of the professional fees, reflecting the stages at which finance would be spent on these different costs.

Our overall view though is that it would be wholly impractical and unrealistic to undertake a full cash flow analysis for a site where we are only at the outline planning stage, and no details of the actual development programme or timescales are known.

We dispute the Council's assessors' contention that we have under-estimated finance and again, we must insist that if they feel the finance costs should be something different, their actual methodology and calculations must be disclosed for us to analyse and form an opinion on.

Contingency

Our adopted contingency figure is 7.5%. We sent over a planning appeal decision where an Inspector had judged 5% as an industry standard for relatively 'easy' sites, and said the figure would be expected to be higher to cater for increased risks on difficult sites.

The subsequent letter from the Council's assessors provides no counter-evidence to support their contention that our figure is incorrect.

Land values

The Council's assessors argued that our comparable evidence on land values should not be taken into account because of the number of unknown factors dictating those values, and hence it was unreliable.

We fully accept that comparable evidence does have its weaknesses but point to the RICS guidance, which says at 3.4.8 that the importance of comparable evidence (despite weaknesses) "cannot be over-emphasised, as seen in court and land tribunal decisions."

The Council's assessors had previously accepted the principle of using the comparable land value data in their initial assessment of our work, and had produced some of their own land transaction figures, suggesting that they are willing to take such evidence into account?

We stated that at the land value in the appraisal only achieved approximately half the value per acre when compared with other comparable land transaction evidence in the area. That being the case, we would not have a willing seller and 3.4.6 of the RICS guidance states that whilst the assessment of Site Value is not straightforward, "it will be, by definition, at a level at which a landowner would be willing to sell which is recognised by the NPPF (National Planning Policy Framework)."

In this case, the landowner (and applicant) is merely seeking to achieve a fair market price for the land.

Disputes & mediation

The RICS Guidance (Financial Viability in Planning) advises at 4.4.1: “Where disputes are unable to be resolved between the applicant’s and the LPA’s respective consultants, the parties may seek the opinion of a third party. This could be through either mediation, expert determination or arbitration and could arise at various stages in the planning process.”

We have not been afforded the courtesy of viewing the Council’s assessors methodology or calculations and they have not produced appropriate counter-evidence to dispute our evidence. It was also not possible to satisfactorily resolve differences of opinion due to the Council’s assessors inadequate preparation for our final meeting, and there is a sense that our client has not been treated fairly in the latter stages of this process.

The RICS guidance advises at 4.5.3: Practitioners should be reasonable, transparent and fair in objectively undertaking or reviewing financial viability assessments. Where possible, practitioners should seek to resolve differences of opinion.

In the light of this, we would suggest that careful consideration needs to be given to determining the application this week, as there is a real and risk of an appeal where the LPA could be implicated in a charge of ‘unreasonable behaviour’.

As discussed at our meeting on the 5th September, the applicant is willing to make a fair and reasonable S106 contribution, based on a fair, transparent and objective assessment of the viability position.

We would therefore request that the application is deferred.

Yours sincerely,

Nick Willock

Robert Halstead Chartered Surveyors & Town Planners

Officer response:- The viability appraisal process has been undertaken in accordance with the agreed Council process, with a further meeting to discuss the viability held in order to bring this matter back for decision at this Committee, as was agreed. The Council's Independent Assessors are aware of the applicants concerns, and maintain their opinion.

"In conclusion we maintain our original recommendation in that the scheme is able to sustain the full Section 106 Obligations (ie a total cost of £168,000)".

The recommendation is unchanged from that set out in the main agenda and is as follows:-

DELEGATE TO OFFICERS TO REFUSE FOR THE FOLLOWING REASONS:

- 1. The proposal fails to make any provision for Public Open Space, contrary to Policy H18 of the Kirklees Unitary Development Plan.**
- 2. The proposal fails to make any provision towards Education Improvements contrary to the Councils policy guidance" Providing for Education Needs generated by New Developments"**

PLANNING APPLICATION 2017/90272 ITEM 16 - PAGE 97

OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (2 DWELLINGS)

LAND TO REAR OF, 119/127, MARSH LANE, SHEPLEY, HUDDERSFIELD, HD8 8AS

An amended site location plan has been received which clarifies that the current proposal is for point of access only. This is acceptable in terms of highway safety. All other details would be reserved matters, should outline permission be granted.
