

# Public Document Pack



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

**Julie Muscroft**

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Wednesday 17 January 2018

## 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 25 January 2018**.

(A coach will depart the Town Hall, at 9.45am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Reception Room – Town Hall, Dewsbury)

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

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

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

**Julie Muscroft**

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

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

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

### **Member**

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

#### **Liberal Democrat**

A Marchington  
L Wilkinson

# **Agenda**

## **Reports or Explanatory Notes Attached**

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### **Pages**

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

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

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

1 - 8

To approve the Minutes of the meeting of the Sub-Committee held on 14 December 2017.

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

9 - 10

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

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

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

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

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

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

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**6: Public Question Time**

The Committee will hear any questions from the general public.

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**7: Site Visit - Application No: 2017/93932**

Erection of single storey rear extension and ramp (within a Conservation Area) at 15 Talbot Street, Batley.

(Estimated time of arrival at site – 10.00am)

Contact Officer: Julia Steadman

**Wards**

**Affected:** Batley East

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**8: Site Visit - Application No: 2017/93890**

Erection of single storey rear extension (within a Conservation Area) at 17 Talbot Street, Batley.

(Estimated time of arrival at site – 10.00am)

Contact Officer: Julia Steadman

**Wards**

**Affected:** Batley East

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**9: Site Visit - Application No: 2017/93674**

Erection of class A1/A3 coffee shop with external seating area at land at Northgate Retail Park, Albion Street, Heckmondwike.

(Estimated time of arrival at site – 10.15am)

Contact Officer: Julia Steadman

**Wards**

**Affected:** Heckmondwike

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**10: Site Visit - Application No: 2017/93222**

Installation of a sugar silo and associated concrete base at  
Tangerine Confectionery Limited, Westgate, Cleckheaton

(Estimated time of arrival at site – 10.25am)

Contact Officer: Julia Steadman

**Wards**

**Affected:** Cleckheaton

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**11: Site Visit - Application No: 2017/93470**

Demolition of existing garage erection of detached dwelling with  
integral garage and associated site works adjacent to 93 Stocks  
Bank Road, Mirfield.

(Estimated time of arrival at site – 10.50am)

Contact Officer: Nia Thomas

**Wards**

**Affected:** Mirfield

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**12: Site Visit - Application No: 2017/93805**

Change of use of ground floor flat to hairdressers (A1) (within a  
Conservation Area) at 95-99, Lane Head Road, Shepley,  
Huddersfield.

(Estimated time of arrival at site – 11.25am)

Contact Officer: Nia Thomas

**Wards**

**Affected:** Kirkburton

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**13: Site Visit - Application No: 2017/93714**

Change of use of hairdressers to self contained flat and alterations  
at 114, Brewery Lane, Thornhill Lees, Dewsbury.

(Estimated time of arrival at site – 12.00 noon)

Contact Officer: Nia Thomas

**Wards**

**Affected:** Dewsbury South

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## **14: Local Planning Authority Appeals**

11 - 22

The Sub Committee will received 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

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## **Planning Applications**

23 - 26

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on 22 January 2018.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto: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.

## **15: Planning Application - Application No: 2017/93319**

27 - 44

Erection of 6 apartments rear of 8, Crowlees Road, Mirfield.

Contact Officer: Louise Bearcroft

### **Wards**

**Affected:** Mirfield

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## **16: Planning Application - Application No: 2017/93932**

45 - 54

Erection of single storey rear extension and ramp (within a Conservation Area) at 15 Talbot Street, Batley.

Contact Officer: Jennifer Booth

### **Wards**

**Affected:** Batley East

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**17: Planning Application - Application No: 2017/93890** 55 - 62

Erection of single storey rear extension (within a Conservation Area) at 17 Talbot Street, Batley.

Contact Officer: Jennifer Booth

**Wards**

**Affected:** Batley East

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**18: Planning Application - Application No: 2017/93674** 63 - 72

Erection of class A1/A3 coffee shop with external seating area at land at Northgate Retail Park, Albion Street, Heckmondwike.

Contact Officer: Louise Bearcroft

**Wards**

**Affected:** Heckmondwike

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**19: Planning Application - Application No: 2017/93222** 73 - 82

Installation of a sugar silo and associated concrete base at Tangerine Confectionery Limited, Westgate, Cleckheaton.

Contact Officer: Jennifer Booth

**Wards**

**Affected:** Cleckheaton

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**20: Planning Application - Application No: 2017/93470** 83 - 98

Demolition of existing garage erection of detached dwelling with integral garage and associated site works adjacent to 93 Stocks Bank Road, Mirfield.

Contact Officer: Nia Thomas

**Wards**

**Affected:** Mirfield

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**21: Planning Application - Application No: 2017/93805**

99 - 108

Change of use of ground floor flat to hairdressers (A1) (within a Conservation Area) at 95-99, Lane Head Road, Shepley, Huddersfield.

Contact Officer: Nia Thomas

**Wards**

**Affected:** Kirkburton

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**22: Planning Application - Application No: 2017/93714**

109 -  
118

Change of use of hairdressers to self contained flat and alterations at 114, Brewery Lane, Thornhill Lees, Dewsbury.

Contact Officer: Nia Thomas

**Wards**

**Affected:** Dewsbury South

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### **Planning Update**

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



Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

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

**Thursday 14th December 2017**

Present: Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor Michelle Grainger-Mead  
Councillor John Lawson  
Councillor Andrew Pinnock  
Councillor Cathy Scott  
Councillor Kath Taylor  
Councillor Graham Turner  
Councillor John Taylor  
Councillor Steve Hall

**1 Membership of the Committee**

Councillor S Hall substituted for Councillor Pervaiz.

**2 Minutes of Previous Meeting**

**RESOLVED** – That the Minutes of the Meeting held on November 2017 be approved as a correct record.

**3 Interests and Lobbying**

Councillors Lawson, A Pinnock, K Taylor, Grainger-Mead, J Taylor, G Taylor, C Scott, Kane and S Hall declared that they had been lobbied on Application 2017/92809.

Councillors S Hall and Kane declared that they had been lobbied on Application 2017/92211.

Councillors Lawson, J Taylor, Akhtar, S Hall, Scott, Kane, A Pinnock, Grainger-Mead and K Taylor declared that they had been lobbied on Application 2017/91139.

Councillor Grainger-Mead declared that she had been lobbied on Application 2017/93347.

Councillors Kane, Grainger-Mead, S Hall and Scott declared that they had been lobbied on Application 2016/92558.

**4 Admission of the Public**

It was noted that all Agenda Items would be considered in public session.

**5 Deputations/Petitions**

None received.

**6 Public Question Time**

No questions were asked.

**7 Site Visit - Application 2017/93347**

Site visit undertaken.

**8 Site Visit - Application 2017/91872**

Site visit undertaken.

**9 Site Visit - Application 2017/92396**

Site visit undertaken.

**10 Local Planning Authority Appeals**

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

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

**11 Planning Application - Application No: 2017/92809**

The Committee gave consideration to Application 2017/92809 – Outline application for erection of up to 55 dwellings and associated means of access at land off Kenmore Drive, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Joel Purnell (local resident) and Jonathan Ainley (applicant's agent).

**RESOLVED** – That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- 3 year time limit permission for submission of Reserved Matters
- Reserved matters of layout, scale, external appearance, and landscaping to be obtained
- Development to commence within two years of the date approval of the last reserved matters to be approved
- Development to be in accordance with approved plans
- Affordable Housing
- Education Contribution
- Public Open Space Provision
- Scheme of intrusive site investigations
- Submission of report of findings from site investigations
- Submission of scheme of remedial works for the shallow coal workings
- Implementation of remedial works
- Submission of an ecological design strategy
- Existing and proposed ground levels including sectional drawings
- Construction management plan
- Vehicle charging points
- Travel plan (to include mechanism for discounting high emission vehicle use and encouraging modal shift (ie, public transport, cycling and walking) as well as the uptake of low emission fuels and technologies
- Air quality impact assessment to be submitted

## **Planning Sub-Committee (Heavy Woollen Area) - 14 December 2017**

Recorded Votes on this application were taken in accordance with Council Procedure Rule 42 (5) as follows;

To withdraw the application;

For: Councillors Lawson and A Pinnock (2 votes)

Against: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Scott, J Taylor, K Taylor, G Turner (8 votes)

To approve the application (in accordance with officer recommendation)

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Scott, J Taylor, K Taylor, G Turner (8 votes)

Against: (no votes)

Abstained: Councillors Lawson and A Pinnock

### **12 Planning Application - Application No: 2017/92211**

The Committee gave consideration to Application 2017/ 92211– Erection of extensions, alteration to increase roof height to form second floor and erection of detached workshop Grove Cottage, 10 Grove Street, Norristhorpe, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Andy Bell (applicant).

Under the provisions of Council Procedure Rule 36 (1) the Sub-Committee received a representation from Councillor

**RESOLVED** – That the application be delegated to officers to approve (Conditional full permission).

(The Committee resolution was contrary to the Officer's recommendation on the grounds that the application was not considered to be detrimental to visual or residential amenity).

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, J Taylor, K Taylor, G Turner (9 votes)

Against: (no votes)

Abstained: Councillor Kane

### **13 Planning Application - Application No: 2017/91139**

The Committee gave consideration to Application 2017/91139 – Erection of place of worship and associated car park and landscape works (within a Conservation Area) at 10 Oxford Road, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from; Meg Winterburn, Ken Fedzin, Christopher Cundall, John Dennehy, Christine Sharpe, Nicola Colloby, Andrew Anderson, Rita Prasad, David Wood, Brian Land and Alan Keyworth (in objection to the application); Mohammed

## **Planning Sub-Committee (Heavy Woollen Area) - 14 December 2017**

Hussain, Sabiha Laher, A Vania, Muhammad Afridi, Sophia Patel, A Raja, R Patel, Sajid Patel, Mamoon Ahmed, Waheeda Batha and Monhammad Dadibhai (in support of the application), Hasan Dadibhai (applicant) and Geoff Bowman (on behalf of the applicant).

**RESOLVED** – That the application be refused.

(The Committee resolution was contrary to the Officer's recommendation on the grounds that the proposed development was not considered to be in keeping with the conservation area and would constitute inappropriate development).

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

For: Councillors Grainger-Mead, J Lawson, A Pinnock, J Taylor, K Taylor and G Turner (6 votes)

Against: Councillors Akhtar, S Hall, Kane and C Scott (4 votes)

### **14 Planning Application - Application No: 2017/93347**

The Committee gave consideration to Application 2017/93347 – Outline application for erection of 32 dwellings at land off Fieldhead Lane, Birstall, Batley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Bryan Harnell (local resident).

**RESOLVED** – That authority be delegated to the Head of Strategic Investment to approve the outline application, issue the decision notice and complete the list of conditions including matters relating to;

- standard timeframe for submission of reserved matters
- requirement for reserved matters submission
- highways conditions (access, visibility splays, improvement of footpath along frontage)
- environmental health conditions (site remediation, noise mitigation, electric charging points)
- drainage conditions (surface water/run off and foul connections)
- tree protection
- bio diversity enhancement
- provision of affordable housing
- provision of public open space contribution
- footpath/cycleway connections from Fieldhead Lane into and through Oakwell Hall Country Park

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

### **15 Planning Application - Application No: 2017/91976**

## **Planning Sub-Committee (Heavy Woollen Area) - 14 December 2017**

The Committee gave consideration to Application 2017/91976 – erection of 11 dwellings at land at Savile Road, Savile Town, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Ismail Adam (applicant).

### **RESOLVED –**

- (1) That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;
  - standard three years for commencement condition
  - development in accordance with approved plans
  - samples of materials
  - boundary treatments
  - finished floor levels and sections
  - decontamination, remediation strategy and validation report
  - drainage (surface water and foul) details to be submitted for confirmation
  - highway conditions (surfacing, layout of highway, and provision/surfacing of parking areas, bin collection areas
  - removal of permitted development rights for plots 4 and 5
  - submission of ecological design strategy
- (2) That authority be delegated to the Head of Strategic Investment to secure a variation to the existing Section 106 Agreement to cover;
  - off-site affordable housing contribution (£34,169)
  - education contribution (£25,183)
  - POS provision and maintenance (£48,603)
  - travel plan monitoring (£15,000; £3000 per annum for 5 years)
- (3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Strategic Investment shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

## **16 Planning Application - Application No: 2017/91872**

The Committee gave consideration to Application 2017/91872 – Alteration to convert existing commercial premises to 4 flats (listed building within a Conservation Area) at Methodist Resource Centre, 74 Daisy Hill, Dewsbury.

## **Planning Sub-Committee (Heavy Woollen Area) - 14 December 2017**

**RESOLVED** – That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- development shall be begun within three years of the date of this permission
- development carried out in complete accordance with the plans and specifications
- submission of noise report before development commences
- provision of bin and cycle storage facilities before development first occupied
- facing material to be natural ashlar stone to match that used on the ground floor front elevation
- windows and doors to be timber frame

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

### **17 Planning Application - Application No: 2017/92396**

The Committee gave consideration to Application 2017/92396 – Listed Building Consent for alteration to convert existing commercial premises to 4 flats (within a conservation area) at Methodist Resource Centre, 74 Daisy Hill, Dewsbury.

**RESOLVED** – That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- timeframe for implementation of development (3 years)
- development to be carried out in accordance with submitted plans
- details of the proposed windows including design and colour
- details of the proposed external doors, including design and material
- details of the build of the shop front, including design and materials and bonding (to fully match the existing shop front)

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

### **18 Planning Application - Application No: 2016/92558**

The Committee gave consideration to Application 2016/92558 – Temporary Permission for the erection of single storey linked modular units Masjid-E-Noor Education Centre, Lees Hall Road, Thornhill Lees, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received s representation from William Ossitt (applicant's agent).

**RESOLVED** – That the application be refused on the grounds that;

## **Planning Sub-Committee (Heavy Woollen Area) - 14 December 2017**

- the proposal to provide additional class rooms in the form of a modular building to the rear of the main building would represent a significant increase in the capacity of the Masjid-E-Noor education centre
- the parking provision included within the proposals is insufficient and as such the intensification is considered to represent a significant hazard in terms of highways safety
- to permit the proposals would be contrary to policies D2, BE1, T10 and T19 of the Kirklees Unitary Development Plan, Policy PLP21 of the Publication Draft Local Plan and the aims of chapters 7 and 8 of the National Planning Policy Framework

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

### **19 Planning Application - Application No: 2017/93357**

The Committee gave consideration to Application 2017/93357 – Erection of detached dwelling (modified proposal) Plot 1 at land to rear of 59 Far Bank, Shelley, Huddersfield.

#### **RESOLVED –**

- (1) That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;
  - 3 year time limit for implementation
  - development carried out in accordance with the plans and specifications
  - facing and roofing materials to be inspected and approved by the Local Planning Authority
  - appropriate surfacing of all areas indicated for vehicular access and turning area
  - no gates/barriers to be erected across the vehicular access from Far Bank
  - relocating of street lighting column
- (2) That a report regarding the discharge of the condition relating to the use of materials be submitted to this Sub-Committee.

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Lawson, A Pinnock, Scott, J Taylor, K Taylor and G Turner (10 votes)

Against: Councillors (no votes)

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<b>KIRKLEES COUNCIL</b>			
<b>DECLARATION OF INTERESTS AND LOBBYING</b>			
Planning Sub-Committee/Strategic Planning Committee			
<b>Name of Councillor</b>			
<b>Item in which you have an interest</b>	<b>Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)</b>	<b>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]</b>	<b>Brief description of your interest</b>
<b>LOBBYING</b>			

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

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

## NOTES

### Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

### Lobbying

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

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

**Date: 25 JANUARY 2018**

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

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

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not applicable</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)</a>?</b>	<b>No</b>
<b>The Decision - Is it eligible for "call in" by Scrutiny?</b>	<b>No</b>
<b>Date signed off by Service Director - Economy, Regeneration &amp; Culture</b>	<b>Paul Kemp 16 January 2018</b>
<b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>	<b>No financial implications</b>
<b>Is it also signed off by the Assistant Director - Legal Governance and Monitoring?</b>	<b>No legal implications</b>
<b>Cabinet member portfolio</b>	<b>Economy (Strategic Planning, Regeneration &amp; Transport) (Councillor P McBride)</b>

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

**Public or private:**

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## **1. Summary**

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

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

- 2.1 2017/62/90534/E - Alterations to convert detached garage dwelling at Schenro, 3, Shelley Woodhouse Lane, Shelley, Huddersfield, HD8 8NB. (Officer) (Allowed)

- 2.2 2017/60/90500/E - Outline application for removal of existing agricultural building and erection of two detached rural exception affordable dwellings Adj, Greenfield House, Green Lane, High Flatts, Huddersfield, HD8 8XU. (Officer) (Appeal against non-determination dismissed)

**3. Implications for the Council**

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

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

**4. Consultees and their opinions**

Not applicable, the report is for information only

**5. Next steps**

Not applicable, the report is for information only

**6. Officer recommendations and reasons**

To note

**7. Cabinet portfolio holder recommendation**

Not applicable

**8. Contact officer**

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

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

Not applicable

**10. Service Director responsible**

Paul Kemp



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## Appeal Decision

Site visit made on 21 November 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: 6 December 2017**

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**Appeal Ref: APP/Z4718/W/17/3181368**

**Schenro, 3 Shelley Woodhouse Lane, Shelley, Huddersfield HD8 8NB**

- 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 & Mrs Mark Fairbrother against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90534/E, dated 10 February 2017, was refused by notice dated 3 July 2017.
  - The development proposed is the change of use of a detached garage to form a three bedroom single storey dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for alterations to convert detached garage to dwelling at Schenro, 3 Shelley Woodhouse Lane, Shelley, Huddersfield HD8 8NB in accordance with the terms of application Ref 2017/62/90534/E, dated 10 February 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3878 100 Rev A; 3878 101; 3878 102 Rev A; 3878 103 Rev A.
  - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the dwelling hereby permitted shall not be enlarged or extended under the provisions of Schedule 2, Part 1, Class A or B of that Order.

### Procedural Matter

2. The Council changed the description of the proposed development from that contained on the application form to 'alterations to convert detached garage to dwelling'. This description has been used by the appellant on the appeal form. I have therefore used this description of the proposed development in the determination of this appeal.

## Main Issues

3. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt.
- The effect of the proposal on the character and appearance of the surrounding area.

## Reasons

### *Whether inappropriate development*

4. The appeal building lies within the Green Belt and comprises a recently constructed stone built detached garage with a pitched roof and located within the residential curtilage of No 3 Shelley Woodhouse Lane. The host property is served by two vehicular accesses, one towards the front of the garage and one providing access to a driveway leading to the front of the host property. The site lies within a small cluster of residential properties and agricultural buildings.
5. The proposal would involve the insertion of a roof light in the south elevation of the garage; the conversion of the existing garage doors in the east elevation to cottage style windows and the replacement of the existing window and door in the west elevation with bi-folding glazed doors. No external enlargement or extension of the garage is proposed.
6. Paragraph 90 the National Planning Policy Framework (the Framework) confirms that the re-use of buildings of a permanent and substantial construction is not inappropriate development in the Green Belt providing the re-use preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
7. I have taken into account the planning history of the garage and whilst I have some sympathy with the views of the Council, the fact remains that the garage is there and is of permanent and substantial construction with no enlargement or extension proposed. Therefore in the context of the advice provided in paragraph 90 of the Framework the principle of the re-use of the garage to a residential dwelling would not be inappropriate development in the Green Belt subject to the consideration of the effect on openness and the purposes of including land in the Green Belt.
8. Given that the proposal would not involve any extension of the existing residential curtilage of No 3, it would not lead to the encroachment of development into the countryside or cause any sprawl of the cluster of development in the area. Owing to the domestic nature of the appeal site it is clear that the contribution that it makes to the character of the Green Belt is that of a building within a domestic curtilage and its urbanised appearance is quite distinct to that of the more open countryside to the east.
9. Taking into account the above factors and that the proposed changes to the external appearance of the garage would not involve any extension or enlargement of the building, the proposal would have no more effect on openness than that which currently exists. Consequently, the proposal would have a neutral effect on openness and there would be no material impact on the purposes of including land within the Green Belt. In these circumstances the

proposal would not be inappropriate development within the Green Belt. As such, it is not necessary for any very special circumstances to be demonstrated.

*Character and appearance*

10. The Council's main concerns are that the alterations to the garage, the domestication of the building and the intensification of the domestic use of the appeal site would result cause harm to the character and appearance of the surrounding area.
11. The existing garden of the host property is relatively enclosed by vegetation and boundary treatment. The main visual effect of the proposal in public views would be the replacement of the garage doors at the front of the building with windows. This minor change to the appearance of the building would not cause any demonstrable harm to the character or appearance of the area. In addition the existing access and hardstanding area to the front of the garage would be retained in their existing form such that there would be no change in the appearance of the land to the front of the building.
12. In comparison to the other properties in the vicinity, No 3 has a much larger garden. The proposed subdivision of the garden would result in a plot size both for the host property and the appeal site that would be relatively generous and commensurate with that of other nearby properties. The nature of the use of the subdivided garden would continue as being part of a residential curtilage. Although there may be more intensification of the use of the subdivided areas, given their enclosed nature and existing use there would be no material impact on the character or appearance of the surrounding area. In addition, there would be no changes to the space around built development as a consequence of the proposal.
13. I recognise the Council's concerns that domestication of the building would be at odds with the principle of providing an ancillary building to the host property. However, this matter in itself does not suggest that the principle of the use of the garage as a dwelling would be unacceptable unless harm can be demonstrated. In this case the surrounding cluster of buildings have varying plot sizes, design styles and some have do not have garages within the curtilage. Given that the host property would retain the existing separate driveway and access, the fact that it would no longer have a garage would not result in any demonstrable harm to the character and appearance of the area nor would the external works to convert the building appear at odds with the varied nature of surrounding development.
14. Although there may be an increase in the number of vehicular movements and parking requirements within the host property and appeal property I have no evidence to suggest that there are currently any restrictions on the number of vehicles that can park on the hardstanding areas that currently exist. No alterations to the hardstanding areas are proposed and although the use of the garage may be lost for the parking of vehicles this in itself would not cause any demonstrable harm to the character and appearance of the surrounding area.
15. Taking the above factors into account, the proposal would not cause any demonstrable harm to the character and appearance of the surrounding area. As such, there would be no conflict with Saved Policies BE1 and BE2 of the Kirklees Unitary Development Plan 2007. These policies, amongst other things,

require that development should retain a sense of local identity and be in keeping with the character of surrounding development.

*Other matters*

16. The appellant has drawn my attention to a permission recently granted by the Council for alterations and extensions to an existing garage elsewhere in the Borough and also located within the Green Belt. However, I do not have full details of the nature of the proposals or the circumstances relating to the Council's decision to grant planning permission. Consequently, I cannot be sure that this is representative of the circumstance in this appeal and, in any case, I have determined this appeal on its own merits.

**Conditions**

17. Although the Council has not suggested any conditions, in addition to the standard time limit condition, I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
18. The Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. In this case I consider it necessary to restrict any future extensions to the proposed dwelling, which appears to me could otherwise be enlarged excessively in relation to the plot size and adversely affect the openness of the Green Belt.

**Conclusion**

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

*Stephen Normington*

INSPECTOR



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## Appeal Decision

Hearing held on 5 December 2017

Site visit made on 5 December 2017

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 10<sup>th</sup> January 2018**

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**Appeal Ref: APP/Z4718/W/17/3180123**

**Land adjacent to Greenfield House, Green Lane, High Flatts, Huddersfield HD8 8XU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mrs Maureen Pickford against Kirklees Metropolitan Borough Council.
  - The application Ref 2017/90500, is dated 21 October 2016.
  - The development proposed is removal of agricultural building and erection of two rural exception affordable dwellings.
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### Decision

1. The appeal is dismissed and planning permission for removal of agricultural building and erection of two rural exception affordable dwellings is refused.

### Procedural Matters

2. The planning application was made in outline with all matters reserved. I have considered the illustrative block plan and illustrative north elevation street scene drawing, but have regarded them as indicative only.

### Main Issues

3. The main issues are:
  - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies;
  - (b) The effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and
  - (c) If the proposal would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### Reasons

*Whether the proposal would be inappropriate development in the Green Belt*

4. The appeal site is within the Green Belt as shown on the Proposals Map for the Kirklees Unitary Development Plan 1999 ('the UDP'). Paragraph 89 of the NPPF

regards the construction of new buildings as inappropriate in the Green Belt unless it relates to a number of exceptions listed in bullet points. It was agreed at the hearing that the most relevant bullet point is the fifth one, which contains two separate limbs: "limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan". It is common ground between the main parties that the appeal site does not constitute previously development land given its agricultural use, and so the sixth bullet point of paragraph 89 does not apply.

5. There was some discussion as to whether the proposal could represent limited infilling in villages in terms of the first limb of the fifth bullet point of paragraph 89. However, the original application was described as the erection of two rural exception affordable dwellings and this is what has been consulted on at both the application and appeal stages. Any material deviation from what has been applied for could prejudice interested parties and/or require fresh assessment under different development plan policies. Therefore, I have proceeded on the basis that the second limb of the fifth bullet point of paragraph 89 is the most relevant exception to consider.
6. Policy H11 of the UDP deals with the provision of affordable housing to satisfy a clear local requirement where housing development would not otherwise be permitted provided that environmental and highway considerations can be satisfied. In the Green Belt, the policy requires sites to be small-scale and within or adjoining existing villages where it is demonstrated that there is no suitable alternative site outside of the Green Belt.
7. Policy PLP11 of the Kirklees Publication Draft Local Plan (PDLP) sets out the emerging approach to affordable housing. In the final paragraph, it states that "exceptionally, planning permission may be granted for affordable homes in small freestanding settlements on land which would not normally be permitted for housing development, where there is otherwise little prospect of meeting robustly evidenced local needs particularly for housing to rent by people who work locally. Such schemes must include arrangements for the homes to remain affordable in perpetuity." The PDLP is currently at examination and proposed modifications to the final paragraph of Policy PLP11 include the removal of the need for affordable homes to be 'in small freestanding settlements'. The Council confirmed that Policy PLP11 is subject to objections at the examination and so can only be afforded limited weight.
8. The age of Policy H11 and its adoption prior to the publication of the NPPF does not automatically render it out of date. Paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. At the hearing, the Council accepted that the fifth bullet point of paragraph 89 of the NPPF, as well as the proposed modifications to Policy PLP11, does not refer to the location of affordable housing in the Green Belt. The NPPF also does not require demonstration that no suitable alternative sites outside the Green Belt exist.
9. Given these inconsistencies with the NPPF, I agree that Policy H11 carries limited weight insofar as it requires affordable housing in the Green Belt to be within or adjoining existing villages where it is demonstrated that there is no suitable alternative sites outside of the Green Belt. However, Policy H11 requires such development to be small-scale, which is consistent with the NPPF's reference to limited. The policy also requires such development to meet

a clear local requirement, which is consistent with the NPPF's reference to local community needs. Therefore, I can afford these elements of Policy H11 considerable weight in my decision.

10. The appellant cited Policies H10 and H12 of the UDP as relevant policies. Policy H10 refers to the provision of affordable housing having regard to a number of matters including evidence of local need. Policy H12 refers to arrangements to ensure that affordable housing remains available for all time for local residents in proven housing need. Therefore, I have had regard to these policies.
11. The Kirklees Interim Affordable Housing Policy 2016 identifies a net imbalance of affordable housing in the district of 1,049 dwellings per annum. The Council noted at the hearing that this imbalance would be reduced if addressed over a five year period and that the PDLP seeks to address the provision of affordable housing sites. The Council also argued that a local requirement for affordable housing is smaller than a district-wide requirement. Given the wording of both Policy H11 and the fifth bullet point of paragraph 89 of the NPPF, I see no reason to disagree.
12. The appellant referred to the Denby Dale Parish Council Business Plan from 2011 which includes the aim to develop a housing strategy to cope with future demand, make best use of available land and protect the Green Belt. Reference was made at the hearing to local people in the vicinity of the appeal site confirming a local need for housing. The appellant mentioned her desire to provide affordable housing for her family to live within the local area close to where they work. However, the evidence presented by the appellant is not sufficiently clear, detailed or robust to demonstrate a local requirement for affordable housing.
13. A draft planning obligation was submitted by the appellant before the hearing seeking to secure two intermediate dwellings on the appeal site. The Council raised a number of concerns regarding the obligation. This included the trigger point for the sale of the dwellings on the open market and the robustness of key definitions within the obligation. Despite efforts to resolve the Council's concerns within the two week deadline set after the close of the hearing, it has not been possible for the main parties to reach agreement on the wording of the obligation. As the obligation requires the signatures of both the Council and the owners of the appeal site, it has not been completed and so cannot take effect. Therefore, in addition to the lack of evidence regarding local need, the development also fails to secure affordable housing on the site.
14. The appellant has suggested that a planning condition could be imposed requiring a completed planning obligation to be submitted prior to the construction or occupation of the dwellings. However, Paragraph 010<sup>1</sup> of the Planning Practice Guidance (PPG) section on conditions states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Such a condition may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. Paragraph 010 of the PPG also advises that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties

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<sup>1</sup> Planning Practice Guidance ID 21a-010-20140306

about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.

15. It has not been demonstrated that the appeal site development is complex or strategically important and I have little evidence that the deliverability of the development would be at risk. Therefore, it would not be reasonable to secure the affordable housing provision via a planning condition. It would also not be appropriate for me to provide guidance on the content of any planning obligation as this is a matter for the Council and appellant to address in the first instance.
16. While the proposal would be limited, there is insufficient evidence that it would provide for local community needs or satisfy a clear local requirement. I also consider that there are insufficient mechanisms in place to secure the affordable housing based on the lack of a completed and effective planning obligation. Therefore, the proposal would represent inappropriate development in the Green Belt contrary to paragraph 89 of the NPPF and Policy H11 of the UDP. The lack of evidence regarding local need is also contrary to Policy H10 of the UDP, while the inability to secure the affordable housing is contrary to Policy H12.

*Effect on the openness and purposes of the Green Belt*

17. Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
18. The appeal site is situated between housing on the north side of Green Lane, with fields and agricultural buildings to the north and south. The site contains an existing agricultural barn that has been used for storing hay and other items, although the appellant states this is now largely redundant. The barn has a large footprint relative to the size of the site. Although not previously developed land due to its agricultural use, the existing barn has an effect on the openness of the Green Belt due to its overall size and appearance. The barn is fairly rudimentary in materials and construction, but it is not particularly out of keeping with its rural surroundings and is not a temporary structure. It takes up a degree of space along Green Lane but is seen within the context of existing buildings both domestic and agricultural.
19. The illustrative block plan and street scene drawings indicate what could be developed on the appeal site in terms of two dwellings. The final details relating to scale, layout and appearance would not be fixed until the reserved matters stage and I do not have sufficient information on the dimensions of the existing and proposed buildings to assess the precise effects. Nevertheless, two dwellings are likely to take on a different form to the existing barn as either detached or semi-detached properties. Given the effect of the existing barn on the openness of the Green Belt, the harm to openness that would arise from the proposed development is likely to be limited to a minor level depending on the final details. The dwellings would alter the character and appearance of the site from agricultural to residential, but this would be offset by the existing residential properties either side. In terms of Green Belt purposes, there would likely be no more than a minor adverse effect in terms of safeguarding the countryside from encroachment.

### *Other considerations*

20. The proposed development would provide a boost to local housing supply. However, the amount of development is limited to two houses, and the affordable housing element has not been secured, so I can only afford modest weight to this other consideration.
21. The development would replace a somewhat dilapidated and seemingly redundant structure and, depending on the final details, could complement the character and appearance of the area. However, the existing barn is not particularly out of keeping with its rural surroundings and so I only give modest weight to this other consideration.
22. The development would be close to a bus stop on Penistone Road with hourly bus services from early morning to evening on Mondays to Saturdays. The bus service connects to the nearby settlements of Ingbirchworth, Birds Edge, Upper Denby and Denby Dale which have a range of services and facilities including a train station in Denby Dale. The school in Birds Edge is within walking distance along a pavement that runs along one side of Penistone Road. Occupants of the development would not have to travel far to access local services and facilities and would not be wholly reliant on the private motor car. This other consideration thus carries moderate weight in favour of development.
23. While I acknowledge the appellant's family requirements, this appeal scheme does not relate to the provision of a rural worker's dwelling. Moreover, I have insufficient evidence on the personal circumstances affecting members of the appellant's family. Thus, I can give this consideration little weight.
24. The appellant referred to the recent grant of planning permission for a dwelling to the rear of 1-2 Barton Cottages in High Flatts. However, from the officer's report provided by the Council, it would appear that the site was considered to be previously developed land where there would be no material impact on the openness of the Green Belt. Therefore, I can give very little weight to this other consideration.
25. The appellant highlighted the existence of permitted development rights for the conversion of agricultural buildings to residential under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, the proposal before me is to replace the agricultural building with two dwellings, which requires planning permission. Therefore, I give very little weight to the existence of Class Q as an other consideration.
26. I note the appellant's reference to the lack of communication from the Council in response to the seeking of pre-application advice and during the application process itself. I also note that the appellant appealed against the failure to determine the application. However, these other considerations are largely procedural matters and carry no weight in favour of the development.

*If the proposal would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal*

27. Paragraph 87 of the NPPF indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very

special circumstances. The proposed development would likely result in no more than minor harm to the openness of the Green Belt and the purposes of including land within it. However, paragraph 88 of the NPPF makes clear that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.

28. Cumulatively, moderate weight can be attached to the benefits of development that make up the other considerations. The other considerations do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Thus, the development would not accord with Policy H11 of the UDP or the aims of the NPPF which seek to protect Green Belt land from inappropriate development.

### **Conclusion**

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

*Tom Gilbert-Wooldridge*

INSPECTOR

### **APPEARANCES**

#### **FOR THE APPELLANT:**

Stephen Locke	Stephen Locke Associates
Maureen Pickford	Appellant

#### **FOR THE LOCAL PLANNING AUTHORITY:**

Rebecca Drake	Kirklees Council
Emma Thompson	Kirklees Council

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Comments from Kirklees Council's legal officer regarding the draft planning obligation, submitted by the local planning authority.
2. Officer's report regarding housing development to the rear of 1-2 Barton Cottages in High Flatts, submitted by the local planning authority.

**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 Examination in Public began in October 2017. 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 of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

## **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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



## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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



## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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Originator: Louise Bearcroft

Tel: 01484 221000

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## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

Subject: Planning Application 2017/93319 Erection of 6 apartments rear of, 8, Crowlees Road, Mirfield, WF14 9PJ

#### APPLICANT

Property Enquiries Ltd

#### DATE VALID

26-Sep-2017

#### TARGET DATE

21-Nov-2017

#### EXTENSION EXPIRY DATE

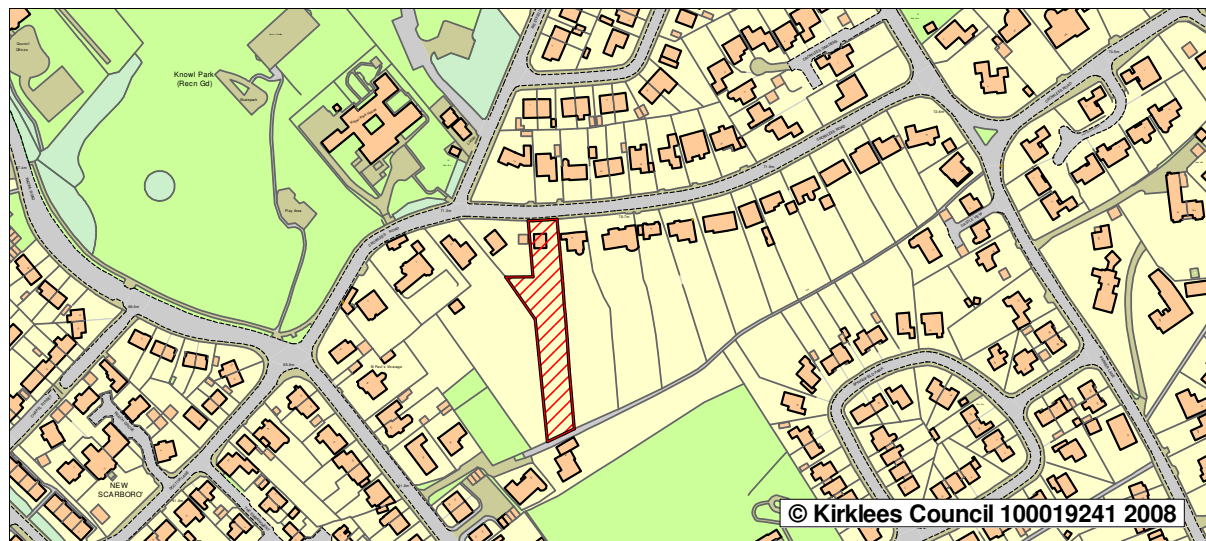
31-Jan-2018

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Mirfield Ward**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE refusal of the application and the issuing of the decision notice to the Head of Strategic Investment in order to:**

- 1. Await the expiry of the amended plans publicity on 19<sup>th</sup> January 2018.**

**Provided that there are no new material considerations raised, determine the application on the following reasons for refusal.**

**Refusal**

**1. The proposed apartment block would be out of character along Crowlees Road being substantially larger in scale and massing than neighbouring properties which flank the site. The building would dominate the site and surrounding area, and the difference in land levels between the highway and the garden area is not sufficient to mitigate against the visual impact. Likewise the use of a dual pitch roof and dormers on the front elevation does not sufficiently alleviate the dominating height and mass of the building. The requirement for a proposed parking court to the front of the building would also be out of character with neighbouring properties which have extensive undeveloped garden areas. The proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development. As such, the development would not achieve good design because it does not seek to promote or reinforce local distinctiveness, or respond to the local character of the area. To permit the development would be contrary to Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Publication Draft Local Plan, as well as the aims of the National Planning Policy Framework.**

**2. The proposal would lead to an intensification of use of the access for both vehicular and pedestrian traffic and the application fails to illustrate adequate vehicular visibility splays for the safe and efficient use of the proposed access. To permit the development without providing adequate visibility, taking into account the increase in traffic movements which would occur, would not be in the interest of highway safety. As such, the proposal would be contrary to Policies D2 and T10 of the Kirklees Unitary Development Plan which states that highway safety should not be prejudiced and that new development will not normally be permitted if it will create or materially add to highway safety.**

**3. The proposed apartment block by reason of its footprint and height would have a detrimental impact on the residential amenity of occupiers of neighbouring properties which flank the site. The proposed apartment block would be overbearing leading to a detrimental loss of outlook to neighbouring occupants to the north and north-west of the site, and would result in a detrimental loss of privacy to their garden areas. To approve the application would be contrary to policy D2 of the Kirklees Unitary Development Plan which stipulates development should protect the residential amenity of neighbouring residential properties.**

## **1.0 INTRODUCTION:**

1.1 The application seeks planning permission for the erection of a block of six apartments in the rear garden area of No.8 Crowlees Road. It is intended the dwellings would be restricted to occupiers aged 60 and over. It is considered the proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development. The application also fails to illustrate acceptable visibility splays for the safe and efficient use of the proposed access and taking into account the increase in traffic movements which would occur, this would not be in the interest of highway safety. In addition the proposed apartment block by reason of its footprint and height would also have a detrimental impact on the residential amenity of occupiers of neighbouring properties. It is acknowledged the proposal could meet the accommodation needs of persons aged 60 and over, however this does not lend sufficient weight to outweigh the harm which would arise.

1.2 The application was referred to Heavy Woollen Sub Committee at the request of Councillor Vivien Lees-Hamilton as detailed below:

*Regarding the above planning application, I have been in several talks over many months regarding this issue. If you are minded to refuse this application I should like to request that the application be heard at Heavy Woollen Planning Committee and would also request a site visit. Mirfield has a great need for this type of accommodation.*

*I do believe that this development is sustainable and has adequate parking facilities. The development sits in a large plot of land and we have need of such adaptable accommodation in the Mirfield area.*

1.3 The application was deferred from the 9<sup>th</sup> November 2017 meeting to allow negotiation to take place between officers and the applicant regarding a revised scheme. The applicant has submitted a revised block plan showing a revision to the access, this shows a repositioned access point onto Crowlees Road and includes details of swept path analysis of access and egress from the off-street spaces and swept path analysis of access and egress by a supermarket-style delivery vehicle. Although Highways DM welcomes the improvements made to the access, the sight line to the right remains below standard and taking into account the proposal would lead to an intensification of use of the access for vehicular and pedestrian traffic it is considered it has failed to demonstrate adequate vehicular visibility splays for the safe and efficient use of the access. To permit the development without providing

adequate visibility, taking into account the increase in traffic movements which would occur, would not be in the interest of highway safety.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises the garden area of No.8 Crowlees Road at Mirfield. The garden area is predominately grassed with some former footings, now largely overgrown, pertaining to a previous planning approval for the erection of 1 no. detached dwelling which has never been built. In the southern end of the garden is a wooded area with mixed deciduous and coniferous trees protected by a group Tree Preservation Order. Public footpath MIR/53/100 follows a route to the far south of the site. The site is bordered by neighbouring properties and their amenity spaces to the south, east and west. The site is unallocated on the Kirklees Unitary Development Plan Proposals Map.

## **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for the erection of a block of six apartments in the rear garden area of No.8 Crowlees Road. It is intended the dwellings would be restricted to occupiers aged 60 and over.
- 3.2 The apartment block would be three storeys in height with a total height of 10.3 metres to the ridge. The design of the block proposes a dual pitched roof with three dormers on the front elevation. Habitable room windows are proposed on the front and rear elevations. On the application form it states the proposed walling materials will be a mix of brick and stone, although the proportions of each are not detailed on the elevational drawings. It is proposed the roof would be constructed of concrete roof tiles.
- 3.3 It is proposed to widen the existing vehicular access off Crowlees Road and construct a parking court to the north of the building with seven parking spaces.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2010/90508 – Outline application for residential development – Withdrawn
- 2011/92144 – Outline application for erection of detached dwelling – Conditional Outline Permission
- 2012/91218 – Reserved Matters application for erection of detached dwelling – Approval of Reserved Matters
- 2012/93126 – Works to TPO(s) 01/12 – granted
- 2014/90203 – Discharge of conditions on previous permission 2011/92144 for outline application for detached dwelling
- 2014/90201 – Discharge of Condition(s) on previous permission 2014/90203 for reserved matters application for erection of detached dwelling – Withdrawn
- 2014/93042 – Works to TPO(s) 01/12 – Withdrawn

2015/90155 – Works to TPO(s) 01/12 – Granted

2015/90362 – Erection of 6 age restricted apartments – Withdrawn

2017/91953 – Erection of 6 apartments – Refused

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The application was deferred from the 9<sup>th</sup> November 2017 meeting to allow negotiation to take place between officers and the applicant regarding a revised scheme. The applicant has submitted a revised block plan showing a revision to the access, this shows a repositioned access point onto Crowlees Road and includes details of swept path analysis of access and egress from the off-street spaces and swept path analysis of access and egress by a supermarket-style delivery vehicle.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. 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 of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

- 6.2 The application site is unallocated on the UDP proposals map as well as on the Draft Local Plan.

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

**D2** – Unallocated Land  
**BE1** – Design principles  
**BE2** – Quality of design  
**BE12** – Space about buildings  
**T10** – Highway Safety  
**NE9** – Retention of mature trees

- 6.4 Kirklees Draft Local Plan

**PLP1** – Presumption in favour of sustainable development  
**PLP2** – Place shaping  
**PLP 11** – Housing Mix and Affordable Housing  
**PLP 24** – Design  
**PLP 33** – Trees

6.5 Supplementary Planning Guidance / Documents:

Mirfield Design Guidance

6.6 National Planning Policy Framework:

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

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was originally advertised by site notice and press notice. As a result of the publicity fifteen objections were received. The concerns raised are précised below:

**Highway Safety**

- The proposed apartments will most likely be occupied by couples downsizing. It is unlikely nine car parking spaces will be sufficient to avoid increased on-street parking on Crowlees Road.
- Parking is restricted to permit holders during daylight hours. Concerned over-sixties residents will be visited by relatives in evenings and weekends. This will lead to increased congestion on a well-used link between Sunny Bank/Dunbottle and the town centre.
- Highways Services found the previous proposal ‘unacceptable’ as the development would be in excess of the normal carry distance/fire hose distance and did not have required sight lines of 2.4m x 43m in both directions along Crowlees Road. It concluded that the proposal was ‘prejudicial to highway’ safety.
- The traffic problems in this area, particularly with it being in close proximity to Castle Hall School as well as the junction with Westfields Road are well known and will be exacerbated by the development.
- The plans show nine parking spaces for six apartments (twelve residents). The additional traffic (plus visitors) will cause congestion and significant safety concerns to Crowlees Road.
- Compared to the single dwelling for which outline permission was given in 2011, drainage, refuse disposal and vehicular use are greatly magnified, with up to 9 times as many residents’ cars, visitors, deliveries etc. The access is extremely narrow for large vehicles including emergency vehicles and cannot be extended.
- A refuse area is shown near the footpath on Crowlees Road further restricting access. Will this be visible? Are elderly residents intended to walk uphill to this area with their waste? Are these bins to stand on the pavement on collection day? This is unclear.
- Vehicular and pedestrian traffic on Crowlees Road, whilst generally moderate, is heavy during the morning and late afternoon/early evening particularly as pupils go to and leave Castle Hall Academy and Crowlees Primary School. Construction would severely compound problems. Lorries have struggled to reverse into and exit from the site, temporarily blocking the road and pavements and nearly touching the wall at the front of No. 21. What happens to the existing tenants’ two cars?



- Potential for a possible 12 more vehicles coming out of the access which is currently used by No.8 Crowlees Road who have three vehicles parked in the drive.
- Query whether the access is wide enough to take two cars side by side and concerns about additional traffic queuing on the road.
- The reference to traffic movements being less than that of a 5 bedroom family dwelling does not make sense. A family house is just 1 family, a block of 6 apartments will be occupied by 6 individual families.
- The access will be dangerous watching out for people at number 8, looking for pedestrians on the road and moving traffic on a blind bend. This is a busy road with the main routes to 2 local schools.
- The properties can't be serviced by dustbin waggon / ambulances without putting residents at number 8, pedestrians and oncoming traffic at risk. Bins near the road will cause blind spots, and pedestrians to walk in the road.
- The traffic along Crowlees Road is a concern especially at peak times, as motorists use Crowlees Road as a 'rat run' via Parker Lane and Doctor Lane, to avoid congestion through Mirfield. There are no provisions for visitor parking, which would result in visiting cars parking on Crowlees Road. Any on-road parking would violate parking restrictions as well as causing a danger to drivers and pedestrians.
- The single width access is likely to result in stationary vehicles reversing and turning on to the road. The road provides pedestrian access to schools. Queuing and stationary traffic would present a hazard to children.
- For older, retired occupants there will be an increased need for care staff and/or extended family to attend to their needs. It is unreasonable to assume that care workers/family would not need access at peak hours. Parking needs of any visitors are not adequately accommodated.
- The increase in traffic will present an unacceptable hazard to school children. The access allows only for single file traffic. This will result in queues on a busy road.
- Crowlees has an extended peak hour during term time; it supports commuters and is on the main route to two schools. It is used as an alternative route when there is heavy traffic on Huddersfield Road.
- It is probable occupants in their sixties will be working and need private transport. This flow of traffic would be at peak times.

### **Visual Amenity**

- The development is completely out of scale by reason of its size and shape to adjoining properties. it is over dominant
- The building design is incompatible, resembling an institutional building totally out of character in this location.
- The proposal is an overdevelopment and a "garden grab", a practice discouraged by the NPPF. The visual impact is at odds with existing development on Crowlees Road, which is predominantly detached houses built in the 1930s. The development does not have the general aspect of a dwelling, appearing like a professional facility such as a health or day care centre, or managed office space. This is exacerbated by the cramming of nine car parking spaces across the entire front of the building and the need for a separate waste storage area. The frontage will be clearly visible to anyone moving along Crowlees Road due to the wide gap between number 8 and number 10.

- A three storey apartment block would appear incongruous considering that the nearby properties are either two storey detached properties or bungalows
- An apartment building is not appropriate to the setting on Crowlees road; especially as there no other apartments buildings of this type on this road. the large building is oversized for the plot and is taller than previously granted.
- The proposed building is visually completely out of keeping with the neighbourhood.
- There are no other buildings like this on Crowlees Road, and the site and apartments are clearly visible from both the road and footpath and from the public footpath that runs to the rear.
- The cumulative effect of high density building on this scale in back gardens in this area should be considered and impact minimised by building a single family dwelling.
- The property will be a total eye sore out of character with all other properties. The build cannot be screened.
- The development is totally out of keeping with the other properties in this part of Crowlees Road. All other properties on this road are detached or semi-detached one or two storey houses, this type of multiple accommodation structure is totally incongruous with the rest of the road.
- The proposed development is completely out of context with the existing topography of Crowlees Road, especially in that this large 3 story block would rise above the tree line.
- The south side of Crowlees Road consists of single family detached homes with a wide open aspect. The view is a key feature maintained by covenants on properties which prohibit boundary fencing.
- The rear gardens have public amenity value. The tree preservation orders endorse this.
- Gardens of existing properties are quiet and not overlooked. The proposed development will irrevocably modify the character of the street.
- A block of flats built beyond the recognised building line will have an effect on view and character of the road. The development is a full 3 stories high and is not consistent with the other properties and will change the character of the road significantly.
- A development of this size and density over develops the rear garden.

### **Residential Amenity**

- Its 6 dining rooms and 6 kitchens directly overlook residents rear gardens and their habitable rooms.
- The 9 car parking spaces are located immediately to the rear of the Crowlees properties. This is unreasonable as undoubtedly disturbance will be created at all times.
- Nine or more vehicles sharing a single driveway with a further two at the existing property, together with up to twelve additional residents will lead to an increase in general noise and disturbance to the adjacent and facing properties and their previously peaceful garden spaces.
- The three story structure will dominate the largely undeveloped garden space to the rear of Crowlees Road, overlook currently private garden space and obscure views over the valley enjoyed by several existing properties. It will also overshadow them, being to the south of the existing development. The density of the development is too high.

- The complete rear garden of the property at 6 Crowlees Road will be overlooked by residents at the proposed apartments, leaving no privacy for the occupants of 6 Crowlees Road
- It will overlook No.4a Crowlees Road and have a negative impact upon privacy and access to light.
- This development would result in a loss of privacy to all the properties on the same side of the road.
- The easterly facing windows would overlook and spoil the privacy of the private balcony of No.16 Crowlees Road.

### **Other Matters**

- It is virtually identical to the previously rejected applications.
- Do not object to the erection of a single family dwelling but robustly oppose the erection of an apartment dwelling.
- The Coal Authority deemed the development to be in a high risk area; and numerous local residents raised strong objections.
- Construction and operation will negatively impact on the local environment, pedestrian and traffic issues and local services.
- Cannot see that the three storey block could be built on previously constructed, weathered footings and question their structural suitability.
- How many apartment sites do we need in Mirfield? There are at least four residential homes for elderly, sheltered housing and we have lost count of the number of new apartments.
- If there was no demand from over 60s, it would be difficult to prevent the applicant applying to remove the age restriction as the applicant could dispute they were being stopped from earning.
- Concern about setting a precedent for development in the back gardens of neighbouring properties.
- There is a legally binding covenant on the gardens to protect the area and residents and the plots of land were sold in accordance with this agreement so the owner has signed a contract. Any building other than to the main building at number 8 will be an infringement.
- Local services, already at capacity, will have to be dug up causing issues with traffic and danger to school children and pedestrians.
- A protection order was in place over the wooded area that once covered the garden. These trees were all felled upon the strict agreement that these would be re-planted. These trees have not been re-planted and the applicant is in breach of this agreement.
- Surface water from gardens drains into the school field. In serious rains this can cause flooding in neighbouring gardens and to the footpath. Any changes to flows could potentially put neighbours at risk of flooding.
- This is a coal mine area and it is not safe to build on a site that potentially has mines underneath.
- Concern about the impact on wildlife.
- The application states surface water drainage will be directed to the existing storm drain. The drains in front of 16 Crowlees Road regularly overflow in heavy rain which results in water running down the driveway and flooding the garage. Number 14 is also affected, the basement floods and the water has to be pumped out by the council.

- The existing gardens on this side of Crowlees Road are subject to a restrictive covenant dated 29th September 1961, (an original copy can be provided on request). This states that purchasers must 'keep the plot of land...open and unbuilt upon'. These plans require close scrutiny in respect of this covenant
- It is unclear how occupancy based on an age limit would be controlled/enforced. The layout would cater for the change of use of the dining room and/or lounge to a further bedroom.

**Mirfield Town Council** – Cllr Lees-Hamilton Proposed MTC uphold the previous motion in support of 2017/91953 and the Clerk resend supporting comments to Kirklees in favour of 2017/93319. Cllr Bolt Proposed Mirfield Town Council welcomes the opportunity for homes for life to be built in Mirfield, giving elderly Mirfield residents the option of living within the local community. MTC supports and endorses the application which would see elderly residents downsizing and releasing 6 dwellings onto the housing market.

## 7.2 Amended Plans Publicity

The amended block plan has been re-advertised for seven days to expire on 19<sup>th</sup> January. As a result of this publicity two representations have been received to date. Any further representations received will be reported to Members in the update.

The main concerns raised are as follows:

- There are no material changes to the proposed development therefore all original objections stand.
- The increase in traffic cannot be sustained by Crowlees Road. The access allows only for single file traffic which will result in queues forming on a busy road, a hazard to school children walking to nearby schools.
- The amendments may increase visibility but will not eliminate traffic congestion and risk to pedestrians, the risk may be increased if changes result in a reduction of pavement.
- Crowlees has an extended peak hour during term time; it supports commuters and is on the main route to two schools. Crowlees road is used as an alternative route when there is heavy traffic on Huddersfield Road.
- In view of the increased pension age it is probable occupants in their sixties will be working and need private transport at peak times.
- It is unclear how occupancy based on an age limit would be enforced particularly when property is bequeathed from one generation to another. The layout would cater for the change of use of the dining room and/or lounge to a further bedroom. It would exacerbate traffic issues.
- For older, retired occupants there will be an increased need for care staff and/or extended family to attend to their needs. It is unreasonable to assume they would not need access at peak hours.
- Parking needs of occupants and or any visitors to the site are not adequately accommodated. Please keep our roads and children safe.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

- **K.C Highways Development Management** – Object
- **The Coal Authority** – No objections

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

- **K.C Arboricultural Officer** – No objections
- **Public Rights of Way** – No objections

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Impact on Protected Trees
- Health and Safety Matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 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. The development plan is made up of the saved policies within the UDP and the policies set out earlier in the report are relevant to the determination of the application. An assessment of other 'material considerations' and their consequences is also required in order to weigh any social, environmental, resource or economic considerations resulting from the development.
- 10.2 The site has no specific allocation in the UDP. Policy D2 of the UDP states "planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.
- 10.3 Looking at the principle of housing development on this site, this is a private garden space where planning permission has previously been granted for the erection of a detached dwelling, pursuant to application Ref 2011/92144 (outline application) and 2012/91219 (reserved matters).

- 10.4 The principle of housing development in the rear garden area of this property may be acceptable in accordance with the sustainability principles of the NPPF and well as policy PLP1 of the PDLP. However, the proposal to erect an apartment block of the size proposed for 6 dwellings in the rear garden area of this property, which would be in-keeping with the layout of the surrounding area, relate satisfactorily with surrounding properties and have suitable access arrangements, is unlikely to be achievable.

#### Urban Design issues

- 10.5 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. UDP policy D2 seeks to avoid an overdevelopment of a site and policy BE1 stipulates all development should be of good quality design which promotes a healthy environment, including space and landscaping about buildings. Paragraph 60 of the National Planning Policy Framework (NPPF) stipulates that planning policies and decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however, proper to seek to promote or reinforce local distinctiveness. Policy PLP24 of the PDLP is consistent with the above.
- 10.6 The site is bordered by residential development to the north, east and west. Crowlees Road comprises a mix of detached and semi-detached properties, single storey and two storey properties. The properties to the south of Crowlees Road are predominately detached properties with expansive garden areas.
- 10.7 The proposal seeks permission for infill residential development, to introduce into the rear garden area an apartment block of 6 dwellings.

#### *Background / Summary of Previous Applications and Enquiries:*

- 10.8 The site has been subject to a refused application. Subsequent to this there was a previously withdrawn application for six apartments Ref 2015/90362, and a subsequent pre-application enquiry. Officers concerns at the time of the 2015 application were that the proposed design and scale of the apartment block, by virtue of its height, bulk and overall massing, would result in an overly dominant feature which would fail to respect the scale, massing, density and layout of surrounding development. As such, the development would not achieve good design because it does not seek to promote or reinforce local distinctiveness, or respond to the local character of the area. There was also concern there would be insufficient visibility when exiting the site onto Crowlees Road and that the proposal failed to demonstrate adequate internal turning for service, refuse and fire vehicles. The application was proposed to be refused, but was withdrawn by the applicant.
- 10.9 In July 2016 Orange Design Studios on behalf of the applicant engaged with Council officers regarding a revised scheme for six apartments. The advice given by officers was that the alterations that had been made were not sufficient to address previous officer concerns and the applicant needed to look at further reducing the bulk and massing of the building.

### *Current Scheme*

- 10.10. The proposal is for the erection of six (age restricted 60+) apartments with seven associated parking spaces. The proposed building would be three storeys in height. It is noted that the scale of the proposed building has not been reduced following the advice given by officers in July 2016.
- 10.11 In support of the application, the applicant has made the following points:
- The apartments are to be occupied by people aged 60. The apartments would meet Homes for Life Standard.
  - The scale, height and location is comparable with the approval for a detached dwelling, and provides the same two storey development with rooms in the roof space. The scale of the approved dwelling provides accommodation for a three storey five bedroom house with a dormer.
  - The proposed development is for 6 no 1 bed apartments to be occupied by people aged 60 and over and the level of accommodation will be comparable with that of a 5 bed family.
  - Nearly 21% of the population in the Mirfield Ward is aged 65 plus.
  - The apartments have been designed with advice from Kirklees Accessible Homes team
  - Retirement Homes are in short supply in Mirfield. The development would meet the long term needs of an elderly population wanting to downsize, providing quality accommodation in a sustainable location close to doctor's surgeries, Mirfield town centre and all its amenities.
- 10.12 The applicant makes two key points, firstly that the development is comparable to the previously approved dwelling, and secondly that it would provide much needed accommodation for the elderly population in Mirfield.
- 10.13 In respect of the first point, the dwelling previously approved on the site was large in scale (five bed) and occupied a similar footprint within the site. The approved dwelling was two storeys in height, with additional accommodation in the roof space, to be lit by roof lights on the front elevation and dormers to the rear. Externally a detached double garage was proposed.
- 10.14 Existing development to the south of Crowlees Road is characterised by detached dwellings with extensive garden areas. Neighbouring properties off Crowlees Road predominantly comprise two storey and single storey detached dwellings. The proposed apartment block would have a similar footprint to the previously approved dwelling. It would however be of a greater scale and massing being three storeys in height. The proposed apartment block would be out of character along Crowlees Road being substantially larger in scale and massing than the existing properties, and that of neighbouring properties which flank the site. The building would dominate the site and surrounding area, and the difference in land levels between the highway and the garden area is not sufficient to mitigate against the visual impact. Likewise the use of a dual pitch roof and dormers on the front elevation does not sufficiently alleviate the dominating height and mass of the building. The requirement for a proposed parking court to the front of the building would also be out of character with neighbouring properties which have extensive undeveloped garden areas. There are no three storey buildings or apartment blocks within the vicinity of the site, and it is considered the proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development.

- 10.15 The second key point raised is that the development would provide much needed accommodation for the over 60s. The Kirklees Market Position Statement (May) highlights that there is a growing demand for older people's accommodation, and it is acknowledged the proposed development may meet the needs of an older population. This does not however lend sufficient weight to outweigh the harm which would arise from the proposed development. The applicant has not attempted to revise the scheme following the previous refusal and it is considered the proposed development would have a detrimental impact on visual amenity and would fail to accord with policies BE1 and BE2 of the UDP, policy PLP24 of the PDLP, and the aims of the NPPF.

#### Residential Amenity

- 10.16 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy D2 of the UDP stipulates that development should protect the residential amenity of neighbouring residential properties and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties to the site which would be affected by the development include No.4a, No.6, No.8 and No.10 Crowlees Road.
- 10.17 In respect of the impact on the existing property No.8 Crowlees Road, this is a two storey detached property. There would be a distance of over 21 metres from the proposed front elevation of the apartment block to the existing rear elevation of this neighbouring property, which meets with the requirements of policy BE12 of the UDP for directly facing habitable room windows. There would however be a loss of outlook and furthermore, to order to facilitate the proposed development, it is proposed to significantly reduce the external amenity space available to serve No.8. There is also the potential for the remainder of this garden area to be overlooked from the proposed upper floor windows of the apartment block.
- 10.18 In respect of the impact on No.10 Crowlees Road this is a two storey detached property. There would be a distance of over 21 metres to this property in accordance with policy BE12 and furthermore there is a substantial hedge screen along the shared boundary which would mitigate against possible overlooking and overshadowing which would arise from the scale and height of the building and its proximity to the boundary. Subject to this screen being retained it is not considered there would be an undue detrimental impact on the amenity of occupiers of this neighbouring property.
- 10.19 In respect of the impact on No.6 Crowlees Road this is a two storey detached property whose rear elevation fronts south-east towards the application site. There would be a distance of 30 metres to this neighbouring property. The proposed first floor and second floor apartment windows have the potential to overlook part of the private amenity space of this neighbouring property leading to a loss of privacy that could not be mitigated against though boundary screening.



- 10.20 In respect of the impact on No.4a Crowlees Road this is a two storey detached property located to the west of the application site. Due to the orientation of this property it is considered the proposed apartment block would not have an undue impact on the amenity of the occupants of this neighbouring property through either overshadowing or loss of privacy.
- 10.21 The proposal will have the greatest impact on the amenity of occupiers of No.6 and No.8 Crowlees Road, arising from loss of outlook and the potential for overlooking of private amenity spaces. The proposed apartment block by reason of its height having three floors of accommodation and proximity to the boundaries would have a detrimental impact on the amenities of the occupiers of neighbouring property contrary to policy D2 of the UDP.

#### Highway issues

- 10.22 UDP Policy T10 sets out the matters against which new development will be assessed in terms of highway safety. Access to the site is proposed off Crowlees Road.
- 10.23 The application is accompanied by a supporting statement that purports to suggest that the likely traffic generation would be less of that of the approved detached single dwelling. There is no evidence presented to support this assertion and Highways Development Management would disagree that this would be the case. There is no empirical evidence to suggest that persons over the aged of 60 would not travel at peak times.
- 10.24 The design of the access has been amended since the application was deferred from the 9<sup>th</sup> November 2017 meeting, and it has been widened to the front of existing property No.8 Crowlees Road. The internal layout has also been amended with the number of off-street parking spaces reduced from nine to seven. Details of swept path analysis of access and egress from the off-street spaces, and details of swept path analysis of access and egress by a supermarket-style delivery vehicle has also been provided.
- 10.25 Although Highways DM welcomes the improvements made to the access, the sight line to the right remains below the standard recommended in Manual for Streets. Sight lines of 2.4m x 20.1m are achievable if you take a measurement from 500mm into the carriageway, but this would only be acceptable for 85<sup>th</sup> percentile traffic speeds of 19mph. Taking into account the proposal would lead to an intensification of use of the access for vehicular and pedestrian traffic it is considered it has failed to demonstrate adequate vehicular visibility splays for the safe and efficient use of the access. To permit the development without providing adequate visibility, taking into account the increase in traffic movements which would occur, would not be in the interest of highway safety. The proposal is considered contrary to the aims of policies D2 and T10 of the UDP. The proposal is unacceptable in this regard due to the detrimental impact upon the safety and efficiency of the proposed access for all users.

### Drainage issues

- 10.26 Concerns have been raised in the representations received regarding existing flooding incidents on Crowlees Road. The proposal is to drain foul water and surface water by mains sewer. This is the least sustainable option and no evidence has been provided to demonstrate why sustainable methods of surface water drainage have not been explored. As the proposal is not considered to be acceptable in respect of other matters, this matter has not been explored further.

### Impact on Protected Trees

- 10.27 In the southern end of the garden is a wooded area with mixed deciduous and coniferous trees protected by a group Tree Preservation Order. The arboricultural officer has assessed the plans and considers the proposals will not adversely affect the adjacent protected trees. There are no objections to the proposal in respect of the protected trees and the proposal is considered to be in accordance with the aims of policy NE9 of the UDP.

### Health and Safety Matters

- 10.28 The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered.
- 10.29 The application is accompanied by a brief Coal Mining Risk Assessment Report (27 March 2015, prepared by Haigh Huddleston & Associates Ltd). The Coal Mining Risk Assessment Report correctly identifies that the site has been subject to past coal mining activity. In addition to the mining of a deep coal seam, The Coal Authority's information indicates that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past and that unrecorded, underground coal workings are likely to be present at shallow depth at the northern end of the site.
- 10.30 The Coal Authority considers the Coal Mining Risk Assessment Report has been informed by a limited range of information in the form of a Coal Authority Mining Report and the Coal Authority Interactive Map. Based on a review of these sources of mining information, the Report notes that it is possible that there is coal at shallow depth beneath the site that may have been worked historically. Accordingly, the Coal Mining Risk Assessment Report makes appropriate recommendations for the carrying out of an intrusive borehole investigation to ascertain the ground conditions and to establish the presence or otherwise of mine workings. If shallow mine workings are encountered, the Report recommends the installation monitoring stations to monitor mine gas.
- 10.31 The Coal Authority note that the applicant should ensure that the exact form of any intrusive site investigation, including the number, location and depth of boreholes, is designed by a competent person and agreed with The Coal Authority's Permitting Team. The findings of these intrusive site investigations should inform any mitigation measures, such as grouting stabilisation works, foundation solutions and gas protection measures, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

- 10.32 In conclusion the Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority recommends a condition requiring that the site investigation works be undertaken prior to commencement of development. If the development was considered to be acceptable in all other regards, coal mining legacy issues can be addressed by condition.

#### Representations

- 10.33 Fifteen objections have been received. In so far as they comments raised have not been addressed above:
- 10.34 Concern over an increase in noise and disturbance to adjacent properties and their garden spaces  
**Officer response:** The proposal will result in a level of disturbance that does not currently exist as a result of the comings and goings of residents and visitors. The proposal is for residential development however and it is not considered there would be an undue disturbance to neighbouring properties arising from vehicular and pedestrian movements.
- 10.35 The Coal Authority deemed the development to be in a high risk area.  
**Officer response:** The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report submitted; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority raises no objections subject to the inclusion of a condition requiring these site investigation works prior to commencement of development.
- 10.36 Cannot see the new block can be built on previously constructed, weathered footings and question their structural suitability.  
**Officer response:** This is a building regulations matter.
- 10.37 If there was no demand from over 60s, it would be difficult to prevent the applicant applying to remove the age restriction as the applicant could dispute they were being stopped from earning.  
**Officer response:** Any application to remove such a restriction would be assessed on its own merits.
- 10.38 Concern about setting a precedent for development in the back gardens of neighbouring properties.  
**Officer response:** Every planning application is assessed on its own merits.
- 10.39 There is a legally binding covenant on the gardens to protect the area and residents and the plots of land were sold in accordance with this agreement so the owner has signed a contract. Any building other than to the main building at number 8 will be an infringement.  
**Officer response:** The grant of planning permission does not override any restrictive covenants which are a separate matter not relevant to the determination of this application.

10.40 Local services, already at capacity, will have to be dug up causing issues with traffic and danger to school children and pedestrians.

**Officer response:** This is not a material planning consideration.

10.41 A protection order was in place over the wooded area that once covered the garden. These trees were all felled upon the strict agreement that these would be re-planted. These trees have not been re-planted and the applicant is in breach of this agreement.

**Officer response:** This refers to Tree Works application Ref 2015/90155 and to land to the south of the proposed siting of the apartment block. This will be enforced through separate process and is not a material consideration to the assessment of this application.

10.42 This is a coal mine area and it is not safe to build on a site that potentially has mines underneath.

**Officer response:** A Coal Mining Risk Assessment Report has been submitted. The Coal Authority concur with the recommendations of the report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

10.43 Concern about the impact on wildlife.

**Officer response:** The site has no known biodiversity constraints.

## CONCLUSION

11.1 To conclude, officers appreciate that there is a need for the type of accommodation (restricted to occupiers aged 60 years and over) being proposed however, this needs to be carefully balanced against all material considerations. In this instance, for the reasons set out in this assessment, the significant harm that would be caused to visual and residential amenity, as well as in relation to highway safety, are not, in the view of officers, outweighed by the benefits of providing this type of accommodation.

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

## Background Papers:

Website link

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f9331>

Certificate of Ownership – Certificate A signed and dated 05/09/2017

Link to previously refused application: 2017/91953

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91953>

## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93932 Erection of single storey rear extension and ramp (within a Conservation Area) 15, Talbot Street, Batley, WF17 5AW**

### APPLICANT

M Loonat

### DATE VALID

21-Nov-2017

### TARGET DATE

16-Jan-2018

### EXTENSION EXPIRY DATE

31-Jan-2018

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

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

### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Batley East**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION: APPROVAL**

**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 the Heavy Woollen Planning Sub Committee as the applicant is related to a local ward Councillor. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is 15, Talbot Street, Batley. It is a two-storey, mid terraced house dating from the Victorian era. The external walls are natural stone and it has a dual pitched roof surfaced in slates.
- 2.2 It fronts directly onto the road with several steps up to the front door and several steps down to the basement level. To the side is a passageway at ground floor level leading to yard at the back containing small outbuilding.
- 2.3 The back yard is enclosed by single storey, flat roofed extensions to the neighbouring properties and a wall approximately 1.8m high on the rear boundary of the site.
- 2.4 The surrounding area is residential in nature with mainly terraced and back to back houses lining both sides of Talbot Street, with many extended in various ways.
- 2.5 The application site and its surroundings are within Station Road, Batley Conservation area.

**3.0 PROPOSAL:**

- 3.1 Planning permission is sought to erect a single storey rear extension and ramp (within a Conservation Area).

- 3.2 It would have a rectangular footprint 4.9m projection x 3.3m wide. Designed with a mono-pitched roof approximately 3.1m to eaves level and 4.6m overall height (adjacent to the mutual boundary with neighbouring property at 13, Talbot Street).
- 3.3 It would be positioned to the side of the back door, with ramp up to the threshold.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 None at the application site.

At neighbouring property 13, Talbot Street:

01/91700 – erection of single storey kitchen, w c / shower extension. Conditional full permission.

At neighbouring property 17, Talbot Street:

17/93890 – erection of single storey rear extension (within a conservation area). Pending determination.

07/92712 – erection of single storey extension (within a conservation area). Conditional full permission.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 No negotiations have taken place during the course of this application.

#### **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 Examination in Public began in October 2017. 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 of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The application is unallocated on the Kirklees Unitary Development Plan proposals map although it is within the designated Station Road, Batley Conservation Area. This is also the case on 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  
      **BE5** – Preservation and enhancement of conservation areas  
      **BE13** – Extensions to dwellings (design)  
      **BE14** – Extensions to dwellings (scale)

## **Kirklees Publication Draft Local Plan (PDLP):**

- 6.3    **PLP1** – Presumption in favour of sustainable development  
      **PLP2** – Place shaping  
      **PLP21** – Highway safety and access  
      **PLP24** – Design  
      **PLP35** – Historic environment

## **National Planning Policy Framework (NPPF):**

- 6.4    Core principles  
      **Chapter 7** – Requiring good design  
      **Chapter 12** – Conservation and enhancement of the historic environment

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

- 7.1    As a result of the application publicity, two letters of representations have been received. A summary of the concerns is as follows:
- Overshadowing to properties at the rear.
  - The proposal will block their view.
  - The proposal will cause overcrowding and is over development of the site, causing obstruction.
  - Overlooking yard from windows in the side elevation.
  - Railings are in the way of a pillar they proposed to erect.
  - Surface water drainage will be towards their property

## **8.0 CONSULTATION RESPONSES:**

- 8.1    **Statutory:**  
      None

- 8.2    **Non-statutory:**

**KC Conservation and Design:** Proposals are considered to preserve the character of the conservation area, thereby compliant with relevant policies.

## **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 and within the Station Road, Batley Conservation Area on the UDP proposals map. As such, Policies D2 and BE5 are relevant. Policy D2 states that development can be supported provided it does not prejudice a certain set of criteria including residential and visual amenity, highway safety, and the character of the surrounding area. Policy BE5 requires extensions to respect the architectural qualities of the surrounding buildings and materials of construction, and contribute to the preservation or enhancement of the character or appearance of the area. Policy PLP35 of the PDLF is also relevant, relating to the historic environment, as is national policy in chapter 12 of the NPPF which highlights the desirability of new development making a positive contribution to local character and distinctiveness.
- 10.2 In this instance the proposed single storey rear extension would be designed with a mono-pitched roof and external materials to match the existing. In addition numerous properties in the same row have a variety of extensions to the rear in various designs which fill, to a significant degree, their back gardens. Given these circumstances it is considered that the proposed extension would be in keeping with the design of the host dwelling and the character of the surrounding area.
- 10.3 As such the principle of the proposal is considered acceptable subject to compliance with residential amenity and highway safety matters.

### Urban Design issues

- 10.4 The site is in the Station Lane, Batley Conservation Area and the proposal seeks a single storey rear extension to a two-storey inner terraced property. The existing properties are built in natural stone and numerous other houses in the area have various extensions to the rear including those to either side of the application site which have single storey rear extensions.
- 10.5 The proposed extension is designed with a mono-pitched roof and abuts the boundary with 13, Talbot Street where there is a similar extension in red brick. It would fill approximately 2/3<sup>rd</sup> the width of the rear elevation and project to the back boundary wall. There would also be a ramp up to the back door.
- 10.6 Within the context of the surrounding area and given the use of matching external materials and sympathetic roof design, it is considered that it would respect the design features of the existing house and adjacent buildings. In addition in officers opinion it would retain the intrinsic value of the host dwelling and the original building remains the dominant element.
- 10.7 The proposal has also been assessed by the Council's Conservation and Design officers who consider that the proposal would preserve the character of the conservation area and recommend the use of conservation style roof lights.

- 10.8 With the inclusion of the recommended conditions, the proposal is considered acceptable from officers from an urban design and heritage perspective, compliant with Policies BE1, BE2, BE5 and BE13 of the UDP, Policies PLP1, PLP2, PLP24 and PLP35 of the PDLP, together with chapters 7 and 12 of the NPPF.

#### Residential Amenity

- 10.9 The impact of the development on residential amenity needs to be considered in relation to Policies D2 and BE14 of the UDP, Policy PLP24 of the PDLP, and a core principle of the NPPF.
- 10.10 In relation to the neighbouring property at 13, Talbot Street, the proposed extension would be close to the mutual boundary where there is the blank side elevation of an existing single storey extension with the same projection and similar overall height. Given these circumstances, it is thought that the proposal would have no significant detrimental impact upon the residential amenities of the occupiers of this neighbouring property.
- 10.11 In relation to the neighbouring property at 17, Talbot Street, the proposed extension would have a side elevation looking directly onto the facing side elevation of an existing single storey extension at 17, Talbot Street.
- 10.12 In terms of overshadowing and overbearing impact, the proposed extension is single storey and designed with a mono-pitched roof that slopes up and away from the elevation that faces 17, Talbot Street. In addition there would be a separation distance of approximately 3.6m between the facing elevations. Given these circumstances it is considered that this impact would be relatively limited.
- 10.13 In terms of overlooking, whilst the proposed extension would have windows (to a kitchen and shower) in its side elevation, the facing elevation of the existing extension at 17, Talbot Street is blank, and there would be a separation distance of approximately 3.6m. In this context, it is considered that the proposal would also have relatively limited impact on the privacy of the occupants of 17, Talbot Street.
- 10.14 In relation to 25, George Street, this neighbouring property is a 2-storey terraced house with single storey rear extension, located on land to the rear of the application site. Between its rear elevation and the back of the proposed extension is a narrow strip of land containing a shed.
- 10.15 In terms of overshadowing and overbearing, whilst the proposed extension would abut the boundary and would be higher than the existing boundary wall, it is a single storey extension which is less than the width of the house. In addition there would be a separation distance of around 7.0m between the rear of the proposed extension and facing elevation of a 5.7m extension to 25, George Street. As such it is considered that the impact would be relatively limited over and above that already created by the host dwelling, boundary wall and outbuilding (which is to be removed), or the shed which is on land in the intervening space.
- 10.16 In terms of overlooking, no openings are shown in the facing rear elevation and new openings could be controlled by condition.

- 10.17 No other properties would be affected by the proposed development.
- 10.18 In all, the proposal is considered satisfactory from a residential amenity perspective and would accord with the aims of Policy D2 of the UDP, Policy PLP24 of the PDLP, as well as one of the core principles of the NPPF.

#### Highway issues

- 10.19 The proposed extension is within the back yard of the dwelling and will not impact upon highway safety of the site, complying with Policy D2 of the UDP as well as Policy PLP21 of the PLDP.

#### Representations

- 10.20 Two representations have been received and both object to the proposal. The objections can be summarised and are addressed by officers as follows:

- Overshadowing to properties at the rear.

**Response:** The property directly at the back of the proposed development is a two-storey end terraced house with single storey extension at the back which projects around 5.7m and contains windows to kitchen and study. The proposed extension would also be single storey and positioned to the south east, maintaining a separation distance of around 7.0m between facing elevations. In the intervening space is a shed and some walls and fences compartmentalising the back garden.

The back boundary wall of the application site is around 2.0m high with a slightly higher outbuilding which is to be removed, and the neighbouring properties already have single storey rear extensions which abut their rear boundaries or are close to them.

Whilst the proposed extension would have some additional massing over and above the height of the existing boundary wall, given the circumstances described above, it is thought that the extra massing would have relatively limited overshadowing impact.

- The proposal will block their view.

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

- The proposal will cause overcrowding and is over development of the site, causing obstruction.

**Response:** Although the proposal will fill much of the ground area of the back yard at the application site, it is a single storey extension similar to others in the area. In these circumstances it would not amount to overdevelopment of the site and it would be unreasonable to recommend refusal on these grounds.

- Overlooking yard from windows in the side elevation.

**Response:** the proposed extension has two windows in the side elevation which faces onto the blank side elevation of an existing extension at 17, Talbot Street. These windows are to a shower room (which is likely to be obscurely glazed) and a kitchen (which is classed as non-habitable). There would be a gap of around 3.6m between the facing elevation and within this space narrow yard / access path around 1.6m wide adjacent to the side of the rear extension at 17, Talbot Street.

Whilst views from the proposed kitchen window would look onto the yard / access path, it is considered that in these circumstances the invasion of privacy would be relatively limited.

- Railings are in the way of a pillar they proposed to erect.

**Response:** The proposed railings to a ramp giving access to the back door of the application site would be within the red line boundary of the application site. Access rights would be a civil matter between the land owners.

- Surface water drainage will be towards their property

**Response:** The proposed extension is designed with a mono-pitched roof. Water run-off from the roof would be caught in the gutter and directed to a rain water down pipe close to the rear boundary wall.

### Other Matters

- 10.21 *Impact upon proposed extension at 17, Talbot Street* - The adjoining neighbouring property at 17, Talbot Street has submitted a planning application for a single storey rear extension (reference 2017/93890) which is currently pending determination. It would be a side extension to the existing single storey rear extension and form a canopy over yard / access path supported by two pillars.
- 10.22 When the two proposed applications are viewed together it appears that the two support pillars would be close to the mutual boundary with 15, Talbot Street and a proposed access ramp with railings. Each application is assessed on its own merits and it is considered that the proposed extension and access ramp at 15, Talbot Street would have no prejudicial impact upon the application at 17, Talbot Street. Each proposal is within the red line boundary of the respective application and any dispute over the position of the boundary or the position of railings or pillars would be a civil matter between the land owners.
- 10.23 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 Taking the above into account, the proposals are considered satisfactory from a visual and residential amenity perspective, as well as heritage and highway safety considerations.
- 11.2 The concerns raised in the representations have been carefully considered however, the planning application has been assessed against the relevant policies in the Unitary Development Plan, the emerging Publication Draft Local Plan and core planning principles of the NPPF and it is considered by officers that the application meets the requirements set out within the relevant policies and is therefore recommended approval.

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 would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year time period for commencement.
2. Development in accordance with the approved plans and specifications. materials to match those on the host dwelling.
4. Conservation style roof-lights.
5. No new window openings in the rear elevation of the proposed extension.

**Background Papers:**

Application and history file

Website link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93932>

Certificate of Ownership – Certificate A signed and dated 15/11/2017

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## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93890 Erection of single storey rear extension (within a Conservation Area) 17, Talbot Street, Batley, WF17 5AW**

### APPLICANT

Ebrahim Ismail Loonat

### DATE VALID

13-Nov-2017

### TARGET DATE

08-Jan-2018

### 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

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**Electoral Wards Affected: Batley East**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is reported to sub-committee following a request from Ward Councillor Mahmood Akhtar who states: *“As I understand there are concerns regarding the impact of the development on the amenities of the adjoining property in terms of overbearing and oppressive impact as well as potential overshadowing and I would like the members to visit the site and consider the proposal in terms of the impact on residential amenity”.*
- 1.2 Cllr Akhtar has also requested members visit the site to appreciate the impact upon the neighbouring property.
- 1.3 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Cllr Akhtar’s reason for making this request is valid having regard to the Councillor’s protocol for planning committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site, no.17 Talbot Street is a stone built mid-terraced dwelling. The front door of the property opens onto the back of the pavement and has a passage to the side on the ground floor. The dwelling has an existing single storey extension to the rear of the property, an outbuilding, and a very limited yard area to the rear.
- 2.2 The property is sited with the Station Road, Batley Conservation Area which is characterised by a combination of industrial buildings and terraces. There are similar terraced properties on both side of Talbot Street with small yard areas to the rear and many of the properties have existing single storey extensions.



### **3.0 PROPOSAL:**

- 3.1 The applicant is seeking planning permission to alter the roof over the existing extension and increase its width to incorporate a canopy. The width would be increased by 1.8m, to cover the entrance to the passage and the roof would be altered from a lean to roof form to a flat roof. The extension would be supported on stone columns.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 The host property:- 2007/92712 – erection of single storey rear extension – granted
- 4.2 The adjoining 15 Talbot Street has a current planning application pending consideration for a single storey rear extension with a ramp under application reference 2017/93932
- 4.3 The adjoining 19 Talbot Street has had a number of applications including 2003/94968 – erection of dormers approved, 2004/92980 – raising of the existing roof and formation of dormers refused and 2013/93500 – erection of single storey rear extension approved.

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 No negotiations have taken place during the course of this application.

### **6.0 PLANNING POLICY:**

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

The application site is unallocated but within the designated Station Road, Batley Conservation Area on the UDP proposals map. This is also the case of the PDLP.

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

- 6.2    **D2** – Unallocated land  
      **BE1** – Design principles  
      **BE5** – Development with a Conservation Area  
      **BE13** – Extensions to dwellings (design principles)  
      **BE14** – Extensions to dwellings (scale)  
      **T10** – Highway Safety  
      **T19** – Parking

## **Kirklees Publication Draft Local Plan (PDLP):**

- 6.3    **PLP1** – Presumption in favour of sustainable development  
      **PLP2** – Place shaping  
      **PLP21** – Highway safety and access  
      **PLP24** – Design  
      **PLP35** – Historic Environment

## **National Planning Policy Framework:**

- 6.4    **Chapter 7** – Requiring good design  
      **Chapter 12** – Conserving and enhancing the historic environment

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

- 7.1    5 Objections from 4 residents have been received as a result of the site publicity. A summary of the issues raised are as follows:-
- The canopy would block access to the rear of the adjoining 15 Talbot Street.
  - The rear of the dwelling would be overdeveloped with the canopy as well as the existing extension and outbuilding.
  - Overshadowing of the neighbouring property.
  - Potential for water issues with the flat roof.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

None

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

**K.C. Conservation & Design** – The proposals are considered to preserve the character of the conservation area, thereby compliant with relevant policies.

## **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 UDP proposals map. 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 property is however sited with the Station Road, Batley Conservation Area which is characterised by industrial mills and terraces. As such, consideration is to be given to the current proposals in terms of the relationship formed between the proposals and the Conservation Area with regards to Policy BE5 and chapter 12 of the National Planning Policy Framework.
- 10.3 These issues along with other policy considerations will be addressed below.

### Visual Amenity

- 10.4 The properties on Talbot Street are similarly aged terraced properties, some of which have been extended. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.5 There is a shared passageway on the ground floor between the host property and the adjoining 15 Talbot Street. The dwelling also has an existing single storey rear extension which extends across the existing rear elevation of the property. It is appreciated that the proposed canopy would extend over the passageway, which is the bulk of the already limited remaining amenity space. However, the character of the area is urban and built up. As such, this would not be considered to be out of place within the wider area.
- 10.6 Whilst flat roof forms are not generally considered to represent good design, in this instance, the canopy would continue the roof type of the existing extension and would therefore form an acceptable relationship with the host dwelling.
- 10.7 The materials proposed include stone columns to support the canopy which would match the main dwelling and would have an acceptable appearance.
- 10.8 The canopy would not enhance the conservation area, however it would preserve the existing built up character and thus, sustain the significance of the historic character of the conservation area.
- 10.9 Having taken the above into account, the proposed canopy 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, BE5, BE13 and BE14 of the UDP, Policies PLP24 and PLP35 of the PDL, and the aims of chapters 7 and 12 of the NPPF.

### Residential Amenity

- 10.10 The scale of the development is small relative to the existing dwelling and would have no significant impact upon the amenities of the occupiers of the property to the rear, 27 George Street.
- 10.11 The canopy would be located on the opposite side of the existing extension to the adjoining 19 Talbot Street and would therefore have no impact upon the amenities of the occupiers of the adjoining property.
- 10.12 The canopy would have the potential to impact upon the amenities of the occupiers of the adjoining 15 Talbot Street. However, the canopy would abut the back door of the neighbouring property. Furthermore, the bulk of the impact upon the amenity space of the adjoining property is already caused by the existing extension. As such, there would be no significant harm upon the amenities of the occupiers of the adjoining 15 Talbot Street over and above the existing arrangements on site.
- 10.13 Having considered the above factors, the proposals are not considered to result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policies D2, BE1 and BE14 of the UDP, as well as Policy PLP24 of the PDLF.

### Highway issues

- 10.14 The proposals will result in no intensification of the domestic use at the site. Therefore, the scheme would not represent any additional harm in terms of highway safety, complying with Policies D2, T10 and T19 of the UDP as well as Policy PLP21 of the PDLF.

### Representations

- 10.15 5 Representations were received from 4 neighbours. The concerns raised are summarised and responded to, by officers, as follows:-
- The canopy would block access to the rear of the adjoining 15 Talbot Street.  
**Officer response:** Access is a civil issue and as such cannot be a material consideration.
  - The rear of the dwelling would be overdeveloped with the canopy as well as the existing extension and outbuilding.  
**Officer response:** This is a material consideration. The rear of the property has been substantially developed. However, the canopy would not be out of place within the area.
  - Overshadowing of the neighbouring property.  
**Officer response:** The existing extension already has an impact upon the amenities of the occupiers of the adjoining 15 Talbot Street. The proposed canopy would be positioned to the side of the neighbours back door, however it would not have a significant impact over and above the existing extension.

- Potential for water issues with the flat roof.  
**Officer response:** this is not a material consideration.

### Other Matters

- 10.16 The adjoining neighbour at 15 Talbot Street has submitted a planning application for a single storey extension and a ramp to the rear of the property which is currently under consideration. When this proposal is considered with the adjoining property's application, the two support pillars of the canopy proposed would be very close to the mutual boundary where the ramp is proposed to be sited as part of the neighbour's proposals. Each application is assessed on its own merits and it is considered that the proposed canopy to the rear of 17 Talbot Street would have no prejudicial impact upon the application for a single storey rear extension and ramp proposed to the rear of 15 Talbot Street. Each proposal is within the red line boundary of the respective application and any dispute over the position of the boundary or the position of the railings or pillars would be a civil matter between the land owners.

## **11.0 CONCLUSION**

- 11.1 This application to for a canopy to the rear of 17 Talbot Street 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. The minor nature of the proposals is considered acceptable in this location and would have a neutral impact upon the conservation area setting. Whilst the concerns raised in the representations have been carefully considered, they relate to private matters in terms of rights of way and, should planning permission be granted, prior to implementing the permission, the applicant would need to ensure that all appropriate consents were in place.
- 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. Standard time limit for commencement of development (3 years).
2. Development to be carried out in accordance with the submitted plans and information.

3. The columns of the canopy to match those used in the construction of the existing building.

**Background Papers:**

Application and history files.

Web link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93890>

Certificate of Ownership – Certificate A signed and dated 09/11/2017

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## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93674 Erection of class A1/A3 coffee shop with external seating area Land at, Northgate Retail Park, Albion Street, Heckmondwike, WF16 9RL**

#### APPLICANT

London & Cambridge  
Properties Ltd

#### DATE VALID

24-Oct-2017

#### TARGET DATE

19-Dec-2017

#### EXTENSION EXPIRY DATE

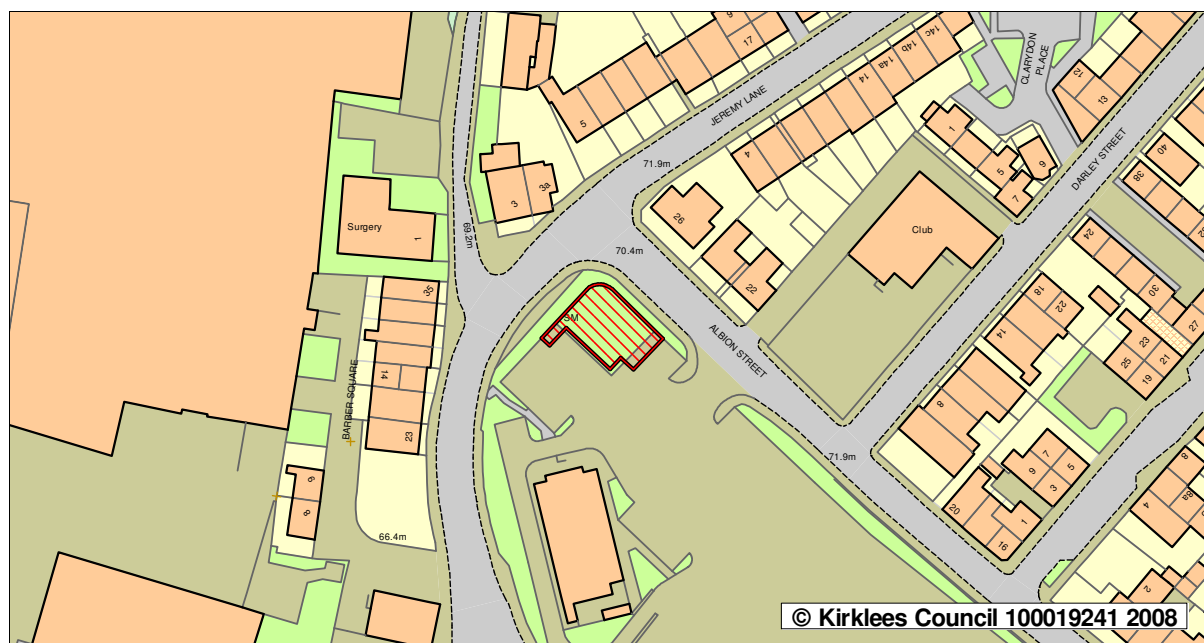
29-Jan-2018

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Heckmondwike**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to:**

- Await the expiration of the additional site publicity, which ends on 23<sup>rd</sup> January 2018**

**Provided that there are no new material considerations raised as a result of the publicity, complete the list of conditions including those contained within the report.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee in accordance with the Council's scheme of delegation at the request of Ward Councillor Steve Hall for the following reasons:
- 1.2 "While I welcome the application having a big name like Costa coffee coming to Heckmondwike is good news I am concerned about traffic. The junction of Albion Street and Jeremy Lane regularly comes to a stand still due to the entrance / exit into the retail park. What would work is one road in and another road out but I am doubtful of that happening. I would like this application to go to Committee and also have a site visit due to traffic concerns on the highway and the entrance/ exit."
- 1.3 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Councillor Steve Hall's reason for making the above request is valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site relates to a roughly rectangular grassed area of land in the northern corner of Northgate Retail Park, Heckmondwike. The retail park is within the town centre of Heckmondwike and consists of ten modern retail units including a drive through restaurant and Lidl supermarket, with large shared car park.



- 2.2 The site is relatively flat and approximately 191 square metres. It also contains a signage post which would be removed.
- 2.3 Access is from the existing entrance / exit to Northgate Retail Park.
- 2.4 On the opposite side of Albion Street, Jeremy Lane and Greenside are predominantly two-storey, stone built houses, whilst the remainder of the site is adjacent to much larger car park serving the retail park.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of class A1/A3 coffee shop with external seating area.
- 3.2 The building would have a predominantly rectangular footprint with one curved corner in glazing panels. It would be single storey designed with a flat roof and facing masonry to match existing retail units and the immediate context. There would be a detached bin storage area to the south west side of the building occupying one car parking space, and an area of hard standing adjacent to the south western side, suitable for outdoor eating. The south eastern side also contains the main entrance to the proposed A1 / A3 coffee shop.
- 3.3 New signage is also indicated on the north eastern and south western elevations (which would be subject to a separate advertisement consent application).

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 99/92275 – Erection of food retail and non food retail units with fast food unit and car parking. Conditional full permission.
- 00/93673 – Outline application for the erection of buildings with A1 (food and retail) and A3 (Restaurant /take away) use. Conditional outline permission.
- 01/93103 – Erection of building for A3 use (Restaurant / takeaway). Refused because the proposed parking arrangements would require vehicles to either reverse into or out of the spaces directly onto the main access to the car park, very close to the junction with Albion Street to the detriment to the free and safe flow of traffic.

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 During the course of the application, the Design and Access Statement was amended to remove reference to drive-through customer hatch and also set out that service deliveries and refuse collection would take place outside of operational hours.
- 5.2 The ground floor and elevation drawings together with artist's impressions and roof plan were also amended to show additional bin storage area (dwg nos. P006 rev A 12<sup>th</sup> Jan 2018, P008 rev A 12<sup>th</sup> Jan 2018, P009 rev A 12<sup>th</sup> Jan 2018, and P007 rev A 12<sup>th</sup> Jan 2018). In addition the red line boundary of the site enlarged slightly to encompass the newly shown bin storage area (shown on dwgs. P001 rev A 12 Jan 2018 and B P004 rev A 12th Jan 2018). The

amended plans have been re-advertised and the recommendation is worded to reflect the amended plan publicity end date.

- 5.3 Some additional traffic generation information has been requested to support the application and will be reported to members in the update.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The 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 Examination in Public began in October 2017. 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 of the Plan making process the Publication Draft Local Plan is considered to carry significant 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  
**BE16** – Shop fronts  
**BE20** – Access for disabled people  
**S1** – Shopping and Service Strategy  
**T10** – Highway safety  
**T19** – Parking standards  
**EP4** – Noise sensitive development

### **Kirklees Publication Draft Local Plan (PDLP):**

- 6.3 **PLP1** – Presumption in favour of development  
**PLP2** – Place shaping  
**PLP7** – Efficient use of land and buildings  
**PLP13** – Town centre uses  
**PLP16** – Food and drink uses and the evening economy  
**PLP21** – Highway safety and access  
**PLP22** – Parking  
**PLP24** – Design  
**PLP25** – Advertisement and shop fronts  
**PLP51** – Protection and improvement of environmental quality

## **National Planning Policy Framework (NPPF):**

### 6.4 Core Principles

**Chapter 2** – Ensuring the vitality of town centres

**Chapter 4** – Promoting sustainable transport

**Chapter 7** – Requiring good design

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

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

7.1 As a result of the original publicity, no representations have been received by any surrounding occupants.

7.2 Ward Councillor Steve Hall has requested that the planning application be referred to the Heavy Woollen Planning Sub-Committee for determination for the reasons set out in paragraph 1.2 of this report (above).

7.3 Following receipt of amended plans, a further round of publicity has been undertaken with the expiration date being 23<sup>rd</sup> January 2018. Should any comments be received, they shall be reported to members in the Update. Furthermore, the recommendation has been worded to reflect the additional publicity.

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

**K C Highways (Development Management)** – Following receipt of additional information the application is considered acceptable from a highway safety point of view. Further information relating to traffic movements has been requested to support the application and will be reported to members in the update.

**K C Environmental Health** – Have concerns about night time deliveries having an adverse impact upon amenity of neighbouring properties. Recommend the imposition of conditions relating to hours of use and delivery times

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

None

### **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The application site comprises a roughly rectangular area which is turfed and located in the northern corner of car park serving Northgate Retail Park.
- 10.2 The proposal is to erect a Class A1 / A3 coffee shop with external seating area.
- 10.3 The land is without notation on the Unitary Development Plan and policy D2 is relevant. It states that “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.4 The development is also within an existing retail park on the edge of Heckmondwike Town Centre on the UDP and on the Kirklees Draft Local Plan it is now within the town centre boundary. Given these circumstances it is considered that policy S1 of the UDP is also relevant, which seeks to ensure that town centres remain the focus of shopping and social activities. As such, it is considered that the proposal would be compliant with the aims of policy S1 of the UDP.
- 10.5 Chapter 2 of the NPPF also seeks to ensure the vitality of town centres. Given the policy context outlined above and that the proposal is suitable for a town centre use, it is considered that the proposal would be compliant with the aims of chapter 2 of the NPPF.
- 10.6 Overall, it is considered that the principle of a coffee shop in this location is acceptable, subject to compliance with detailed policies relating to visual and residential amenity, and highway safety.

### Urban Design issues

- 10.7 The site is in the northern corner of Northgate Retail Park, with the existing car park and retail units to the south, with more of Heckmondwike town centre beyond. The site is also in quite a prominent position adjacent to the junction of Albion Street, Jeremy Lane and Greenside, from where it is clearly visible. These roads are lined with two-storey, stone-built and predominantly terraced houses thought to date from the Victorian and Edwardian era. Further to this is more housing to the north and east, and a mill complex to the north-west.
- 10.8 The existing retail park contains relatively modern purpose-built retail units which are single storey and constructed with a mixture of materials including natural stone and modern, smooth roof sheets.
- 10.9 The proposed building would also be single storey and smaller than those already at the retail park. It would have a flat roof and a curved corner with floor to ceiling windows forming a feature when viewed from the road junction.

- 10.10 Whilst the proposed elevations indicate that the external walls would be to match the existing shopping centre and immediate context, given its prominent position and closer proximity to natural stone houses, it is considered appropriate to use natural stone walling materials.
- 10.11 It is noted that advertisements are shown on the proposed elevation drawings however these would be subject to separate advertisement consent.
- 10.12 It is acknowledged that during the course of the application, an amended plan was submitted which now incorporates a detached bin storage area adjacent to the south western frontage. This is a visible elevation however, the storage area has been designed with a perimeter wall which would be faced in matching material to that used on the main building and would, in the opinion of officers, adequately screen the bin storage area.
- 10.13 With the inclusion of appropriate conditions, all aspects of the design are considered acceptable within the context of the surrounding development and as such the visual amenity of the proposal would be in accordance with Policies D2, BE1, BE2 and BE16 of the UDP, Policy PLP24 of the PLDP, as well as chapter 7 of the NPPF.

#### Residential Amenity

- 10.14 The proposed coffee shop would be approximately 17m from the nearest houses on the opposite side of Albion Street and Jeremy Lane, with around 23m separation distance to the front elevation of houses on Greenside.
- 10.15 Given these distances and that the proposed building is single storey, it is considered that overshadowing and overbearing impact would be relatively limited. In terms of overlooking, the main impact would be from windows forming the curved corner of the proposed building. As they are at ground floor level only and look directly onto the road junction with houses beyond set back forming a separation distance of approximately 27m, it is considered that invasion of privacy would be relatively restricted.
- 10.16 In terms of noise pollution, Environmental Health officers have expressed concerns about noise from customers and deliveries at unsocial times that may impact upon the amenities of nearby residents at nos.22, 24 and 26, Albion Street, Heckmondwike. However if service deliveries take place during operational hours this would mitigate such noise, and they recommend conditions to control the hours of use to customers (to between 06:00 and 23:00), and the hours for deliveries to or dispatches from the premises (to correspond with the hours of use to customers), in order to comply with the aims of Policy EP4 of the UDP and chapter 11 of the NPPF.
- 10.17 The amended Design and Access Statement (paragraph 4.14) states that the proposed opening hours are between 5:00am and 10:00pm daily and (paragraph 4.16) service deliveries – generally 1 per day – together with refuse collection will take place within the site and outside operational hours.
- 10.18 The submitted parking statement (paragraph 4.1) also states that the proposed coffee shop will be serviced out of hours from the car park by box vans.

- 10.19 Given that the position of the proposed coffee shop is relatively close to residential properties and the relatively long hours of operation proposed, it is considered that there would be potential for an adverse impact upon the residential amenities of these neighbouring properties from noise disturbance and therefore, whilst acknowledging the comments from Environmental Services and those set out in the applicant's supporting information, officers recommend that the hours of operation are conditioned to be between 07:00 and 20:00. As the proposed development is for a relatively small coffee shop and service deliveries would be by box vans, generally one per day, on balance it is considered that it would be reasonable to restrict service deliveries to within the hours of operation (as specified above) and by box vans, a maximum of 2 per day.
- 10.20 Whilst service deliveries during operational hours may have an impact upon the use of the car park by customers, as the proposal is relatively modest in scale, and a box delivery van is quite small, visiting the site infrequently, it is considered that the impact upon highway safety and efficiency would be relatively limited. This approach is supported by Highways Development Management officers.
- 10.21 As such, with the inclusion of the recommended conditions, it is considered by officers that the proposed development will not result in any material detriment to the residential amenities of the occupants of nearby houses, in accordance with Policies D2, BE1, BE2 and EP4 of the UDP as well as chapter 11 of the NPPF.

#### Highway issues

- 10.22 The application site is in the northern corner of Northgate retail park near the entrance from Albion Street and adjacent to a large car park serving the retail complex.
- 10.23 The submitted parking statement implies that all the existing customer car park within the retail park (198 spaces) will be potentially available to the customers of the proposed development and the amended Design and Access Statement confirms this. The whole of the retail park is shown within the blue line boundary. In addition there is no longer reference to a proposed dedicated drive through customer hatch.
- 10.24 The application has been assessed by Highways Development Management officers who comment that as the existing access and parking arrangements are to remain unchanged and the applicant has demonstrated that there is sufficient parking within the existing car park, the application is considered acceptable from a highways point of view with no specific conditions required.
- 10.25 Whilst traffic generated by the proposed development is anticipated to be relatively insignificant, the applicant has been asked to supply an assessment of proposed traffic generation from the coffee shop to support the application and address concerns raised by Cllr S Hall (set out in the Introduction paragraph 1.2) and responded to in paragraph 10.29 below. This further information will be reported in the update.

- 10.26 Taking the above into account, it is considered that the proposal would have relatively limited impact upon highway safety and efficiency, compliant with Policies D2, T10 and T19 of the UDP as well as Policies PLP21 and PLP22 of the PDLP.

#### Representations

- 10.27 No representations have been received during the original advertisement period for the application. A further round of advertisement of the amended plans is underway and will expire on 23<sup>rd</sup> January 2018.
- 10.28 Should any representations be received, they shall be reported to members in the update.
- 10.29 Cllr S Hall has raised concerns about traffic on the highway and the entrance/exit. The agent has commented that the unit will trade as a coffee shop and it is anticipated that the overwhelming majority of traffic movements will be linked to existing trips to the retail park, but some will be diverted from vehicle movements passing on Greenside/Jeremy Lane, as the unit will be visible by passing drivers. Only a very small proportion of vehicle trips to a coffee shop would be sole-purpose journeys. The unit is therefore likely to add minimal traffic to the local highway network, which would be negligible in the context of the peak traffic already accessing the site. These comments are agreed by the Highways Development Management officer however additional information regarding total traffic generation from the proposed coffee shop, linked trips, and additional traffic generated by the proposed coffee shop is being sought and will be reported in the update.

#### Other Matters

##### *Access for disabled people:*

- 10.30 Policy BE20 of the UDP seeks to ensure new shop fronts should incorporate provision for access to the premises via the main entrance for people with disabilities.
- 10.31 In this instance, the main entrance to the proposed building would be on the east facing elevation of the proposed building which is directly accessible from the associated car park where there is disabled parking nearby. There would also be level access at the entrance and facilities for people with disabilities inside. As such the proposal would satisfy policy BE20 of the UDP.
- 10.32 There are no other matters considered relevant to the determination of this application.

## 11.0 CONCLUSION

- 11.1 The nature and scale of the proposed development would not result in any significant detriment to the visual or residential amenities of nearby residential properties or to the wider street scene. With regard to highway safety considerations, this has been carefully assessed and officers are of the opinion that the proposals would not lead to significant undue highway safety implications for the reasons set out in the main report above. Furthermore, it is anticipated that the proposal would generate 15 full-time jobs which would comply with the aims of the NPPF which sets out under paragraph 18 that *“the Government is committed to securing economic growth in order to create jobs and prosperity. . .”*.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year time limit
2. Development to be carried out in accordance with the approved plans
3. Materials
4. Limit to hours of operation to between 07:00 and 20:00
5. Use of box delivery van and frequency of delivery / collection

### Background Papers:

Application and history files

Website link to application:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93674>

Certificate of Ownership – Certificate A signed and dated 20/10/2017.



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## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93222 Installation of a sugar silo and associated concrete base Tangerine Confectionery Limited, Westgate, Cleckheaton, BD19 5EB**

#### APPLICANT

Rob Overton

#### DATE VALID

16-Oct-2017

#### TARGET DATE

11-Dec-2017

#### EXTENSION EXPIRY DATE

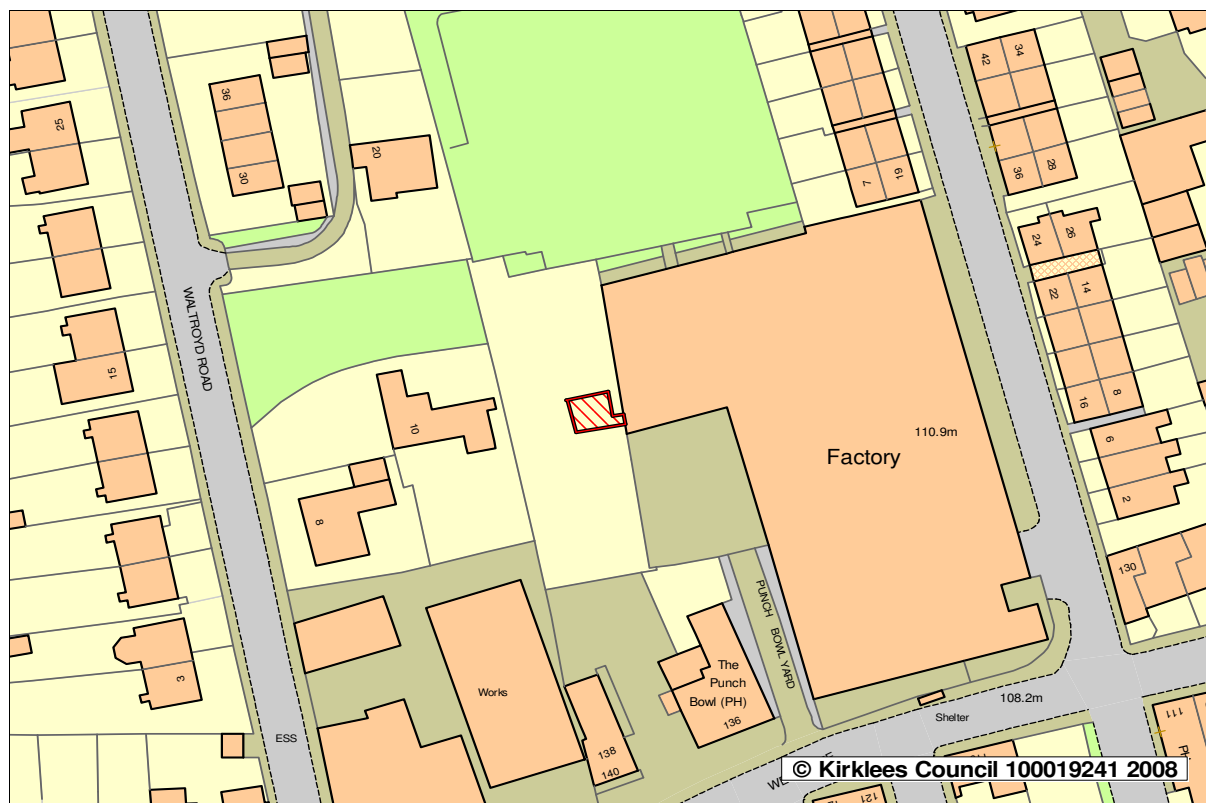
10-Jan-2018

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Cleckheaton**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of 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 at the request of Ward Councillor John Lawson for the following reason:- *“I’d like the decision, if you are minded to approve, to be decided by committee as there are significant changes in location from the previous, lapsed, application”. Councillor Lawson further states “the new siting of the silo in the current application brings it closer to and more in line with the closest residential property. There is a risk that visual and residential amenity could be detrimentally affected and that noise issues could be exacerbated”.*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Lawson’s reason for making this request is valid having regard to the Councillor’s protocol for planning committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 Tangerine Confectionery Limited, Westgate, Cleckheaton is an established factory building, approximately 3-storeys high with a combination of natural stone walls to the main frontages and red brick elsewhere. The site boundary includes a compound / yard in front of a loading bay to the western side of the building and a small enclosed open area to the side containing mature trees and undergrowth.
- 2.2 The site is located at the junction of Westgate and South Parade, on land that slopes gently from north to the south across the area. The site is also located close to the centre of Cleckheaton.
- 2.3 To the north of the site is a bowling green with residential properties beyond. To the south there are a mixture of residential houses and business premises. To the east are more houses and to the west there are a combination of works and residential accommodation.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of a sugar silo with associated concrete base.
- 3.2 The submitted plans and elevation drawings show a silo tower 13.5m high with a 3.5m diameter on an octagonal concrete plinth 5.3m across. It would be located on land to the western side of the factory and adjacent to the building (approximately 20m from the northern boundary of the site).
- 3.3 The silo surface would have a non-reflective metal surface (colour silver). This is a modified scheme to the previous 2013/92407 permission, and would re-site the silo further south.
- 3.4 The Design and Access Statement states that sugar deliveries are currently made from South Parade, a public road. 'The new silo will be within the existing site boundaries and access will be from the factory's yard entrance off Westgate which will allow HGV's to be off the public highway entirely'.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2013/92407 – erection of sugar silo with associated concrete base – Granted  
2014/90444 – erection of external chimney flue – Granted  
2015/92878 – non-material amendment to 2013/92407 – Invalid
- 4.2 The planning history at the adjacent site, no.10 Waltroyd Road, Cleckheaton, is also considered to be relevant:-  
  
2014/93604 – Demolition of existing dwelling and erection of 4 dwellings - Withdrawn  
  
2011/91741 – Extension to time limit to previous permission 2008/92413 for outline application for erection of residential development and formation of new access - Granted  
  
2008/92413 – Demolition of existing dwelling and outline application for residential development and formation of new access - Granted  
  
2007/92760 – Demolition of existing dwelling and outline application for residential development – Refused (Appeal dismissed)

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 None although clarification has been sought over discrepancies between the Design & Access Statement and the submitted plans. Corrected plans were submitted by the agent.

## **6.0 PLANNING POLICY:**

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

The site is unallocated on the Kirklees UDP proposals map and indicated as an accepted housing allocation on the PDLP.

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

- 6.2 **D2** – Unallocated land  
**BE1** – Design principles  
**BE2** – Quality of design  
**B5** – Alterations & extension to business premises  
**G6** – Contamination or instability of land  
**EP4** – noise sensitive development  
**NE9** – Retention of mature trees

### Kirklees Publication Draft Local Plan (PDLP):

- 6.3 **PLP 8** - Safeguarding employment premises  
**PLP 24** – Design  
**PLP33** - Trees  
**PLP 52** – Protection and improvement of environmental quality

### National Planning Policy Framework (NPPF):

- 6.4 **Chapter 1** – Building a strong, competitive economy  
**Chapter 7** – Requiring good design  
**Chapter 11** – Conserving and enhancing the natural environment

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

- 7.1 As a result of the publicity, three representations have been received from two interested parties. The concerns raised are summarised as follows:-
- The silo will be directly outside the kitchen/dining room window of the neighbouring 10 Waltroyd Road.
  - Proposal does not meet the criteria of policy BE12.

- The visual impact would be totally unacceptable on the adjacent property.
- Potential to increase noise levels and exhaust pollution 24 hours a day.
- The application form states that no trees will be affected but the Design & Access Statement says that some trees will be taken out.
- There is also a contradiction in terms of the height of the silo with both 10.0m and 13.5m mentioned.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C. Highways Development Management** – No objection

**K.C Environmental Health** – Support the proposal subject to conditions relating to noise.

**The Coal Authority** – support the scheme subject to conditions.

### **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 UDP proposals map. 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 aims of policy D2 of the UDP (specific policy for development on unallocated land).
- 10.2 In addition, Policies BE1, BE2, B5 and G6 of the UDP are applicable. Policies BE1 and BE2 of the UDP seek to ensure that all development is of good quality design, creating and retaining a sense of local identity, is visually attractive, promotes a healthy environment and is energy efficient.
- 10.3 Policy B5 of the UDP relates specifically to extending business premises and stipulates that: "Proposals for the extension of business premises will be permitted provided the amenity of the occupiers of neighbouring properties, visual amenity and highway safety are safeguarded".

- 10.4 Finally, Policy G6 states that development proposals will be considered having regard to available information on the contamination or instability of the land concerned, and Policy EP4 seeks to safeguard existing noise sensitive development from proposed noise generating development.
- 10.5 In terms of the NPPF, in chapter 7, the Government states that it attaches great importance to the design of the built environment,...and good design should contribute positively to making places better for people.
- 10.6 Chapter 11 of the NPPF requires that the applicant demonstrates to the satisfaction of the Local Planning Authority that the application site is safe, stable and suitable for development. It continues in paragraph 123 to state that decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. However, it also recognises that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established.
- 10.7 Consideration needs to be given to the proposal and how it complies with the relevant draft policies which would be Policy PLP 8, which seeks to safeguard employment premises, Policy PLP 24 which places emphasis on good design, and Policy PLP 52 which seeks to ensure protection and improvement of environmental quality.
- 10.8 Subject to compliance with the above, the proposal is, in principle, considered to be acceptable.

#### Visual Amenity

- 10.9 Permission was granted for a sugar silo and its associated concrete base in 2013 under application reference 2013/92407. This application seeks to reposition the silo 7m to the south of the originally approved permission. The originally approved silo had a height of 13.5m (inclusive of the railing) and a diameter of 3.5m. The repositioned silo would occupy a lower position as the site is sloping up to the north.
- 10.10 The silo would be located in a moderately sized parcel of land to the western side of the factory which currently has a belt of mature trees along its western boundary. The position of the proposed silo would be adjacent to the western elevation of the factory. The new position would reduce the height above the ridge of the factory and as such would have less impact on the skyline and streetscape than the previous approval.
- 10.11 The external surface is proposed to be non-reflective and would be grey in colour which would blend with the colour of the factory roof. As such, the silo is not considered to result in a feature which would be out of place with the factory context of the site.
- 10.12 In all, the proposed sugar silo is considered to be compliant with the aims of Policies D2, BE1, BE2 and B5 of the UDP, Policies PLP8 and PLP24 of the PDLP, and guidance given in the NPPF.

### Residential Amenity

- 10.13 The proposals have the potential to impact upon the amenities of two of the neighbouring properties. The impact will be assessed by property below.
- 10.14 The proposal is approximately 13m away from the boundary with the adjacent dwelling at 10, Waltroyd Road, and orientated to the east. The boundary is formed by a stone wall, between approximately 1.0m and 2.5m high, with wooden fencing above the lower sections, increasing the height to around 2.0m. 10, Waltroyd Road is a bungalow which has been enlarged, including a conservatory to the front. The side elevation is set in from the boundary around 1.5m and has habitable room windows facing towards the east onto the existing boundary and tall, mature trees immediately behind. These provide a dense screen.
- 10.15 There has been concern raised in one of the representations that the silo would be clearly seen from the side windows of no.10, Waltroyd Road and that it would block daylight, making the living accommodation more uncomfortable. In response, it is considered that the existing fence and belt of trees already overshadow this neighbouring dwelling. The proposed silo would be partially screened by the trees and boundary wall/fencing. The trees have been assessed for their amenity value and were found to be unsuitable for a Tree Preservation Order, however it appears that the base of the silo would be outside the crown spread of these trees and so the impact of the development on them would be reduced. It is appreciated that the position of the silo has been amended since the previous approval and would now be located directly opposite their kitchen window. In these circumstances it is considered that there would be limited overshadowing or overbearing impact given the separation distance of 13m.
- 10.16 In terms of noise pollution, the application has been assessed by an Environmental Health officer who has been in contact with the agent to discuss some initial concerns relating to noise. The resultant formal consultation response includes a suggested condition relating to hours of use which is considered to mitigate concerns relating to noise.
- 10.17 The proposed silo would be approximately 30m from the boundary and orientated to the south east. The nearest elevation of 20, Waltroyd Road would be set back a further 10m. In between are some garden shrubs and tall, mature trees which provide substantial screening. In these circumstances it is considered that the proposal would again have limited impact in terms of being overshadowing / overbearing.
- 10.18 In all, with the inclusion of the suggested conditions, the proposed sugar silo is considered to be satisfactory from a residential amenity perspective and compliant with Policies D2, EP4, and B5 of the UDP, Policies PLP24 and PLP52 of the PDL, and chapter 11 of the NPPF.

### Highway issues

- 10.19 The proposals seek to alter the existing delivery arrangements for sugar tankers. Access is currently taken off South Parade. With the provision of the proposed sugar silo, the capacity would increase and therefore fewer deliveries would be required. In addition, access would now be taken from the yard area off Westgate, where the existing footway is wide enough to accommodate adequate visibility. In addition, delivery vehicles would no longer need to park along South Parade. Taking the above into account, the proposals are considered to result in a benefit to highway safety and efficiency, complying with Policies D2 and T10 of the UDP, as well as Policy PLP21 of the PDL.

### Representations

- 10.20 Three representations have been received from two interested parties. The concerns raised are summarised and addressed by officers below:-

- The silo will be directly outside the kitchen/dining room window of the neighbouring 10 Waltroyd Road.  
**Officer response:** *The siting of the silo has been amended since the previous approval and would now have a more direct relationship upon the amenities of the occupiers of the neighbour 10 Waltroyd Road. However, the 13m separation is considered sufficient, by officers, to mitigate any significant undue impact upon their amenities.*
- Proposal does not meet the criteria of policy BE12.  
**Officer response:** *Policy BE12 is specific to new dwellings and does not apply to the assessment of this proposal.*
- The visual impact would be totally unacceptable on the adjacent property.  
**Officer response:** *Visual amenity is a material consideration. In this instance, the site does form part of a working manufacturing site and the silo would not appear out of place in this context.*
- Potential to increase noise levels and exhaust pollution 24 hours a day.  
**Officer response:** *This is a material consideration and the proposals have been examined by the Council's Environmental Health team. A condition has been recommended in relation to the hours of use in order to safeguard the residential amenity of surrounding occupants.*
- The application form states that no trees will be affected, but the Design & Access Statement states that some trees will be taken out.  
**Officer response:** *The trees along the western boundary of the application site were assessed for their amenity value as part of the previous application and it was considered that they were of insufficient value to warrant protection via a Tree Preservation Order (TPO). The location of the proposed silo would be outside the crown spread of the mature trees and so the proposal would have limited impact upon them. The proposal is therefore considered to comply with the aims of Policy NE9 of the UDP and Policy PLP33 of the PDL.*



- There is also a contradiction in terms of the height of the silo with both 10.0m and 13.5m mentioned.

**Officer response:** *The concerns relating to the contradiction between the plans and the Design and Access Statement have been addressed through the submission of amended details during the course of the application. Officers are satisfied that all information corresponds.*

### Other Matters

- 10.21 *Coal Mining Legacy:-* The application site is located within an area of High Risk in relation to coal mining legacy. Due to the nature of the proposals, a Coal Mining Risk Assessment (CMRA) prepared by RCA Construction accompanied the planning application and consultation was subsequently carried out with the Coal Authority.
- 10.22 It is acknowledged by the Coal Authority as part of their consultation response that the proposal for the installation of the silo on a concrete base and in terms of the overall scale of the development would require minimal grounds works. The Coal Authority however support the proposal set out in the submitted CMRA to carry out investigations into the ground conditions in order to inform any remedial measures that may be required. A condition is therefore recommended to secure the above and would ensure that the proposal complies with the aims of chapter 11 of the NPPF.
- 10.23 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 This application for the erection of a sugar silo at the existing established manufacturing premise 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. It is considered by officers that the benefits of providing the silo provision in terms of the economic viability of the existing business, along with the improvements to highway safety (in terms of the need for reducing numbers of deliveries along with the improvement to the point of access for deliveries), is considered to outweigh the impact upon residential amenity. In addition, in regard to visual amenity considerations, the proposed silo, whilst being relatively high, would be seen against the backdrop of the existing industrial premises and thus, would appear not out of keeping in this context.
- 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. Standard time frame for the implementation of development (3 years).
2. Development to be carried out in accordance with the submitted plans and information.
3. Submission of a programme of intrusive site investigation works to be undertaken to confirm shallow coal mining conditions.
4. No sugar to be loaded into the Silo outside the times of 08:00 and 20:00 Monday to Sunday.

**Background Papers:**

Application and history files

Web link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93222>

Certificate of Ownership – Certificate A signed and dated 12/09/2017.

Web link to the previous application reference 2013/94207:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2013%2f92407>+

## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93470 Demolition of existing garage  
erection of detached dwelling with integral garage and associated site works  
adj, 93, Stocks Bank Road, Mirfield, WF14 9QB**

### APPLICANT

Mr & Mrs Knibbs

### DATE VALID

09-Oct-2017

### TARGET DATE

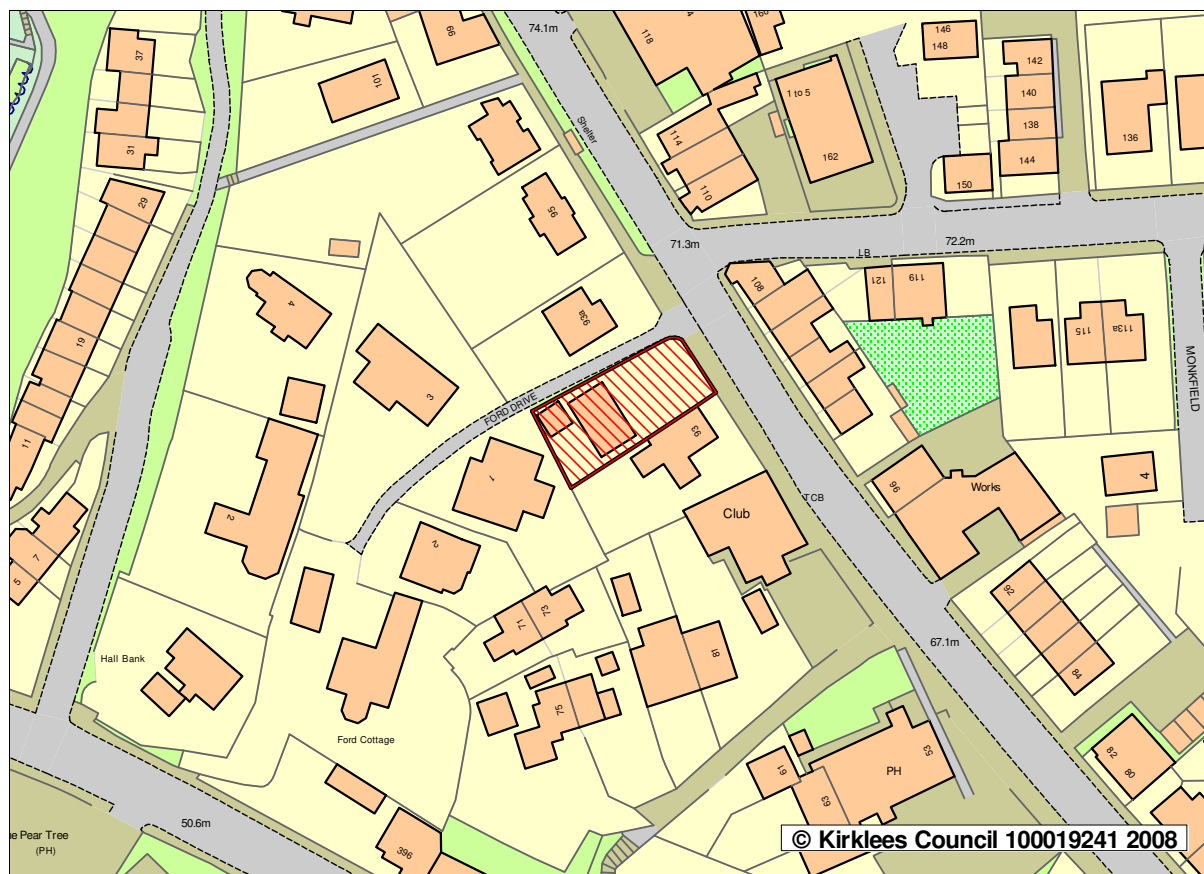
04-Dec-2017

### 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

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**Electoral Wards Affected: Mirfield**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is reported to the Heavy Woollen Planning Sub-Committee following a request by Councillor Martyn Bolt who states:

*“I have concerns relating to road safety and vehicle movements/sight lines, the impact of the development on adjacent properties and in the view of the concerns of residents hope it can be taken to committee”*

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

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site relates to land adjacent to no. 93 Stocks Bank Road, Mirfield which currently has a single storey brick double garage on it and is on a slightly lower level than Stocks Bank Road itself. The site is accessed from Stocks Bank Road and is currently hardstanding which is used as a parking area for no. 93. The site has a stone wall and hedging as a front boundary treatment and there is access to Ford Drive to the northwest of the site.
- 2.2 Surrounding the site there is a mixture of house types. To the northeast (front) of the site, there is a row of two storey terraced properties constructed of stone, to the northwest of the site is a detached dwelling constructed of artificial stone, with detached dwellings on a lower level to the southeast and northwest. To the southeast of the site is no. 93 which is a detached two storey dwelling constructed of render and brick with a conservatory to the rear. There is a variety of dwellings of different appearances and materials.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of one detached dwelling. The proposal also includes a new access for the existing dwelling off Stocks Bank Road. The existing structures are to be demolished.
- 3.2 The dwelling will be 11.1 metres in length, will be 10.3 metres in width and will be 7.4 metres in overall height (4.4 metres to the eaves).
- 3.3 The dwelling will be constructed of brick for the external walls, timber cladding for part of the external walling material, and large expanses of glazing. The roof will be covered in roof tiles.
- 3.4 There will be trees on the rear boundary of the site and a fence at two metres in height surrounding the site.

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

- 4.1 2007/92341 – Erection of conservatory APPROVED (no. 93 Stocks Bank Road)
- 4.2 91/01747 – Erection of two storey extension REFUSED (no. 93A Stocks Bank Road)
- 4.3 91/05186 – Erection of double garage extension APPROVED (no. 93A Stocks Bank Road)

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

- 5.1 Amendments have been secured following concerns relating to residential and visual amenity. The amended plans, as discussed below, are considered to address the initial concern of officers.

### **6.0 PLANNING POLICY:**

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

The site is unallocated on the UDP proposals map and also as part of the PDLP.

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

**D2** – Unallocated land  
**BE1** - Design principles  
**BE2** – Quality of design  
**BE12** – Space about dwellings  
**T10** – Highway Safety  
**T19** – Parking Provision  
**H1** – Meeting the housing needs of the district

6.3 National Planning Policy Framework (NPPF):

**Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring good design  
**Chapter 11** – Conserving and enhancing the natural environment

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

**PLP1** – Achieving sustainable development  
**PLP2** – Place Shaping  
**PLP3** – Location of new development  
**PLP21** – Highway Safety and Access  
**PLP22** - Parking  
**PLP24** – Design  
**PLP51** – Protection and improvement of local air quality  
**PLP33** – Biodiversity and geodiversity

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 Five representations have been received as a result of the publicity of the amended plans. All representations are summarised below and area addressed in section 10.0 of this report.

- The new build detached property will not be in keeping with the other properties in the area/ materials are out of keeping.
- Height of the property will have an oppressive impact on the surrounding area, especially those on Stocks Bank Road and Ford Drive
- Construction of the dwelling will be difficult given that Ford Drive is a privately owned and maintained driveway – means of access should not be obstructed
- Depth of ground works involved in building such a property is most likely to have a detrimental effect on other residents' land.
- Garden will be overlooked and privacy invaded – windows will overlook into gardens.
- Road access on to Stocks Bank Road can be tricky – further access has been requested, causing more vehicles coming out onto the road/ traffic congestion.

- Disappointment that not advised of the amended application, nor are there signs on Stocks Bank Road
- Concerns not taken into consideration as amended plans changes not significant
- Cannot see a change in the proposal – building will continue to overlook bedroom and patio, reducing privacy.
- Will dominate location and not in keeping with current properties. Building is approx. 30% larger than no.93a.
- Window of building will overlook upstairs study and straight into glass conservatory, bedroom and garden area – invading privacy of no.1 Ford Drive
- Overbearing, overshadowing and oppressive on surrounding properties
- Proposed dwelling appears much taller as ground level falls steeply, nos. 1 and 3 Ford Drive are bungalows – building will bring built form unreasonably close.
- Size and mass of proposed house on small plot that it occupies
- Concerns relating to foundations and impact of new foundations on retaining wall.
- Foul mains drainage will be taken to discharge to mains drainage in Stocks Bank Road
- No planning permission for large shed – this has led to a loss of open space but has no windows.
- Submitted location plan is misleading and does not show an accurate representation of area. Plans do not show the slope of land from Stocks Bank Road/ drawings fail to show a path which effectively narrows our driveway.
- How will a suitable boundary treatment be implemented
- Size of property is larger than surrounding properties and will fit on a smaller area of land.
- Proposed property is opposite kitchen window, side door and landing window (serving home office). Proposed windows will overlook kitchen and side door at a distance of only 3.3 metres.
- Would be in complete shade until mid-morning at the earliest and kitchen window has uninterrupted views and light.
- Front elevation is unsightly

- Parking concerns given that majority of dwellings are terraced (on street parking)

7.2 Ward Councillor Martyn Bolt has commented on the proposals; his comments are set out in section 1.0 of this report.

7.3 Mirfield Town Council have been consulted but have made no comments.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C Highways Development Management** – no objection (following receipt of amended plans).

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

None

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### **Principle of development**

10.1 The site is unallocated on the 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 PDLP sets out a variety of design considerations to take into account in the assessment of a planning application.

10.3 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.



- 10.4 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.
- 10.5 Taking the above into account, and when considering the sustainable location of the site within a predominantly residential amenity, the principle of residential development on the site is considered to comply with the aims of both local and national planning policy.

**Visual amenity/local character:**

- 10.6 The impact on visual amenity is considered to be acceptable by officers. The Stocks Bank Road area is characterised by a variety of dwelling types with varying levels of density.
- 10.7 The dwelling itself is located in a plot which is an acceptable size for the proposed dwelling. The development will retain an area of separation between the neighbouring dwellings which is considered to be an important characteristic of this side of Stocks Bank Road. Although there are terraced houses on the opposite side of the highway, there are gaps between the dwellings on Stocks Bank Road, creating a spacious character.
- 10.8 This feature of the area is retained and the dwelling is not considered to constitute a cramped form of development. The proposed dwelling has a reasonable amount of amenity space surrounding it.
- 10.9 To reinforce this, the design of the dwelling has been amended to incorporate a roof form (*Jerkinhead hipped-roof which has a hipped top part with the gabled bottom half*) which further reduces the bulk of the dwelling and visually increases the gap between no. 93 Stocks Bank Road and the proposed dwelling.
- 10.10 Although this roof form is not characteristic of the area and adds a contemporary style and design along with the materials and glazing, consideration has to be given to Chapter 7 of the NPPF. Paragraph 64 states that local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, however it is important to seek to promote or reinforce local distinctiveness.
- 10.11 In this instance, the design of the dwelling and the proposed materials are not considered by officers to be detrimental to the character of the area. There is a variety of property styles within the area, with a range of materials used. For example, no.93 Stocks Bank Road is constructed of render and brick for the external walls, with no. 93a Stocks Bank Road being constructed of artificial stone.
- 10.12 Although this is the first introduction of these materials in the immediate streetscene, it is considered by officers that the palette of materials which predominantly features timber cladding and brick, along with the glazing would contribute to a contemporary style that fits in with the character of the area. Although it could be argued that there are no dwellings that are of such a modern design, local distinctiveness is reinforced, complying with the aims of paragraph 60 of the NPPF. The contemporary design is appropriate in its layout, materials and scale in relation to neighbouring buildings and the local

area more generally. This is due to the varied palette of materials within the area and the different building types. It is noted that a planning application has been submitted for three contemporary style dwellings at no. 97 Stocks Bank Road. This has not yet been determined.

- 10.13 Within the streetscene, the dwelling would not be read as an incongruous feature. To the northwest, the land slopes downwards. From the streetscene plan submitted by the agent on drawing reference (35) 001, it is clear that the proposed dwelling would not be incongruous in height and scale to the dwellings in which it sits close to. It would have a lower height than no. 93A Stocks Bank Road and a lower height than no. 93 Stocks Bank Road and would sit in its proposed location harmoniously. The dwelling would not exceed the height of the surrounding dwellings and would not therefore be an unduly incongruous or prominent feature. The height of the dwelling is consistent with its surrounding houses and the dwellings are not closely spaced to appear cramped.

### Summary

- 10.14 In all, officers consider that the proposal is satisfactory from a visual amenity perspective and complies with the aims of policies D2, BE1, BE2 of the UDP, Chapters 6 and 7 of the NPPF, as well as policy PLP24 of the Kirklees Draft Publication Local Plan.

### **Residential Amenity:**

- 10.15 The impact on residential amenity is acceptable. Five objections have been received. The impact on each of the surrounding residential properties will be assessed below.

#### Impact on no. 93A Stocks Bank Road

- 10.16 The proposed dwelling will be located approximately 6 metres from the side elevation of this dwelling which has 3 openings in the side elevation and a conservatory to the rear. These openings serve non habitable rooms and therefore, despite there being a distance of less than 6 metres, this relationship is considered by officers to be acceptable.
- 10.17 Despite UDP policy BE12 recommending that the distance between habitable room windows and non-habitable room windows should normally be 12 metres, the policy also states that distances less than this can be acceptable if mitigating circumstances are present. In this case, there is a two metre high fence proposed along the boundary with this neighbouring dwelling and there are land level changes in which no. 93A is on a slightly lower level.
- 10.18 Given the permanent screening on the boundary with this dwelling, the impact of the habitable dining room windows facing onto this neighbouring property will be mitigated sufficiently to ensure that there will be no undue overlooking/loss of privacy from these windows. This screening can be seen on streetscene drawing no. (35) 002. It is also noted that no. 93a and the ground floor windows would be overlooked from the private driveway and could currently be overlooked from this area as well as the driveway area of no. 93. Any overlooking from the dining room windows would lead to a loss of privacy over and above the existing situation.

- 10.19 There is an en-suite window at first floor but given that this is serving a non-habitable room, there will not be any overlooking/loss of privacy. A condition will be recommended to ensure that this is obscurely glazed.
- 10.20 Given that the windows of this neighbouring dwelling serve non habitable rooms (a door, a kitchen and a landing/home office), there would be no overbearing impact as a result of the proposed dwelling 6 metres from this side elevation. The roof of the dwelling is also hipped away from the boundary, further reducing its bulk and massing and reducing this impact.

#### Impact on no. 93 Stocks Bank Road

- 10.21 There is a distance of 1.7 metres between the proposed dwelling and no. 93 which is within the applicant's ownership (as shown in the blue line on the site location plan). In the side elevation of no. 93 Stocks Bank Road, there are two openings at first floor level which are likely to serve non habitable rooms – landings. The opening at ground floor is likely to serve a hallway given its positioning in the side elevation.
- 10.22 Policy BE12 of the UDP does not provide specific guidance on distances from a wall with a door in it and those with non-habitable room windows. Given that these windows are non-habitable and there will be no windows overlooking from the proposed dwelling (there is a utility room door proposed in this side elevation), there will be no loss of privacy. It is not considered necessary to condition the removal of permitted development rights for new openings given that any views would not be onto private areas. Any first floor openings would be controlled by the Town & Country Planning (General Permitted Development) Order (the 'GPDO').
- 10.23 Given the non-habitable nature of the side openings, there will be overbearing impact as a result of the proposal. The roof of the proposed dwelling has a Jerkinhead hip which would also slightly reduce its bulk close to this boundary.

#### Impact on no. 1 Ford Drive

- 10.24 No.1 Ford Drive is on a lower level than the application site and has two elevations in relatively close proximity to the application site. The northern elevation has a door at ground floor level and a first floor opening which is likely to serve a landing. The south eastern elevation has a habitable conservatory which takes up the majority of the elevation, with amenity space to the side and rear of the site.
- 10.25 Policy BE12 of the UDP suggests that the distance between habitable room windows of the new dwelling and habitable room windows of existing dwellings should be 21 metres unless level changes or permanent screening means that a shorter distance is acceptable.
- 10.26 In this case, there is a distance of approximately 13 metres between the sites. Officers consider that, in this instance, there are factors that make this shorter distance acceptable. The relationship between the dwellings is indirect – the rear elevation of the proposed dwelling is not directly facing either of the elevations of no. 1 Ford Drive, but is located in between the two. This

relationship, the level differences in which the proposed dwelling is on a higher level, the screening on the boundary, and the fact that no. 93 is closer to no.1 than the proposed dwelling, all contribute to the fact that the impact of the dwelling is not considered, by officers, to be significantly detrimental to residential amenity in terms of overbearing.

- 10.27 There is a kitchen (non-habitable room) window facing this site at ground floor and a habitable room annotated as a 'snug' on the submitted plans. At first floor, there is a window serving a bedroom. Given the screening on the boundary and the fact that the proposed dwelling would be on a higher level, along with the fact that the views from this proposed 'snug' opening would not be directly onto the conservatory (instead it would be onto the corner of the bungalow), there would be no undue overlooking over and above the existing situation from no. 93.
- 10.28 At first floor level, the bedroom window has a more direct relationship with the front elevation of no. 1 Ford Drive which does not have any habitable room windows and is visible from the streetscene. Given the level differences and the bungalow nature of this dwelling, the majority of the views would overlook the dwelling and therefore not cause harmful residential amenity issues. The main amenity space for this dwelling is located directly between no. 93 and therefore will not be detrimentally affected by the proposed development.

*Impact on properties to the front of the site – a row of terraced properties (nos. 108-98 Stocks Bank Road)*

- 10.29 UDP policy BE12 suggests that 21 metres is required between habitable room windows of existing and proposed dwellings. In this case, there is a shortfall of 3-4 metres – there is a distance of approximately 18 metres from the proposed dwelling to this row of terraced dwellings. There are non-habitable and habitable room windows in the front elevation of the proposed dwelling facing this row of terraced dwellings. Given that the proposed dwelling will not extend beyond no. 93 which has an established relationship with these terraced properties to the north east, a precedent has been set for this relationship and therefore, it is considered by officers that there would be no undue overlooking compared to the existing situation.
- 10.30 Furthermore, given that there is a highway in between the sites and the relationship of the new dwelling with these terraced properties is the same as the relationship with no. 93, there would be no overbearing impact as a result of the proposed dwelling.

*Summary*

- 10.31 In all, for the reasons set out above, the proposals are considered satisfactory by officers in relation to residential amenity and would comply with the aims of policy D2 of the UDP as well as policy PLP24 of the PDLP.

**Highway issues:**

- 10.32 Following a formal consultation with Highways Development Management (HDM) and receipt of an amended plan showing the dwelling in its amended location, there is no objection to the proposal. The reasons for this will be discussed below.

- 10.33 Following a site visit by the case officer and an amended consultation response from HDM, there is no objection to the proposal. The proposed dwelling will use the existing access for no. 93 with a new access proposed for the existing dwelling.
- 10.34 The parking provision at the site is acceptable. The plan shows that two parking spaces can be accommodated outside the proposed dwelling, with a further space accommodated within the integral garage. At the front of the site, there is adequate space to turn on site, thus not impacting on highway safety and efficiency.
- 10.35 Following a formal consultation with HDM, at the existing dwelling, the plan shows a new access with acceptable visibility splays and width to ensure that access and egress from the site would be acceptable without causing highway safety issues. There is also capacity to accommodate three spaces to the front of the existing dwelling.

### Summary

- 10.36 For the above reasons, there will be no highways safety issues over and above the existing situation. Taking into account the above information, the proposal is considered to comply with policy T10 of the UDP, as well as policy PLP21 of the PDLP. Furthermore, the proposal is also considered to be in accordance with policy PLP22 of the PDLP and policy T19 of the UDP in relation to the parking provision to serve the existing and proposed dwelling.

### Representations

- 10.37 Five representations have been received. Officers respond to the issues raised as follows:
- The new build detached property will not be in keeping with the other properties in the area/ materials are out of keeping.  
**Officer response:** *This has been fully assessed in the visual amenity section of the report. As set out above, there are a variety of house types within the immediate vicinity and it is therefore the view of officers that the proposed dwelling would not adversely affect the character of the area.*
  - Height of the property will have an oppressive impact on the surrounding area, especially those on Stocks Bank Road and Ford Drive  
**Officer response:** *This has been fully assessed in the residential amenity section of this report and is considered, by officers, to be satisfactory. Due to its position and overall design, it is considered that the proposed dwelling would result in a satisfactory relationship with the surrounding properties and would not result in significant undue harm being caused to residential amenity.*
  - Construction of the dwelling will be difficult given that Ford Drive is a privately owned and maintained driveway – means of access should not be obstructed  
**Officer response:** *this is not a material planning consideration. However, a suggested footnote can be attached to the decision notice setting out that the granting of planning permission does not override any private legal matters relating to ownership of land or access rights.*

- Depth of ground works involved in building such a property is most likely to have a detrimental effect on other residents' land.  
**Officer response:** *building/land stability is primarily a Building Control matter. Furthermore, paragraph 120 of the NPPF does set out that "where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*
- Garden will be overlooked and privacy invaded – windows will overlook into gardens.  
**Officer response:** *this has been fully assessed in the residential amenity section of this report above. Whilst all distances may not strictly comply with those set out in policy BE12 of the UDP, these distances are recommended and, if specific circumstances exist, as set out in policy BE12, shortfalls can be accepted. In this instance, it is the view of officers that the new dwelling has been designed in such a way so as to mitigate any undue overlooking of neighbouring properties.*
- Road access on to Stocks Bank Road can be tricky – further access has been requested, causing more vehicles coming out onto the road/ traffic congestion.  
**Officer response:** *this has been fully assessed in the highway safety section of this report above. The proposal is not considered to result in any significant harm to highway safety and efficiency.*
- Disappointment that not advised of the amended application, nor are there signs on Stocks Bank Road  
**Officer response:** *neighbour letters were sent to the properties adjoining the red line boundary.*
- Concerns not taken into consideration as amended plans changes not significant  
**Officer response:** *the comments submitted have been considered and amendments to make the development acceptable to officers have been sought.*
- Cannot see a change in the proposal – building will continue to overlook bedroom and patio, reducing privacy.  
**Officer response:** *this has been fully assessed in the residential amenity section of this report.*
- Will dominate location and not in keeping with current properties. Building is approx. 30% larger than no.93a.  
**Officer response:** *this has been fully assessed in the visual amenity section of this report.*
- Window of building will overlook upstairs study and straight into glass conservatory, bedroom and garden area – invading privacy of no.1 Ford Drive  
**Officer response:** *this will be covered in the residential amenity section of this report.*

- Overbearing, overshadowing and oppressive on surrounding properties  
**Officer response:** *this will be covered in the residential amenity section of this report.*
- Proposed dwelling appears much taller as ground level falls steeply, no.s 1 and 3 Ford Drive are bungalows – building will bring built form unreasonably close.  
**Officer response:** *this will be covered in the residential amenity section of this report.*
- Size and mass of proposed house on small plot that it occupies  
**Officer response:** *covered in visual amenity section of this report.*
- Concerns relating to foundations and impact of new foundations on retaining wall.  
**Officer response:** *this is not a material planning consideration. As discussed above, paragraph 120 of the NPPF does set out that “where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner*
- Foul mains drainage will be taken to discharge to mains drainage in Stocks Bank Road  
**Officer response:** *this is not a planning matter. This is a building control matter.*
- No planning permission for large shed – this has led to a loss of open space but has no windows.  
**Officer response:** *the shed will be removed. The impact on residential amenity in terms of windows overlooking has been assessed.*
- Submitted location plan is misleading and does not show an accurate representation of area. Plans do not show the slope of land from Stocks Bank Road/ drawings fail to show a path which effectively narrows our driveway.  
**Officer response:** *a site visit has taken place and the topography and site characteristic have been assessed by the case officer.*
- How will a suitable boundary treatment be implemented  
**Officer response:** *If the application is approved and it is considered to be necessary, a condition can be put on the decision notice to ensure that appropriate boundary treatments are on site.*
- Size of property is larger than surrounding properties and will fit on a smaller area of land.  
**Officer response:** *this is covered in the visual amenity*
- Proposed property is opposite kitchen window, side door and landing window (serving home office). Proposed windows will overlook kitchen and side door at a distance of only 3.3 metres.  
**Officer response:** *this is covered in the residential amenity section of this report.*

- Would be in complete shade until mid-morning at the earliest and kitchen window has uninterrupted views and light.  
**Officer response:** covered in residential amenity section of this report.
- Front elevation is unsightly  
**Officer response:** this is covered in the visual amenity section of this report.
- Parking concerns given that majority of dwellings are terraced (on street parking)  
**Officer response:** Highways Development Management has assessed the proposal and it is considered that the parking provision at the site is acceptable. This is discussed in the highway safety section of this report.

Councillor Bolt's representation:

- Highway safety especially relating to vehicle movements/sight lines  
**Officer response:** *this will be discussed in the highway safety section of this report. A block plan showing vehicle movements has been submitted and assessed by Highways Development Management.*
- Impact on the adjacent residential properties  
**Officer response:** *this is discussed in the residential amenity section of this report. The impact on each individual property surrounding the site is assessed above.*

## 11.0 CONCLUSION

- 11.1 To conclude, the proposed dwelling, in terms of its layout, scale, and design, is considered acceptable by officers in this location. It would relate satisfactorily to the varied development within the vicinity of the site and, in the view of officers, would not result in any significant residential amenity implications either. In addition, the proposal is not considered to result in any undue highway safety implications either.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.



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

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Materials
4. One charging point to be installed
5. Footnote re hours of construction
6. Footnote re access/ownership rights
7. Surfacing re parking area
8. En suite to be obscurely glazed
9. Boundary treatments to the side and rear to be retained

**Background Papers:**

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/93470>

Certificate of Ownership – Certificate A signed and dated 09/10/2017.

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## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93805 Change of use of ground floor flat to hairdresses (A1) (within a Conservation Area) 95-99, Lane Head Road, Shepley, Huddersfield, HD8 8DB**

#### APPLICANT

Chris Walker, Walker  
Builders Ltd

#### DATE VALID

06-Nov-2017

#### TARGET DATE

01-Jan-2018

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Kirkburton**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is reported to Heavy Woollen Sub-Committee following a request by Councillor John Taylor who states:

*“The reason for my request is that I have concerns about Highways issues as the use as a Hairdressers would need more car parking than a residential property and as there would not be adequate parking for the staff & clients it is likely to lead to car parking both on Firth St which is the access to the school & a narrow road and also on Lane Head Rd itself which is a fast road at this point.*

*My second reason for requesting this is that I am concerned that this proposal would result in the loss of a much needed small flat (this is the type of property most needed in the village where there is a shortage of affordable properties for purchase) and the provision of another hairdressers is unnecessary as the community already has 2 hairdressing salons within 2 minutes walk of this location so the addition would only be viable by drawing in clients from further afield and hence exacerbating the parking issues”.*

- 1.2 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 Sub Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site relates to no. 95-99 Lane Head Road, Shepley which is a two storey building constructed of stone, slate for the roof and upvc for the openings. There is an area of hardstanding to the rear of the site which has been redeveloped under application ref. 2009/91690. The new dwellings approved as part of this application have been constructed. Within the application building, there are flats at first and second floor. The site is located within the Shepley Conservation Area.

- 2.2 The site is located in close proximity to Shepley local centre which has varying uses within it including other hairdressing salons. The site is also in close proximity to residential units.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the change of use of flat to hairdressing salon with minor changes to the external appearance of the building.

- 3.2 External changes relate to changes to the openings as labelled on the plan. The following changes are noted:

- Replacement windows to front, rear and side.
- Existing door opening in the side (north east) elevation will be walled up. A new window will be installed in its place.
- Insertion of rooflights to front and rear elevations
- Existing porch on rear elevation to be removed. New window inserted in its place.
- Existing window replaced with new door to rear elevation.

- 3.3 Following a site visit, it is apparent that these changes have taken place.

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

- 4.1 2009/91690 – Conversion of bakery/shop/dilapidated dwellings to 2 no. dwellings and flat, erection of no. 3 town houses with associated parking and alterations to widen public footpath APPROVED (no. 95-99 Lane Head Road). **APPEAL ALLOWED.**

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

- 5.1 Amendments have been secured with regards to car parking provision on the site. The amended site plan is acceptable and Highways Development Management is satisfied that this overcomes initial concerns relating to parking provision.

### **6.0 PLANNING POLICY:**

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

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

**D2** – Unallocated land  
**BE1** - Design principles  
**BE2** – Quality of design  
**T10** – Highway Safety  
**T19** – Parking Provision  
**EP4** – Noise sensitive development  
**B1** – Business and industry strategy  
**H4** – Loss of a residential unit

6.3 National Planning Policy Framework (NPPF):

**Chapter 1** – Building a strong, competitive economy  
**Chapter 2** – Ensuring the vitality of town centres  
**Chapter 7** – Requiring good design  
**Chapter 11** – Conserving and enhancing the natural environment  
**Chapter 12** – Conserving and enhancing the historic environment

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

**PLP1** – Achieving sustainable development  
**PLP2** – Place Shaping  
**PLP3** – Location of new development  
**PLP21** – Highway Safety and Access  
**PLP22** - Parking  
**PLP24** – Design  
**PLP35** – Historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 One representation has been received as a result of the publicity of the amended plans. The concerns raised are summarised as follows:-

- Any increase in amount of vehicles would be extremely dangerous/ accidents have happened on this road
- Business of this nature would mean people need to park and leave throughout the day – visibility and road safety impacted
- Not enough parking to support the business
- Small dwellings are required, not hairdressers
- Concern regarding consultation – has decision already been made. Advertising for hairdressers already up.
- Worrying to be faced with prospect of different development – properties always maintained to be residential. Development changed since it began

- Other hairdressers within 20 metres
- Reduce values of homes if permission given that could then be turned into other uses/ want confirmation that site will not be a takeaway later on

7.2 Ward Councillor John Taylor has requested that the application be referred to committee for determination for the reasons set out in paragraph 1.1 of the report above.

7.3 Kirkburton Parish Council – objects on the grounds of insufficient space for car parking.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C Highways Development Management** – no objection following receipt of amended plans.

**K.C Environmental Health** – no objection. Footnote regarding hours of construction recommended.

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

None

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### **Principle of development**

10.1 The site is unallocated but within the designated Shepley Conservation Area. There is a presumption in favour of development unless it would have a detrimental impact on residential or visual amenity (including the historic environment), 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 within the designated Shepley Conservation Area on the emerging Local Plan. Policy PLP1 of the PDLP 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. PLP35 sets out heritage considerations.

- 10.3 The proposed hairdressing salon represents an A1 use as defined by The Town and Country Planning (Use Classes) Order.
- 10.4 The NPPF identifies hairdressing as a main town centre use and that in order to avoid the need for a sequential test the use must be in an existing centre.
- 10.5 Following an informal consultation with Planning Policy and use of the Council's GIS system to assess the surrounding uses, it is considered that, on balance, the location of the site can be considered to be within the Shepley local centre and therefore a sequential test is not necessary in this instance. Furthermore, the building has previously been used for A1 purposes. As such, the principle of development is acceptable in this instance. To add further weight to this, prior to planning permission being granted under planning application 2009/91690, the premise was used as a bakery (one again, a use falling within Class A1 of the Use Classes order).
- 10.6 A full assessment in respect of the impact on visual amenity, residential amenity (including noise), highways safety, and loss of a residential unit, is set out below.

**Visual amenity/local character:**

- 10.7 The impact on visual amenity is considered to be acceptable. The external changes to the building are as follows:
- Replacement windows to front, rear and side.
  - Existing door opening in the side (north east) elevation will be walled up. A new window will be installed in its place.
  - Insertion of rooflights to front and rear elevations
  - Existing porch on rear elevation to be removed. New window inserted in its place.
  - Existing window replaced with new door to rear elevation.
- 10.8 Given that this application relates mainly to the change of use of the unit and the external changes that are proposed are very minor changes to the appearance of the site, there will be no harm to visual amenity, including the impact upon the historic character of the Shepley Conservation Area.
- 10.9 Some of the external changes will be visible from the streetscene. Given the design and materials that are proposed, which are similar to the existing building and surrounding units, the changes to the openings would not be out of keeping with the area.

**Summary**

- 10.10 In all, officers consider that the proposal is acceptable from a visual amenity and heritage perspective, complying with the aims of policies D2, BE1, BE2 and BE5 of the UDP, Policies PLP24 and PLP35 of the PDLP, as well as Chapters 7 and 12 of the NPPF.



### **Residential Amenity:**

- 10.11 The impact on residential amenity is acceptable. One objection has been received. The impact on each of the surrounding residential properties will be assessed below.
- 10.12 Following a formal consultation with K.C Environmental Health, there is no objection to the proposal as a result of noise or odour coming from the use as a proposed hairdressing salon.
- 10.13 The building itself will not change and therefore there will be no overbearing impact as a result of the proposal.

#### *Impact on no. 101 Lane Head Road:*

- 10.14 The openings facing this site serve the beauty room and a landing. There is a distance of 8 metres between the site and no.101 Lane Head Road which does not have any openings in its side elevation apart from the door opening. The building will not project closer to this dwelling than existing and there will be no undue overlooking/loss of privacy.

#### *Impact on no. 93 Lane Head Road:*

- 10.15 There are no openings in the side elevation facing this site and there are no openings in the side elevation of no. 93. For this reason as well as the fact that the building will not extend further towards this site, there will be no overbearing or overlooking/loss of privacy.

#### *Impact on no. 1A Firth Street:*

- 10.16 There is an indirect relationship between the application site and the row of new houses. This is because these houses are set forward towards the highway. Given the indirect relationship between the houses and that the building form of the application site would not change, there would be no overbearing impact

The window in the application site which would look into these sites would serve the hairdressing salon. Given the non-habitable nature of this room and the distance of 15 metres, there will be no harmful overlooking into the garden area of no. 1A Firth Street.

#### *Loss of residential unit*

- 10.17 Policy H4 of the UDP applies and states that proposals to change the use of a residential property will not *normally* be permitted unless:
- The area has changed to such an extent that it is no longer suitable for residential use;
  - The property is required for a community use;
  - The property has been identified on the Huddersfield Town Centre inset plan for an alternative use;
  - It is in accordance with Policy B8 or B15 [both discontinued]

- 10.18 With regards to the above, the site has previously had an A1 use (bakery) and has not been used as a residential unit. The requirement for planning permission is due to internal works that are considered to constitute implementation of the change of use to a flat (as part of the wider development 2009/91690).
- 10.19 The site is also located near the local centre of Shepley that accommodates various uses.
- 10.20 Additionally, given the small size of the residential unit to be lost, its impact on housing supply would be very minor and would not represent a significant loss to housing supply.
- 10.21 Taking into account these factors and the benefits to the local economy of establishing a local business, in accordance with the aims of policy B1 of the UDP, as well chapter 1 of the NPPF, it is considered that the balance of material considerations is such that justifying a change from residential use is acceptable in this instance.

Summary:

- 10.22 Subject to the above suggested condition, the proposal would not harm residential amenity and would comply with the aims of Policy EP4 of the UDP and chapter 11 of the NPPF.

Highway issues:

- 10.23 Following a formal consultation with Highways Development Management (HDM) and receipt of an amended plan, there is no highway safety concerns raised in regard to this change of use application.
- 10.24 As stated in the report above, the site was previously used as a bakery (A1 use) which is considered to have a similar number of visitors to the site as the proposed hairdressing salon (also an A1 use). The change of use is not considered to intensify the use of the site in terms of number of visitors.
- 10.25 The two parking spaces within the site would be dedicated for staff parking and therefore the proposal is considered to be acceptable to comply with UDP policy T19 and PLP policy22 of the Kirklees Publication Draft Local Plan.
- 10.26 Turning and manoeuvres could be achieved within the site as seen on the block plan (13002D-51-P02), thus not leading to any highway safety and efficiency concerns. The proposal will comply with policy T10 of the UDP and policy PLP 21 of the PDLP.

Representations

One representation has been received. The concerns raised are summarised and addressed by officers as follows:

- *Any increase in amount of vehicles would be extremely dangerous/ accidents have happened on this road*  
**Officer comment:** this is addresses in the highway issues section of this report. When taking into account the original use of the premises as a

bakery (A1 use), the proposal to change the use to a hairdressers (also an A1 use) would generate like for like vehicular movements. It is therefore considered that the proposal would not increase the amount of vehicles.

- *Business of this nature would mean people need to park and leave throughout the day – visibility and road safety impacted*

**Officer comment:** See comments above

- *Not enough parking to support the business*

**Officer comment:** See comments above. In addition, off-street parking for staff would be provided within the application site.

- *Small dwellings are required, not hairdressers*

**Officer comment:** a hairdressers' salon in this location is acceptable given that it is considered to be within the local centre.

- *Concern regarding consultation – has decision already been made. Advertising for hairdressers already up.*

**Officer comment:** the application has been publicised by site notice and neighbour letters. A decision has not yet been made despite signage at the site.

- *Worrying to be faced with prospect of different development – properties always maintained to be residential. Development changed since it began.*

**Officer comment:** Should an application be submitted for a change of use, the appropriate assessment would take place. This application solely assesses the change of use to a hairdressing salon.

- *Other hairdressers within 20 metres.*

**Officer comment:** hairdressing salons are a main town centre use and therefore this is acceptable. Furthermore, chapter 2 of the NPPF sets out that Local Planning Authorities should, amongst other things, "promote competitive town centres that provide customer choice . . ."

- *Reduce values of homes if permission given that could then be turned into other uses/ want confirmation that site will not be a takeaway later on*

**Officer comment:** the de valuation of properties is not a material planning consideration. A planning application would be required if the site was proposed to be a takeaway – the appropriate assessment of this would take place at that stage.

**Councillor Taylor's comments on the planning application:**

- *Hairdressing salon will need more parking than residential and concerns relating to highway safety*

**Officer comment:** this is addressed in the highway issues section of this report.

- *Loss of flat*

**Officer comment:** this has been addressed above and the proposal has been assessed against the UDP policy relating to loss of residential units. Furthermore, it should be acknowledged that, although works have commenced on implementing permission 2009/91690, the apartment use itself has not actually commenced.

- *Several hairdressing salons in close proximity*

**Officer comment:** As discussed above, a hairdressing salon is a main town centre use and therefore appropriate in this location. The NPPF also encouraged competition.

## 11.0 CONCLUSION

- 11.1 To conclude, the premises were originally used as a bakery, which falls within Class A1 of the Town and Country Planning (Use Classes) Order. However, following the granting of planning application 2009/91690, works began on implementing the change of use of the premises to residential. Although the works have begun, the apartment use has not commenced. Taking into account the original A1 use of the site, the proposed hairdressers would also fall within the same Use class. As such, officers are of the opinion that the proposal would not materially add to undue highway safety and efficiency implications. In addition, from a visual amenity and heritage perspective, the minor external works proposed are considered sensitive to the character of the host building and finally, the proposal is not considered to result in any undue residential amenity implications either.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Hours of opening.

### Background Papers:

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/93470>

Certificate of Ownership – Certificate A signed and dated 06/11/2017.

## Report of the Head of Strategic Investment

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Jan-2018

**Subject: Planning Application 2017/93714 Change of use of hairdresses to self contained flat and alterations 114, Brewery Lane, Thornhill Lees, Dewsbury, WF12 9HG**

#### APPLICANT

B Mohyuddin

#### DATE VALID

27-Oct-2017

#### TARGET DATE

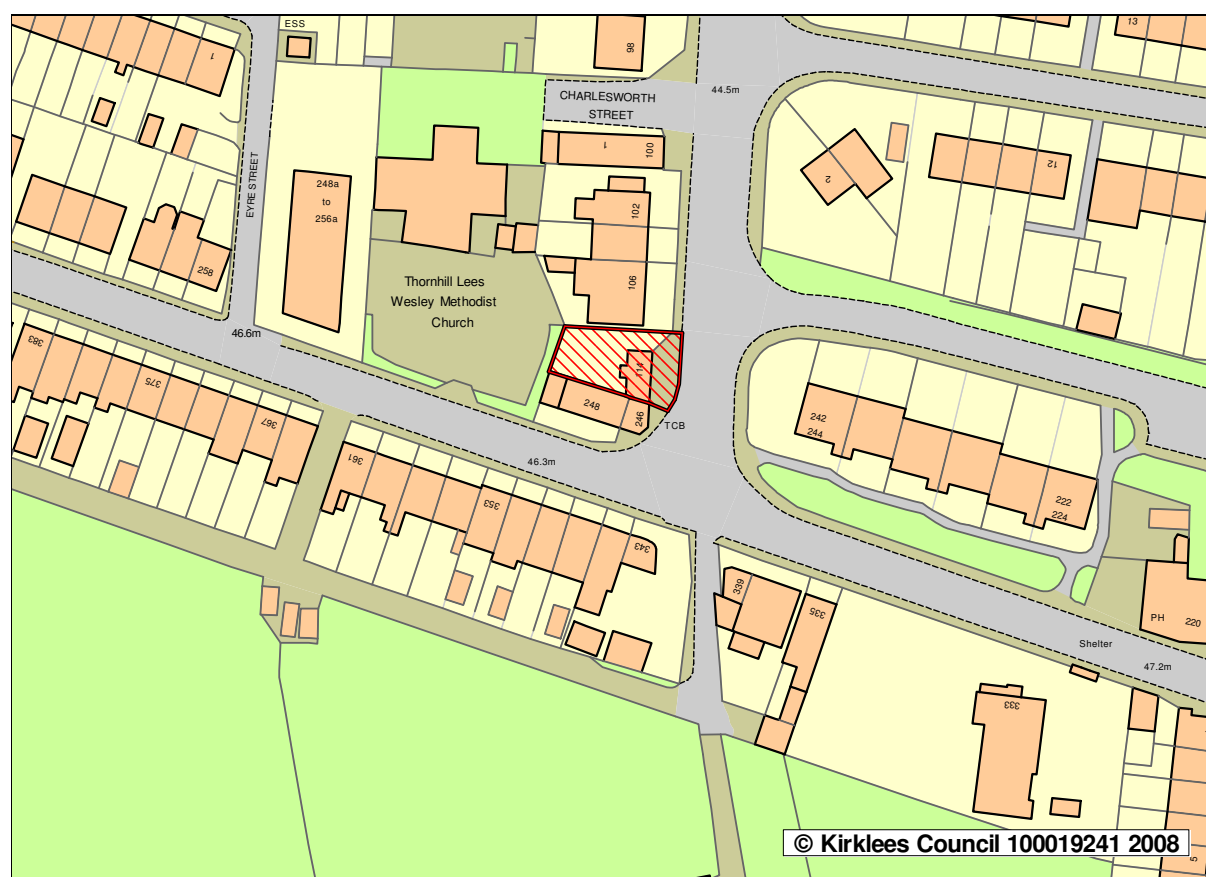
22-Dec-2017

#### 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

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## Electoral Wards Affected: Dewsbury South

No

Ward Members consulted  
(referred to in report)

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### RECOMMENDATION:

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

### 1.0 INTRODUCTION:

- 1.1 This application is reported to the Heavy Woollen Planning Sub-Committee following a request by Councillor Gulfam Asif who states:

*“The reasons for this application be referred to the planning committee is lack of parking on site and highway safety”.*

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

### 2.0 SITE AND SURROUNDINGS:

- 2.1 No. 114 Brewery Lane, Thornhill Lees is a single storey building constructed of natural stone with pitched slate roof, located close to the junction of Brewery Lane with Lees Hall Road, Thornhill Lees. The property has a surfaced parking area to the rear of the building, accessed off Brewery Lane. The site of the proposed flat is located within an area of mixed uses, incorporating both commercial and residential uses, approximately 400m from the local centre of Thornhill Lees.
- 2.2 Surrounding the site is predominantly residential with a mixture of residential properties within the immediate area. These include properties constructed of a mixture of materials, some of which have been extended (see planning history section of this report). To the rear of the site is Thornhill Lees Wesley Methodist Church which is now an Education Centre.

### 3.0 PROPOSAL:

- 3.1 Planning permission is sought for the change of use of hairdressers’ salon to flat. Each element of the proposal will be discussed below.

### 3.2 Change of use

The use of the building is proposed to change from a hairdressers' salon to a one bedroom flat. The flat would consist of a living kitchen area, a bedroom, and a shower room.

### 3.3 External changes

To the front elevation, there will be no changes. To the rear elevation of the building, the existing door opening will be blocked up and replaced by a window opening serving the proposed shower room.

## 4.0 **RELEVANT PLANNING HISTORY:**

- 4.1 2015/91461 – Change of use from a hairdressing salon (class A1) to taxi booking office (class B1) with associated parking at Lock Street. APPROVED (decision at committee) at no. 114 Brewery Lane.
- 4.2 2017/93013 – Alterations to convert hairdressers to flat INVALID (incorrect certificate and red line boundary) at no. 114 Brewery Lane.
- 4.3 2008/92802 – Erection of two storey extension APPROVED (no. 106 Brewery Lane)
- 4.4 2014/93706 – Erection of an internal first floor mezzanine, two entrances and fire escape, erection of ground floor extensions, alterations to the building and car park layout and conversion of outbuilding to body wash room APPROVED (Education Centre, Lees Hall Road).

## 5.0 **HISTORY OF NEGOTIATIONS:**

- 5.1 During the course of the application, additional information was requested in the form of Land Registry documentation in order to show the land within the applicant's ownership and rights of access over the yard area to the rear of the site.

## 6.0 **PLANNING POLICY:**

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

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

**D2** – Unallocated land  
**BE1** - Design principles  
**BE2** – Quality of design  
**BE12** – Space about dwellings  
**T10** – Highways Safety  
**T19** – Parking Provision  
**EP4** – Noise sensitive and noise generating development  
**G6** – Contaminated Land

6.3 National Planning Policy Framework (NPPF):

**Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring good design  
**Chapter 11** – Conserving and enhancing the natural environment

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

**PLP2** – Place Shaping  
**PLP21** – Highway Safety and Access  
**PLP22** - Parking  
**PLP24** – Design  
**PLP51** – Protection and improvement of local air quality  
**PLP53** – Contaminated and unstable land

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 Two representations have been received. All representations will be summarised and addressed in section 10.0 of this report.

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**K.C Environmental Health (pollution and noise)** – no objection subject to conditions relating to contaminated land and electric charging points.

**K.C Highways Development Management** – no objection.

8.2 **Non-statutory:**

None

**9.0 MAIN ISSUES**

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



## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. Subject to other material considerations being addressed, the proposed change of use would be acceptable in principle in relation to policy D2.
- 10.2 The general principle of changing the use of a building from a hairdressing salon to a flat is acceptable. The application site is located within a sustainable location in close proximity to the Thornhill Lees local centre. The application site is also in close proximity to other residential properties and therefore its proposed use is compatible with the surrounding uses.

### **Visual amenity/local character:**

- 10.3 The impact on visual amenity is acceptable. The external alterations to the property would be concentrated on the rear elevation. The replacement of the door to a window is considered to be a very minor change to its appearance and, given its materials, scale and design, which matches the existing openings, would not be an incongruous feature that would detract from the character of the building. It would not be visible in the streetscene and would not change the appearance of the building very significantly.

### **Summary**

- 10.4 In all, given that the main component of this application relates to the change of use and there are not many external changes required to facilitate this, the proposal is acceptable in terms of visual amenity. The proposal is considered to comply with the aims of policies D2, BE1, BE2 and Chapter 7 of the NPPF as well as policy PLP24 of the Kirklees Draft Publication Local Plan.

### **Residential Amenity:**

- 10.5 The impact on residential amenity is acceptable. One objection has been received.
- 10.6 Following a formal consultation with K.C Environmental Health, there is no objection relating to noise/pollution.
- 10.7 Given that there are no external extensions, there would be no overbearing impact on neighbouring dwellings.
- 10.8 Policy BE12 relates to space about dwellings. In this case, there are two habitable room windows in the front elevation which look onto Brewery Lane, with the closest neighbouring property being no. 242/244 Lees Hall Road. There is an indirect relationship with these properties which do not have openings in their side elevation. Given that there is no window-window relationship, 12 metres is required to comply with UDP policy BE12. In this

case, there is a distance of 25 metres between the sites, officers consider that there will be no overlooking/loss of privacy and the proposal complies in this regard.

- 10.9 With regards to the openings to the rear of the site, there is a living kitchen and shower room area. A condition has been recommended to ensure that the shower room is obscurely glazed. The living kitchen window will not overlook residential properties. Instead, it faces the hardstanding area of the building which is used as an education centre. This area of hardstanding is visible from the streetscene (not private amenity space) and there is a stone wall between the sites. Officers consider that there will be no overlooking/loss of privacy. There is a distance of at least 1.5 metres which is the distance stipulated in UDP policy BE12.

### Summary

- 10.10 To conclude, officers consider that the proposal complies with UDP policy BE12 and would not cause harm to residential amenity to surrounding properties by virtue of overbearing or an overlooking impact.

### **Highway issues:**

- 10.11 Following a formal consultation with Highways Development Management (HDM), there is no objection to the proposal. Given that the proposed flat would accommodate 1 bedroom, a maximum of one parking space is suggested in relation to Policy T19 of the UDP. Taking this into account, during the course of the application, an additional plan was submitted which showed the provision of one parking space in the existing hardstanding yard area to the rear of the site.
- 10.12 Although there is an existing hardstanding yard area to the rear of the site, on the basis of the information submitted, it is evident that only part of this area is within the ownership of the applicant. Following a site visit by the case officer and the Highways DM Officer, and in light of representations received, it is acknowledged that the one parking space shown on the additional plan, and when taking into account the on-site constraints, would be of an inadequate size to accommodate one vehicle.
- 10.13 However, given the fact that the site is in a sustainable location approximately 400 metres away from Thornhill Lees local centre and the small scale of the development, the requirement for a car parking space within the site is not considered necessary to allow the development to be acceptable in this instance. To add further weight to this, consideration also needs to be given to the existing use/potential use of the site.
- 10.14 The use of the building as a flat will not lead to an intensification of the existing use, or potential use, of the site. The building has consent for a taxi booking office and the site's previous use was as a hairdressers' salon, which falls within Class A1 of the Town and Country Planning (Use Classes) Order, meaning that the premises could be used for other retail uses. The potential for the above uses is considered to be more intense in terms of the number of vehicular movements associated with the site than the residential one bed flat proposed.

10.15 The Council's Highway Safety team has also been consulted on the application and they have no objection to the proposal. It is noted that there are highway safety schemes proposed on Lees Hall Road but this change of use proposal is not considered to compromise this.

### Summary

10.16 For the above reasons, there will be no highways safety issues over and above the existing situation. Taking into account the above information, the proposal is considered to comply with policy T10 of the UDP as well as policy PLP21 of the PDL.

### Representations

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

- Why does he need parking space for 4 vehicles? There is only a small space at the back (there is a back door there).

**Officer response:** *Reference was made on the application form to the existing provision of parking for 4 vehicles within the site. However, as set out in the main assessment above, the proposed use, due to its small scale and sustainable location, and when taking into account the previous/potential use of the site, is not considered to require the provision of a parking space within the site.*

- Enough vehicles parked around here as it is – people going to the mosque and the barbers. Our visitors cannot find anywhere to park – where is the applicant going to park 4 cars.

**Officer response:** *As set out in the assessment above, the small scale development being proposed would only generate the maximum provision of one car parking space.*

- Son had car scratched all the way down one side

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

- Query relating to applicant demonstrating that notice has been served.

**Officer response:** *there is no demand on a developer to provide confirmation of this.*

- Why should anyone be put to expense/inconvenience to prove right of access?

**Officer response:** *matters relating to land ownership are not a material planning consideration.*

- Original claim untrue/ red line remains visible

**Officer response:** *ownership certificate B has been signed and therefore the application is now valid.*

- Highways safety schemes proposed in the area but officers approving further residential development/ parking concerns relating to visitors parking close to the junction.

**Officer response:** *this is addressed in the highway safety section of this report. Following consultation with Highway Safety, it is considered that the proposals would not impact upon the highway safety schemes proposed within close proximity to the application site.*

See below for officer responses relating to Councillor Asif's concerns:

- Lack of parking on the site

**Officer response:** *this has been addressed in the highway safety section of this report.*

- Highway safety

**Officer response:** *comments have been received from Highways Development Management and Highways Safety. There is no objection in this regard.*

## 11.0 CONCLUSION

- 11.1 Taking the above into account, the proposed change of use is considered to be less intensive than the previous use of the site as a hairdresser's (with the potential for other A1 uses e.g. retail) or the previously approved taxi booking office. In addition, due to its sustainable location, it is not considered necessary in this instance to provide the one car parking space to serve the development within the application site. It is the view of officers that the small-scale nature of this development would not lead to significant highway safety implications and therefore, the proposal would accord with the aims of policies D2 and T10 of the UDP.
- 11.2 Furthermore, due to the minor works proposed to the external appearance of the existing building, the proposal is not considered to result in any undue harm to visual amenity. In addition, the proposed use is considered compatible with the nearby residential premises and would therefore lead to no undue harm to residential amenity either.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Reporting of unexpected contamination
4. Footnote re hours of construction
5. Shower room window obscurely glazed  
Footnote re ownership

**Background Papers:**

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/93714>

Certificate of Ownership – Certificate B signed and dated 28<sup>th</sup> September 2017.  
Notice was served on Mrs M Newall of 248 Lees Hall Road, Thornhill Lees.

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