

Public Document Pack



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

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Wednesday 11 April 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 19 April 2018**.

(A coach will depart the Town Hall, at 11.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Paul Kane (Chair)
Councillor Mahmood Akhtar
Councillor 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
S Pandor

Liberal Democrat

A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of Previous Meeting

1 - 8

To receive the Minutes of the previous meeting of the Sub-Committee held on 15 March 2018.

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.

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.

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.

6: Site Visit - Application No: 2018/90650

Erection of two storey front side and rear extension at 10 Moor End Lane, Dewsbury Moor, Dewsbury.

(Estimated time of arrival at site – 11.10am)

Contact Officer: Jennifer Booth

Wards Affected: Dewsbury West

7: 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

Wards Affected: Birstall and Birkenshaw; Dewsbury South; Mirfield

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 Monday 16 April.

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

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

8: Planning Application - Application No: 2014/91242

27 - 46

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

Contact Officer: John Ritchie, Planning Services

Wards Affected: Cleckheaton

9: Planning Application - Application No: 2014/93145 47 - 50

Modification of Section 106 obligation relating to previous application 2012/93062 at land off Ashbourne Drive, Cleckheaton

Contact Officer: John Ritchie, Planning Services

Wards Affected: Cleckheaton

10: Planning Application - Application No: 2017/92504 51 - 70

Erection of 5 dwellings with associated site road, parking and landscaping at land to rear of 49/51 Huddersfield Road, Skelmanthorpe.

Contact Officer: Louise Bearcroft, Planning Services

Wards Affected: Denby Dale

11: Planning Application - Application No: 2017/93674 71 - 84

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

Contact Officer: Louise Bearcroft, Planning Services

Wards Affected: Heckmondwike

12: Planning Application - Application No: 2018/90650 85 - 94

Erection of two storey front side and rear extension at 10 Moor End Lane, Dewsbury Moor, Dewsbury.

Contact Officer: Jennifer Booth, Planning Services

Wards Affected: Dewsbury West

13: Planning Application - Application No: 2018/90355

95 - 102

Alterations to convert garage to living accommodation and erection of single storey rear extension at 11, Park Lodge View, Skelmanthorpe, Huddersfield.

Contact Officer: Olivia Roberts, Planning Services

Wards Affected: Denby Dale

Planning Update

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

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 15th March 2018

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

Apologies: Councillor Mussarat Pervaiz

1 Membership of the Committee

Councillor S Hall substituted for Councillor Pervaiz.

2 Minutes of Previous Meeting

The Minutes of the meeting held on 25 January 2018 were approved as a correct record.

3 Interests and Lobbying

Councillors Kane, Akhtar, Grainger-Mead, Lawson, S Hall, A Pinnock, Scott, K Taylor, Turner and J Taylor declared they had been lobbied on application 2017/93714.

Councillors Grainger-Mead, K Taylor, Akhtar and S Hall, declared they had been lobbied on application 2017/93674.

Councillors Turner and Kane declared they had been lobbied on application 2017/92504.

Councillor A Pinnock declared he had lobbied on application 2017/90312.

Councillor Turner declared he had been lobbied on applications 2016/93658 and 2017/93217.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2016/93882

Site visit undertaken.

8 Site Visit - Application No: 2017/90312

Site visit undertaken.

9 Site Visit - Application No: 2017/92504

Site visit undertaken.

10 Site Visit - Application No: 2016/93658

Site visit undertaken.

11 Site Visit - Application No: 2017/93217

Site visit undertaken.

12 Local Planning Authority Appeals

That the report be noted.

13 Tree Work Application 2017/94287

The Sub Committee considered a report that sought a decision on an application to fell and replant four trees within the garden of 3 Birdsedge Hill, Huddersfield.

The report outlined details of the proposal, the main issues, an appraisal of the application and the recommended conditions.

RESOLVED – Delegate approval for consent to tree works as specified in Tree Work Application 2017/94287 to include the recommended conditions detailed in the considered report.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 votes).

14 Application No: 2018/90714

The Sub Committee considered a report that sought a decision that the applicant be released from a Unilateral Obligation in connection with planning application 2015/93261 for demolition of existing buildings and erection of 14 dwellings at Dogley Mills, off Penistone Road, Fenay Bridge.

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

Under the provisions of Council Procedure Rule 37 the Committee received representations from Tim O'Sullivan and David Storrie (Both speaking on behalf of the applicant).

RESOLVED – Contrary to the officer's recommendation that the applicants request to release them from the Unilateral Obligation that they must remain within the District be refused.

The Sub Committee felt that the decision to grant outline permission on application 2015/93261 had been based on the agreement that Connections Seating Limited would relocate within the district of Kirklees and wished to keep the business in Kirklees.

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

For: Councillors Akhtar, Grainger-Mead, S Hall, Kane, Scott, K Taylor and G Turner (7 votes)

Against: Councillors Lawson and A Pinnock (2 Votes)

Abstained Councillor J Taylor

15 Planning Application - Application No: 2017/93674

The Sub Committee gave consideration to Planning Application 2017/93674
Erection of class A1/A3 coffee shop with external seating area Land at, Northgate Retail Park, Albion Street, Heckmondwike.

RESOLVED – That consideration of the application be deferred to provide officers time to work with the applicant to look at further measures to mitigate the impact on the residential amenity of the neighbouring properties.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

16 Planning Application - Application No: 2017/93714

The Sub Committee gave consideration to Planning Application 2017/93714
Change of use of hairdressers to self-contained flat and alterations 114, Brewery Lane, Thornhill Lees, Dewsbury.

RESOLVED – 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 contained within the considered report including:

1. 3 year time limit to commence development.

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

2. Development to be carried out in accordance of approved plans.
3. Reporting of unexpected contamination.
4. Footnote re hours of construction.
5. Shower room window obscurely glazed.
6. Footnote re ownership/ legal issues.

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, K Taylor and G Turner (9 votes)

Against: (0 votes).

Abstained: Councillor J Taylor.

17 Planning Application - Application No: 2017/92504

The Sub Committee gave consideration to Planning Application 2017/92504
Erection of 5 dwellings with associated site road, parking and landscaping Land to rear of, 49/51, Huddersfield Road, Skelmanthorpe, Huddersfield.

RESOLVED – That consideration of the application be deferred. The Sub Committee felt that because the application site was part of a wider area of Provisional Open land, proposed as housing allocation (H502) in the Kirklees Publication Draft Local Plan that it would be beneficial to allow discussions in stage 4 of the Local Plan examination to be heard as it will cover issues relating to access to H502.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

18 Planning Application - Application No: 2016/93658

The Sub Committee gave consideration to Planning Application 2016/93658
Formation of access road to serve existing quarry operations Bromley Farm Quarry, Barnsley Road, Upper Cumberworth, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Ade Dickinson (on behalf of the applicant).

RESOLVED – 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 contained within the considered report including:

- 1) The standard condition requiring implementation within 3 years.

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

- 2) An amended condition that officers negotiate a reduction in the time limit (originally 5 years) for the use of the access road to the site.
- 3) The submission of a traffic management plan prior to development commencing.
- 4) The submission, agreement and implementation of a scheme detailing road markings, warning signage and safety fencing prior to development commencing.
- 5) The surface of the access road to be repaired to a satisfactory standard prior to the export of mineral from the adjacent quarry and a requirement that the surface is maintained for the duration of operations.
- 6) The submission, agreement and implementation of a drainage scheme prior to the export of mineral from the adjacent quarry.
- 7) The submission, agreement and implementation of a drainage scheme prior to the export of mineral from the adjacent quarry.
- 8) The submission, agreement and implementation of wheel washing arrangements prior to the export of mineral from the adjacent quarry.
- 9) The submission, agreement and implementation of a noise management plan prior to the export of mineral from the adjacent quarry.
- 10) The submission, agreement and implementation of a dust suppression scheme prior to the export of mineral from the adjacent quarry.
- 11) An amended condition that the operation of the access track to be limited to 08:00 to 16:00 (originally 08:30 to 16:30) Monday to Friday.
- 12) All HGVs using this route to be fitted with white noise reversing beepers.
- 13) The submission, agreement and implementation of parapet protection measures prior to the use of the access.
- 14) A requirement to suspend operations if the bridge is damaged until it is deemed safe to continue.
- 15) The implementation of a 5 mph speed limit for all vehicles on the access track.
- 16) The maximum gross weight of vehicles using the track not to exceed 24 tonnes.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

The Sub Committee gave consideration to Planning Application 2017/90312
Erection of 3 dwellings 49, Brooke Street, Cleckheaton.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Nick Willock (on behalf of the applicant).

RESOLVED –

(1) 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 contained within the considered report including:

1. The standard time limit for implementing permission.
2. Development to be carried out in accordance with approved plans.
3. Samples of materials.
4. Surfacing of hardstanding areas.
5. Electric vehicle charging points.
6. Provision of turning facilities.
7. Protective fencing (trees).
8. Site investigation and remediation.
9. Noise Report.
10. Removal of permitted development rights for extensions and outbuildings to all plots.
11. Removal of permitted development rights for windows and openings within gable of Plot 3.

(2) An additional condition that brick is used in the construction of the dwellings.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

20

Planning Application - Application No: 2016/93882

The Sub Committee gave consideration to Planning Application 2016/93882
Erection of extensions and alterations 48, Latham Lane, Gomersal, Cleckheaton.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Brian Jenkins (objector) and Andrew Barrett (applicant).

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr David Hall (Local ward member).

RESOLVED – 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 contained within the considered report including:

Planning Sub-Committee (Heavy Woollen Area) - 15 March 2018

1. A 3 year time limit to commence development.
2. Development carried out in accordance of approved plans.
3. Obscurely glazed en suite openings.
4. Hedging (north western boundary) to be retained.
5. Ecology footnote.
6. Pre commencement condition for tree protection plan (to show protective fencing).
7. Removal of Permitted Development Rights for new openings at first floor level in rear elevation.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

21 Planning Application - Application No: 2017/93217

The Sub Committee gave consideration to Planning Application 2017/93217 Conversion of redundant former storage building to form one dwelling Emley Lodge Farm, Off Langley Lane, Emley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Angus Ellis (on behalf of the applicant).

RESOLVED – That the application be refused in line with the following reasons that were included in the considered report:

1. The proposed dwelling is sited in a rural location, outside the settlement boundary and is inaccessible to local shops and amenities thus being reliant on the private car. The applicant has failed to demonstrate any special circumstances as identified within Paragraph 55 of the National Planning Policy Framework which would outweigh the unsustainable location of the proposed dwelling. The proposal is therefore contrary to the National Planning Policy Framework in addition to Policies PLP1 and PLP20 of the Kirklees Publication Draft Local Plan.
2. The existing buildings are not of permanent and substantial construction and as such cannot be reused. The redevelopment of the site would be inappropriate development for which no special circumstance have been submitted and as such is contrary to Paragraph 90 of the National Planning Policy Framework in addition to Policy PLP60 of the Kirklees Publication Draft Local Plan.
3. The existing building is sited in a prominent location which is open to 3 sides to the countryside. The works required in order to create an acceptable level of outdoor amenity area for future occupiers would involve engineering operations and a change of use of adjoining land. The subsequent use of this land as a domestic garden, along with associated domestic paraphernalia, would be a form of encroachment which would fail to preserve the openness of the Green Belt. The application is therefore, considered to constitute inappropriate development in the Green Belt. There are no very special circumstances that

would clearly outweigh the harm identified and the proposal is therefore contrary to the National Planning Policy Framework in addition to Kirklees Publication Draft Local Plan Policies PLP1, PLP3 and PLP57.

4. The access and egress would involve utilising an existing track which is also a Public Right of Way. The use of the building as a dwelling, coupled with the lack of adequate provision of access would lead to a conflict of users. The development is therefore, contrary to policies R13 and T10 of the Kirklees Unitary Development Plan and the National Planning Policy Framework in addition to Kirklees Publication Draft Local Plan Policy PLP21.
5. The development proposed provides insufficient parking and suitable access for a fire tender and refuse collection contrary to Policies T10 and T19 of the Kirklees Unitary Development Plan in addition to Policy PLP21 of the Kirklees Publication Draft Local Plan.
6. The applicant has submitted ecological information that relates to bats and breeding birds only. The supporting evidence does not address the potential for impacts to Great Crested Newts, which are known to inhabit several ponds located to the south of the site. It has not been demonstrated that development could be carried out without impact to the local ecology and as such the development proposed is contrary to Chapter 11 of the National Planning Policy Framework as the Local Planning Authority is not able to discharge its duty, under regulation 9(3) of the Conservation of Habitats and Species Regulations 2017, to have regard to the requirements of the Habitats Directive.

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, K Taylor, J Taylor and G Turner (10 votes)

Against: (0 Votes)

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

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

Date: 19 APRIL 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.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Service Director - Economy, Regeneration & Culture	Paul Kemp 10 April 2018
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	No financial implications
Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No legal implications
Cabinet member portfolio	Economy (Strategic Planning, Regeneration & Transport) (Councillor P McBride)

Electoral wards affected: Dewsbury South; Mirfield; Birstall and Birkenshaw;

Ward councillors consulted: No

Public or private: Public

1. Summary

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

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

- 2.1 2017/62/91900/E - Erection of front and rear dormers at 120, Savile Road, Savile Town, Dewsbury, WF12 9LP. (Sub-Committee in accordance with officer recommendation) (Dismissed)
- 2.2 2017/62/91476/E - Erection of first floor front and rear extensions at 32A, Gregory Springs Lane, Lower Hopton, Mirfield, WF14 8LE. (Officer) (Dismissed)
- 2.3 2017/61/92671/E - Reserved matters application pursuant to outline permission 2016/90511 for erection of one dwelling at rear of, 678a, Bradford Road, Birkenshaw, BD11 2EE. (Officer) (Dismissed)

3. Implications for the Council

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

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

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

6. Officer recommendations and reasons

That the report be noted.

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer

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

9. Background Papers and History of Decisions

Not applicable

10. Service Director responsible

Paul Kemp

Appeal Decision

Site visit made on 27 February 2018

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2018

Appeal Ref: APP/Z4718/D/17/3189987

120 Savile Road, Savile Town, Dewsbury WF12 9LP

- 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 Nazir Musa against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91900/E, dated 5 June 2017, was refused by notice dated 2 October 2017.
 - The development proposed is front and rear dormers.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's evidence makes reference to Policies PLP1, PLP2, PLP21 and PLP24 of the Emerging Kirklees Local Plan publication version which was submitted for examination in April 2017. However, the Emerging Local Plan has yet to be adopted and there is no evidence before me as to whether the policies are subject to any unresolved objections. Those circumstances limit the weight I can give to the policies of the Emerging Kirklees Local Plan when determining this appeal. I have, therefore, determined the appeal principally on the basis of the saved policies of the Kirklees Unitary Development Plan (UDP), adopted March 1999, taking account of the National Planning Policy Framework (the Framework).

Main Issues

3. The main issues of this appeal are:
 - the effect on the living conditions of occupiers of neighbouring properties, with particular regard to 11 Warren Street (No 11) and matters of privacy, and;
 - the effect on the character and appearance of the host building and the area.

Reasons

Living conditions - neighbours

4. The appeal site consists of 120 Savile Road (No 120), a two storey semi-detached property located relatively close to a junction with Warren Street. No 120 has an existing single storey rear extension and a two storey side

- extension with planning permission that is under construction. The appeal proposal relates to front and rear dormers proposed within the roof of the side extension which were also under construction at the time of my visit.
5. No 11 is a two storey property at the rear which faces Warren Street. The rear building lines of the appeal property and No 11 are at differing angles with an unusually close relationship between rear elevations due to the varied alignment of Savile Road and Warren Street. The separation distance has been further eroded by two storey and single storey rear extensions to No 11 and the side extension to the appeal property that is under construction. There is no evidence before me as to the specific circumstances which led to the Council previously granting planning permission for the two storey side extension at No 120. Furthermore, I am not aware of the planning status and circumstances that led to the existing two storey and single storey rear extensions and a rear dormer at No 11. Nonetheless, the cumulative effect of the close relationship of the properties and respective extensions has resulted in some overlooking between habitable windows in the rear elevations of the properties and a loss of privacy to rear amenity areas.
 6. Notwithstanding the above, the reduced levels of privacy currently experienced by occupiers of No 120 and No 11 does not justify exacerbating overlooking of habitable rooms and private amenity areas. Although the siting of the rear dormer would incorporate a set back from the rear building line of No 120 that would prevent any overbearing effect, its elevated position would increase the overlooking of the rear amenity area of No 11. It would also introduce opportunities for additional overlooking of windows in an existing rear dormer and at first floor level of the neighbouring property. The relationship between the respective habitable windows although slightly angled would be unacceptably close and there would be intensified overlooking of the rear amenity area, which would harm the living conditions of occupiers of No 11 through an increased loss of privacy.
 7. In contrast, the proposed front dormer faces towards playing fields on the opposite side of Savile Road and would not affect the habitable windows of properties nearby. As a consequence, the front dormer would not harm the living conditions of occupiers of neighbouring properties. However, the absence of concern in that respect is a neutral factor and does not override the harm identified in terms of the rear dormer. The two elements of the proposal are not severable as both dormers relate to roofspace accommodation within the two storey side extension that is under construction.
 8. In reaching the above findings, I have considered whether conditions could overcome the harm I have identified with respect to the rear dormer in terms of privacy and overlooking. However, it would not be reasonable to require installation of obscure glazing and a restriction upon the opening mechanism of a dormer window intended to serve a bedroom as such an approach could have an adverse effect upon the living environment for future occupiers.
 9. I conclude that the development would result in significant harm to the living conditions of occupiers of No 11 Warren Street with respect to overlooking and a loss of privacy. The proposal would, therefore, conflict with Saved Policies D2 and BE14 of the UDP which seek to protect residential amenity. The policies are consistent with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

10. The appeal property has a pitched roof design with a side gable end. The on-going construction of a two storey side extension of considerable width with consistent front building line and roof form has elongated the frontage of No 120. The immediate surroundings have a variety of property styles, scale and proportions including a predominance of semi-detached properties and terraced rows, together with the intermittent presence of detached dwellings. When taking account of the side extension, the semi-detached pair has proportions that are not dissimilar to some terraced rows in the wider area.
11. There are numerous examples of front dormers and other roof alterations visible along Savile Road, Warren Street and Headfield Road, including a front dormer with a similar front gable design, scale, proportions and materials at No 144 Savile Road. In that context and taking account of the varied character of surrounding properties, the front dormer would be viewed as a complementary addition to the area. Furthermore, it would be subservient to the character and appearance of the host building given that its siting, scale and proportions would assimilate with the neighbouring terraced rows where front dormers are an intermittent feature.
12. In reaching the above findings, I have taken into account that the proposed front dormer does not appear to meet the requirements of Saved Policy BE15 of the UDP in terms of its proximity to the gutter line and the ridge of the roof, and in so far as it is not centrally placed. However, in the particular circumstances of the property and its surroundings, I have found that it would not harm the character and appearance of the host building and the area.
13. The Council have not expressed any specific concern with respect to the siting, design, scale and proportions of the rear dormer. Based upon the evidence before me and my observation of the site and its surroundings, I have no reason to take a different view. Rear dormers of varying design, scale, proportions and materials are a common feature of the locality and therefore, the proposal would not appear prominent, dominant or incongruous within the street scenes of Savile Road and Warren Street where it would be visible from limited public vantage points.
14. I conclude that the development would not have an unacceptable impact upon the character and appearance of the host building or the area. The proposal, therefore, does not conflict with Saved Policies D2, BE1 and BE13 of the UDP in that respect. When taken together the policies, amongst other things, seek good quality design, a sense of local identity and no prejudice to the character of the surroundings, including with respect to materials, window openings, roof styles and architectural detailing. The policies are consistent with the design objectives of the Framework. In the particular circumstances of this case, the conflict with Saved Policy BE15 of the UDP is not a decisive factor as it is outweighed by the absence of harm to the character and appearance of the host building and the area.

Other Matters

15. The appellant's concerns in terms of the Council's approach to pre-application discussions and when determining the application are not influential matters as I have considered the appeal proposal on its merits. The appeal relates to an application for planning permission which was refused by the Council. In that

regard, the works undertaken to date without planning permission were at the appellant's own risk. The outcome of this appeal does not obligate enforcement action nor does it preclude the possibility of a revised proposal, which would necessarily be considered by the local planning authority in the first instance. Consequently, the financial investment made as part of the construction of the dormers and the possible costs associated with removal of the dormers are not influential factors when determining this appeal.

Conclusion

16. I have found no harm to the character and appearance of the host building and the area. However, there would be significant harm with respect to the effect of the proposal on the living conditions of occupiers of neighbouring properties, specifically No 11 Warren Street in terms of a loss of privacy, which is an overriding factor that reflects conflict with the development plan and the Framework when taken as a whole.
17. For those reasons and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR



Appeal Decision

Site visit made on 27 February 2018

by J D Westbrook BSc(hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2018

Appeal Ref: APP/Z4718/D/18/3192860

32a Gregory Springs Lane, Lower Hopton, Mirfield, WF14 8LE

- 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 John Hutchinson against the decision of Kirklees Metropolitan Council.
 - The application Ref 2017/62/91476/E, dated 20 April 2017, was refused by notice dated 8 November 2017.
 - The development proposed is first floor front and rear extensions.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies,
 - the effect of the proposals on the character and appearance of the area around Gregory Springs Lane, and
 - whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

Reasons

3. The appeal property is a large detached house situated at the head of a cul-de-sac known as Gregory Springs Road. It comprises two, two-storey wings aligned approximately north-south with a connecting two-storey section aligned approximately east-west. There is a large attached garage to the northern side of the house. It lies within the Green Belt. On the western side of Gregory Springs Lane there is a small number of detached houses and on the eastern side are the rear boundaries of houses fronting Gregory Springs Mount. No 32 Gregory Springs Lane is also accessed from the head of the road, and is a large detached house with some modern-looking features or extensions.
4. The proposed development would involve the construction of a first-floor extension above the garage to accommodate a bedroom and en-suite bathroom. There would also be a small first floor extension to a rear bedroom, above what is currently a flat roof to the ground floor living room bay window.

5. No 32a was extended following planning permission granted in 1980. The original house appears to have been a small 1-bedroomed cottage, occupying what is now the easterly of the two north-south aligned sections. Whilst I have no detailed figures, the current house appears to occupy a footprint around three times that of the original cottage and it also has a significantly greater overall volume, at around three times the size of the original building. The current proposal would not add a great amount to the volume of the house as existing, but when taken with the earlier extensions, it would represent a disproportionate addition over and above the size of the original building. On this basis, it would be inappropriate development in the Green Belt.
6. The National Planning Policy Framework (NPPF) states that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. It continues by stating that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”. In this case the proposals would be inappropriate and they would, in addition, result in an increase in the bulk of the existing house which would have an effect on the openness of the Green Belt which, although slight, would add to the harm.
7. The appellant contends that the first-floor extension above the garage would enable him to stay in the property and look after an aging father with dementia. I have the greatest sympathy with the appellant’s circumstances but from the information before me, it is not clear that the proposals are the only way of dealing with this problem and, in any case, the extension would remain in place subsequent to the appellant ceasing to live there.
8. The appellant also refers to recent extensions at the adjacent No 32 Gregory Springs Lane. However, I have no details of these extensions or how they relate to the size of the original building. In any event, I have dealt with this case on its own merits.
9. On balance, I find that the other considerations put forward by the appellant do not clearly outweigh the significant harm to the Green Belt that would be caused by this proposal.
10. The Council contends that “the cumulative impact of the existing and proposed extensions would amount to an over-complicated design; substantially increasing the size of the original building and result in the loss of its simple design form. As such it cannot be considered in keeping with the character of the original building”. I concur that the proposed extensions, when taken with the earlier additions would render the proposed dwelling out of character with the original building. However, in this case, the existing dwelling was extended subsequent to a planning permission granted in 1980, and I do not consider that the current proposal, which is relatively small in scale and sympathetic to the design of the existing building, would appear out of character with the host building or its surroundings. It would not, therefore, in itself, be harmful to the character or appearance of the area around Gregory Springs Lane.
11. In conclusion, and in the light of the above, I find that the proposal would not be harmful to the character of appearance of the area around Gregory Springs Lane, and that it would not conflict with policies BE1, BE2, BE13, or BE14 of the

Council's Unitary Development Plan (UDP). However, it would be inappropriate development in the Green Belt and would have a harmful effect on its openness, albeit slight. There are no other considerations that clearly outweigh the harm to the Green Belt and there are therefore no very special circumstances to justify the inappropriate development. The proposal conflicts with the NPPF and with Policy D11 of the UDP, which relates to development in the Green Belt, and which reflects the thrust of the NPPF.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 19 March 2018

by Michael Moffoot DipTP MRTPI DipMgt

an Inspector appointed by the Secretary of State

Decision date: 5th April 2018

Appeal Ref: APP/Z4718/W/18/3193008

Land adjacent to 678B Bradford Road, Birkenshaw BD11 2EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr I Stuart against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/61/92671/E, dated 1 August 2017, sought approval of details pursuant to condition No 2 of outline planning permission Ref: 2016/60/90511/E granted on 8 December 2016.
 - The application was refused by notice dated 5 December 2017.
 - The development proposed is 'reserved matters application pursuant to outline permission 2016/90511 for erection of one dwelling'.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development in the 5th bullet point (above) is taken from the decision notice and follows the grant of outline planning permission on appeal for a single dwelling on the site in 2016¹.
3. The appeal papers include an amended location plan incorporating land to the south of the site which the appellant submits would provide additional amenity space for the proposed dwelling and thus overcome the Council's concerns in this regard. However, this amendment significantly enlarges the site and materially alters the nature of the proposal by encroaching on to part of the designated 'Urban Greenspace' to the south. Furthermore, the red line accords with that of the outline planning permission and, as the application seeks approval of reserved matters, I am confined to determining the appeal on the basis of the red lined site before me. I do not therefore intend to take this revised plan into account in determining the appeal.
4. The appeal papers and decision notice include reference to various policies in the *Kirklees Publication Draft Local Plan*. It is not clear what stage the document has reached in the process leading to formal adoption and this limits the weight to be accorded to it. Nevertheless it is a material consideration in my decision.

¹ Appeal ref: APP/Z4718/W/16/3157920

Main Issues

5. The main issues in this case are:

- (i) the effect of the proposed development on the character and appearance of the area; and
- (ii) whether the development would provide satisfactory living conditions for future residents, with particular reference to amenity space.

Reasons

Character and appearance

- 6. The appeal site includes a rectangular parcel of open land located at the eastern end of a private drive off Bradford Road that serves a number of modern detached dwellings. Surrounding development is predominantly residential in nature and generally consists of large houses on substantial plots. There is an extensive area of generally undeveloped land to the east of the site.
- 7. The previous Inspector noted that a single dwelling on the appeal site would not of necessity be out of kilter with the prevailing character of the area or incongruous with the immediate development pattern. He concluded that detailed design and siting at the reserved matters stage could ensure that the orientation and development of the plot could be carried out in a manner sensitive to its surroundings. I concur with these findings.
- 8. The proposal comprises a substantial six bedroomed dwelling over three floors and includes residential accommodation above an attached double garage. The building would be in very close proximity to three of the site's four boundaries whilst the area to the front would be largely taken up by a parking and turning area.
- 9. The substantial size and scale of the dwelling and the restricted extent of the site would result in a severely cramped form of development which would be wholly out of keeping with the spacious arrangement of residential development in the vicinity. It would therefore seriously harm the character and appearance of the area. As such, the proposal would be contrary to those parts of saved policies BE1 and BE12 of the *Kirklees Unitary Development Plan (2007)* ('the UDP'). Between them they require good quality design that is visually attractive, retains a sense of local identity and, in the case of new dwellings, provides physical separation from adjacent property and land. Moreover, it would conflict with the *National Planning Policy Framework* ('the Framework'), which identifies good design as a key aspect of sustainable development, attaches great importance to the design of the built environment and requires proposals to add to the overall quality of the area.

Occupiers' living conditions

- 10. Amongst other things, policy BE12 of the UDP requires that new dwellings should be designed to provide open space for their occupants, with a minimum acceptable distance of 1.5m between any wall and the boundary of any adjacent undeveloped land.
- 11. The proposed dwelling would generally accord with this standard. However, the supporting text to the policy requires a reasonable amount of space around new dwellings in the interests of the amenity of future residents. There would be no

functional amenity space to the south and east of the proposed dwelling and the area to the west of the building would be small, oppressive and inadequate to cater for the reasonable recreational needs of the occupiers of this substantial, six bedroomed property. The area to the front of the dwelling would predominantly comprise hardsurfaced parking/turning space and would not provide useable amenity space.

12. The proposed development would therefore fail to provide satisfactory living conditions for future residents, contrary to those parts of policies BE1 and BE12 of the UDP which require good quality development that promotes a healthy environment, including space around buildings and open space for occupants. It would also conflict with one of the core principles in the Framework which states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

13. The appellant advises that the proposed amenity space would be adequate to meet the needs of his family, who would occupy the dwelling. However, ownership of the property may well change in the future, and the scheme would fail to provide an acceptable level of private space commensurate with the size of the dwelling and a level of amenity sufficient to afford future occupants a satisfactory residential environment.
14. Whilst the proposal would make a modest contribution to housing in the Borough where I understand there is a shortfall in the five-year supply of housing land required by the Framework, this does not significantly and demonstrably outweigh the harm to the character and appearance of the area and future residents' living conditions I have identified.

Conclusion

15. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-2018

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

APPLICANT

L Ramsden, Redrow
Homes Ltd, c/o agent

DATE VALID

15-Sep-2014

TARGET DATE

15-Dec-2014

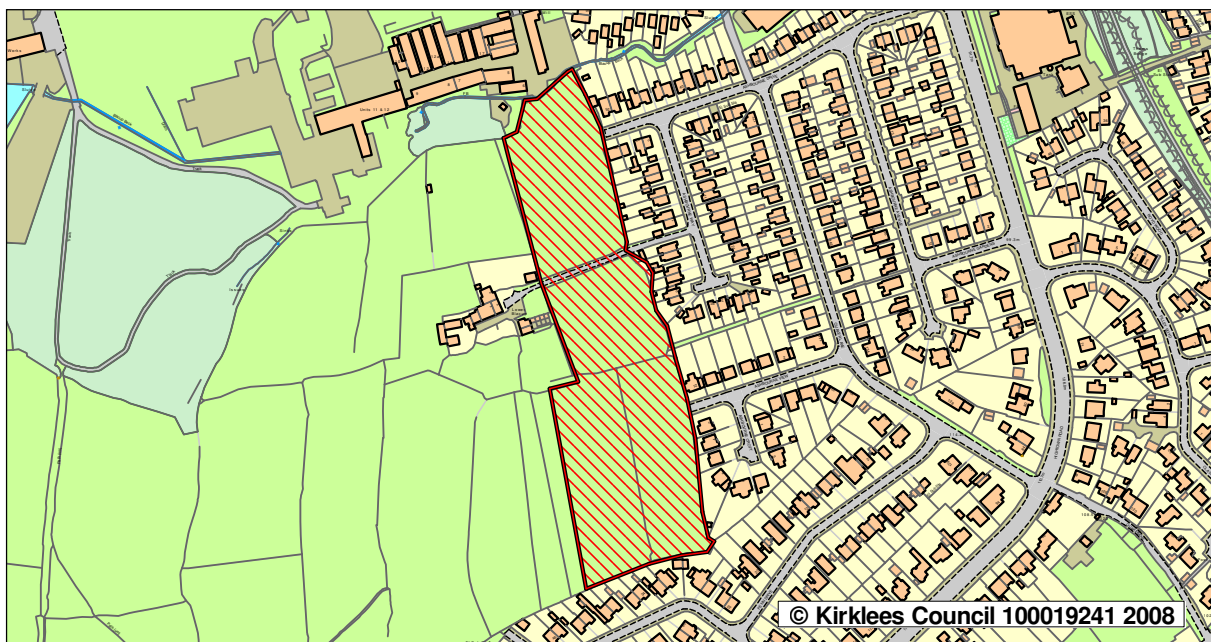
EXTENSION EXPIRY DATE

13-Apr-2017

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Cleckheaton

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 The application was referred to the Heavy Woollen Planning Sub-Committee on 29 June 2017 at the request of Cllr Kath Pinnock on the grounds of the strength of the comments made by statutory consultees and continuing concern from local residents and herself. This is in accordance with the Council's Scheme of Delegation.

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

- 1.2 The Planning Sub-Committee deferred a decision for the applicant to address their concerns regarding:
- The crossing of the farm track / public footpath to Lower Blacup Farm by the proposed estate road which was seen as harmful to road safety.
 - The extent of retaining walls and clarification of their facing material in order to protect visual amenity.
 - An individual Member also asked that the development be faced in brick to match the adjoining residential properties rather than artificial stone in the interests of visual amenity.
- 1.3 As requested by Officers, Members also required the applicant to address the comments of the Highway Officer regarding parking availability and private garage sizes, road gradients, bin storage and collection positions and the provision of an additional footway to the northern cul de sac.
- 1.4 The amended application with additional information from the applicant was brought back to the Sub-Committee on 28 September 2017 following discussion with the applicant. Members considered that their safety concerns regarding the crossing of the existing farm track and public footpath SPE/94/10 to Lower Blacup Farm had not been overcome. It was resolved to defer a decision pending the outcome of an independent safety audit. This has now been received and reviewed by the Highways officer – see below.

- 1.5 The principle of housing development has been established following the grant of outline planning permission at appeal on 18 December 2013. This decision reserved all matters for future approval except partial means of access to, but not within, the site. An indicative layout plan at outline stage showed two access points from Ashbourne Drive and Ashbourne View. The outline approval included a signed Agreement under section 106 of the Act which makes provision for a financial contribution towards education and affordable housing and provides for traffic calming measures. The proposal would not have a detrimental impact on highway safety, residential and visual amenity, drainage or landscape. A separate application to reduce the provision for affordable housing is to be determined by Officers. At the September meeting Members required this to be reported at the same time as the current planning application and that report is elsewhere on the Agenda.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of approximately 2.4 hectares currently used as grazing land sloping steeply down from south to north. It is crossed east-west by the track to Lower Blacup Farm which serves as a public footpath.
- 2.2 The western boundary of the site abuts residential properties off Ashbourne Drive, Ashbourne Way, Ashbourne View and Ashbourne Croft. These dwellings are 2-storey detached and semi-detached properties. Its southern boundary abuts dwellings on Penn Drive which are semi-detached bungalows. The northern boundary is to Blacup Beck with industrial premises off Quarry Road and Iron Street beyond. The western boundary is to open fields which are part of a significant area extending to Hightown Heights and Hartshead Moor Side.
- 2.3 The site is in the vicinity of Lower Blacup Farm to the west which is a grade II listed building. The site is not in a conservation area and there are no protected trees within or adjacent to the site.

3.0 PROPOSAL:

- 3.1 The application seeks the approval of reserved matters comprising layout (including access within the site), appearance, landscaping and scale for 46 dwellings. The application description is for 47 dwellings however, this has been amended in subsequent plans to 46. The applicant's confirmation of the changed description is awaited.
- 3.2 The layout would comprise 46 dwellings in two separate groups of 23 each accessed off Ashbourne View and Ashbourne Drive. The northern section off Ashbourne Drive includes an area of public open space adjacent to no 52 Ashbourne Drive between the proposed access road and Blacup Beck. This area would accommodate a surface water attenuation tank. An additional area of public open space would be provided to the west adjacent to Lower Blacup Farm.
- 3.3 Both the southern and northern sections would have access to a central area of public open space adjacent to no 12 Ashbourne View which includes a formal play area.

- 3.4 The existing access to Lower Blacup Farm and footpath route would be retained and crosses the access road for the northernmost group. The majority of the dwellings would be stepped against the contours of the site and would be mostly two-storey detached with four terraced dwellings. The dwellings would be faced in artificial stone with nine sporadically located rendered properties. All would have concrete roof tiles.
- 3.5 The layout would incorporate three areas of public open space to the north of the access from Ashbourne View, in a central position along part of the western boundary and between the access from Ashbourne Drive and the northern boundary of the site.

4.0 RELEVANT PLANNING HISTORY:

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

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

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

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

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

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

The Inspector imposed conditions regarding:

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

2014/93145 – Application to remove the requirement for affordable housing on the site reported elsewhere on the agenda. The application seeks to reduce the affordable housing contribution from nine to nil. The application was assessed by a third party on behalf of the Council and the Officers are satisfied that five units are viable on this site.

In addition there are two applications for listed building consent and planning permission at Lower Blacup Farm for extensions and alterations to former farm buildings to form one dwelling (2018/90387 & 2018/90388 respectively). These were received on 5th February 2018 and await decision.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Prior to the application first being reported to the Area Planning Sub-Committee Officers negotiated with the applicant to address identified issues:

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

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

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

- 5.3 In response the applicant declined to segregate the farm track / public right of way from the proposed road layout. Amended plans were submitted to address the Highways Officer's comments regarding road gradient, footway provision and bin storage. The Highways Officer's comments regarding inadequate parking provision was partially addressed through the provision of separate cycle / domestic storage provision on some plots. This remains to be resolved but can be done through conditions.
- 5.4 The applicant provided further information to clarify Members' questions regarding retaining walls and materials.
- 5.5 Following the receipt of further comments from the KC Landscape Officer amended plans were requested to address the accessibility, extent and management of the public open space areas together with planting detail. These were not received prior to the Sub-Committee meeting.
- 5.6 Details to address the Landscape comments are also awaited.
- 5.7 The subject and outcome of these discussions are explained in greater detail below.

6.0 PLANNING POLICY:

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

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

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

- **D5** – Provisional open land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **BE23** – Crime prevention
- **T10** – Highway Safety
- **H10** – Affordable housing
- **H12** – Arrangements for securing affordable housing
- **H18** – Provision of public open space
- **EP4** – Noise sensitive development
- **EP11** – Ecological landscaping

6.3 Supplementary Planning Guidance / Documents:

Affordable Housing SPD2
Kirklees Council Interim Affordable Housing Policy

6.4 National Planning Guidance:

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

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

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

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

7.0 **PUBLIC/LOCAL RESPONSE:**

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

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

- Development would harm the rural setting of the site and the setting of the grade II listed buildings.
- Applications for planning permission for fewer dwellings have previously been refused on this site.
- Use of Play area next to existing property would be a source of nuisance to those residents.
- Uncertainty of who maintains landscaping and boundary planting in the site and immediately next to existing property together with uncertainty over boundary treatment. Concerns relate to overgrown planting and property security.

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

Summary of comments received from Cllr K Pinnock:

- There will be conflict between farm traffic and residential traffic and pedestrians where the estate road crosses the farm track. The plans should be amended to prevent access over the farm track or make the crossing point single track with road safety measures to reduce traffic speed.
- Access to / from the farm track and Ashbourne Way needs to be prevented.
- Concern that there is only one full width footpath on one side of the road throughout the development.
- Concerned at the number of dwellings not served by the public highway.

- Any approval for reserved matters should include the conditions laid down by the Inspector on appeal particularly road safety measures on Quaker Lane from Ashbourne Drive to Westgate and contributions to Education and affordable housing.
- There is no equipped play area in the development.
- There should be adequate boundary treatment between existing property and the proposed open space.

Comments in relation to additional publicity:

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

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

Cllr K Pinnock has made additional comments as follows:

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

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – Initial comments were as follows:

- Insufficient size of integral garages resulting in inadequate off-street parking provision.

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

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

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

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

8.2 Non-statutory:

KC Conservation & Design – Concern about

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

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

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

Yorkshire Water – no objections subject to conditions.

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

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

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

9.0 MAIN ISSUES

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

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

10.0 APPRAISAL

Layout including crossing of the existing farm track by the proposed estate road

- 10.1 The proposed layout is similar to the indicative plan included in the Design & Access Statement accompanying the outline planning permission. Two cul de sacs were shown from Ashbourne Drive and Ashbourne View. The southern (up-slope) cul de sac crossed the farm track as repeated in the current plans.
- 10.2 The Inspector confirmed that access to the site was to be determined at outline stage while access within the site was reserved as part of layout. He expressed no view on the relationship of the farm track and the indicative estate roads and accepted that “the indicative layout is partly to demonstrate that the proposed number of dwellings can be accommodated and is subject to change at the detailed stage.”
- 10.3 In their initial response to the concerns of local residents and Cllr Kath Pinnock regarding the crossing by the estate road of the footpath and access track as previously reported to Sub-Committee the applicant has stated that they do not consider that there will be a road safety issue given the volume of users. The applicant considers that the design of the crossing including measures to protect pedestrians will be assessed when the S38 application is reviewed by the Highways Authority and through the road safety audit process. A site section has been supplied across the farm track.
- 10.4 In response to the views of the Sub-Committee the applicant has stated that it is not possible to physically segregate the farm track as access is required to plots 14-23. The applicant has suggested that signage is a fair compromise as it can be placed to make people aware of the presence of the farm track and would not need managing on a daily basis. The applicant considers that the current arrangement would encourage and enhance pedestrian connectivity across the site and encourage the enjoyment of the urban greenspace areas beyond the site boundary. The applicant considers that separating new development from existing “is not a precedent that the Council should be encouraging.”

- 10.5 The Highways Officer has considered the concerns of local residents and Cllr K Pinnock with regard to the crossing of the estate road with the farm track / public footpath to Lower Blacup Farm and the prospect of estate vehicles using the farm track as a short cut. Officers consider there would not be a harmful effect on road safety given that the residential road is designed so that it would cross the farm track with track users giving way, there would be low vehicle speeds and a low number of dwellings served by the new road. This situation would not be dissimilar to the existing use of the track use at its junction with Ashbourne Way.
- 10.6 With regard to concerns that the future residents could use the track as a short cut, given that the distance to the Ashbourne Way junction with Ashbourne Drive is the same and that the time travelled would be quicker traversing the better standard new residential road, Officers consider it unlikely that the track would be seen as the preferred route from a highways point of view.
- 10.7 The submitted Road Safety Audit identifies the following issues:
- A. Obstruction caused by existing telegraph pole.
 - B. Visibility along and across the farm track at the intersection with the proposed estate road.
 - C. Estate road gradient.
 - D. Width of the proposed estate road shared surface as it crosses the existing farm track.
 - E. Location of visitor car parking spaces to the south of the existing farm track.
 - F. Obstruction caused by overhanging tree

The Road Safety Audit covers the whole of the proposed housing development with 4 of the 6 issues raising involving the farm track crossing the proposed estate road.

Issues A and F refer to obstructions caused by overhanging vegetation and a telegraph pole. In their Designers Response Redrow have agreed to resolve these issues.

Issues B to D which refer to the farm track. In their Designers Response Redrow have addressed these issues as follows:

B, Drawing 4780-16-06-119 rev B has been produced which confirms that sufficient visibility can be achieved in all directions(in both the horizontal and vertical planes) from both the farm track and new estate road

C, The estate road as it crosses the farm track will be provided at a gradient of 1 in 62 as shown on drawing 4780-16-06-119. The remainder of the estate road will include a maximum gradient of 1 in 10.

D, The reduced carriageway width is 4.0m. This narrowing is provided over a short length of 9.6m in order to reduce vehicle speeds on the approach to the estate road/farm track junction. The carriageway is flanked by 0.6m margins therefore creating an overall corridor width of 5.2m which is more than capable of accommodating simultaneous access by a vehicle and a pedestrian or cyclist.

F, Vehicle swept path analysis has been undertaken as shown within drawing 4780-16-06-119 rev B which confirms that the visitor spaces can be accessed without encroaching onto the farm track.

- 10.8 A traffic and pedestrian survey has been undertaken by the applicant's consultant which recorded the following trips along the farm track:
17 two way car
7 pedestrians
4 Light Goods Vehicles
A refuse collection vehicle was also recorded to enter and exit the farm between 07:45-08:00.
Peak hour traffic generation for the 8 dwellings to the southern side of the farm track are estimated as follows:
6 two way vehicle trips during the network peak hours and 40 two way trips over the day.
The daily pedestrian and cycle activity resulting from 8 dwellings is estimated to be 2 cyclists and 18 pedestrians.
- 10.9 Highway Officers consider that the submitted information has not resulted in any insurmountable problems being identified or any undue highway safety or efficiency issues. They consider that the design of the estate road/farm track junction is suitable to accommodate the forecast level of vehicular and pedestrian/cyclist use given that visibility is acceptable in all directions, the width is restricted to encourage reduced traffic speeds and relatively level gradients are provided.
- 10.10 Highways officers remain concerned about the insufficient size of the garages to accommodate car parking and domestic storage within the plots of the 4-bed units. The Proposed Cycle Store layout shows cycle/tool storage sheds to plot 12 to 15 which are four 3 bedroom town houses with acceptable off-street parking provisions. The remaining plots have cycle store facilities shown within the proposed garages. This includes the integral garages to house types T3, T5 and T6; 34 out of a total of 46 plots. This has been raised with the applicant and whilst a response is awaited this can be resolved by condition.
- 10.11 Officers consider that the close relationship of the proposed dwellings to each other could be improved. Whilst the majority of the dwellings are detached they are sited close up to the side boundaries of the narrow plots leaving little open space between them and giving a cramped appearance with limited views between dwellings. This differs from the streetscene of existing dwellings to the east where, whilst there are a greater number of semi-detached dwellings, there is more space between dwellings as a result of increased separation and, in some cases the incorporation of side driveways.
- 10.12 NPPF part 7 requires good design in new development regarding it as a key aspect of sustainable development and contributing positively to making places better for people. Paragraph 57 notes the importance of the achievement of high quality design whilst paragraph 64 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 10.13 The applicant was requested to amend the layout to provide a greater separation between dwellings but has declined.

- 10.14 Officers' concerns are consistent with NPPF advice and UDP policies BE1 and BE2. However it is recognised that the appearance of the scheme must be seen in its context. The difference in layout between the proposed development and existing dwellings to the east is not substantial and in some cases later side extensions have reduced the gap between existing dwellings. On balance Officers conclude that the visual harm is outweighed by the benefit of housing delivery and they could not recommend refusal on the basis of the spacing of the dwellings.
- 10.15 The layout has been assessed in the light of UDP policy BE12 and the relationship of the facing habitable room windows on proposed dwellings to each other and to the existing ones bordering the site. Within the site there are a few instances where facing habitable room windows between proposed dwellings are less than the 21 metres minimum recommended under policy BE12. However, the harm is ameliorated as the views are across roads so that the expected privacy level would be less or where the dwellings are not directly facing.
- 10.16 For the most part the relationship of the proposed dwellings to those abutting the site is in accordance with UDP policy BE12. The majority of the dwellings on Ashbourne Way have long rear gardens and whilst these reduce towards the end of that cul de sac the nearest relationship between no 26 and plot 21 exceeds the recommended distance set out in UDP policy BE12.
- 10.17 The nearest dwelling on Penn Drive to the south, no 30 is 19.87 metres from the habitable room windows on plot 36. However, the proposed dwelling is set below the level of no 30 and at an angle to it such that the effect is considered acceptable.
- 10.18 With regard to the recommended distance of 12 metres between a habitable room window and a blank wall or the window to a non-habitable room, as set out in UDP policy BE12, there are a number of instances where this distance is not met. The distance between the side wall of plot 1 and the ground floor extended rear wall of 2 Ashbourne Croft is 11.76 metres although the distance is exceeded at first floor level. However, it is considered that the discrepancy and resultant harm is minor and the harm is outweighed by the benefit of housing delivery.
- 10.19 Within the site the distance between habitable room windows on the rear of plots 13-15 and the blank side elevation of plot 11 is 10.5 metres and that between habitable room windows on the rear of plot 13 and the blank side elevation of plot 11 is less than the recommended distance at 10.5 metres and 10.9 metres. Similarly it is considered that the discrepancy and resultant harm is minor and is outweighed by the benefit of housing delivery.
- 10.20 Local residents have referred to locations where extensions to dwellings have not been identified on the location plan. This issue was considered by the Local Government Ombudsman when considering a similar case involving proposed new development at Kitson Hill Road, Mirfield. In subsequently considering the development in the light of the Ombudsman decision Members were advised that

“When measuring distances between proposed and existing dwellings, the Local Planning Authority must take into account the presence of habitable room windows in extensions and conservatories. This, of course, does not mean that proposed layouts that include distances less than those specified as the normally acceptable minimum distances can never be approved. Policy BE12 clearly provides for lesser distances to be approved in certain circumstances”. Members will need to satisfy themselves in each case that:

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

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

10.21 In this case the following is noted:

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

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

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

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

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

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

Appearance

- 10.31 The dwellings would be faced in artificial stone and whilst the design is not remarkable the appearance of the dwellings would be acceptable in the context of the site. The applicant has considered the Member's suggestion to build the development in brick to match the surrounding dwellings. However the applicant states that there is a current nationwide shortage of facing bricks which is severely affecting housebuilding production. The use of alternative materials is essential to maintain building rates.
- 10.32 The main consideration in the proposal is the way that the development has been designed to accommodate the site slope. The site is narrow so that whilst small sections at the access points are built along contours the majority of the layout climbs across the contours leading to stepped housing and retaining structures.

- 10.33 The applicant states that the extent of retaining walls is proportional to the overall gradient as the maximum slope is 1 in 6 and influenced by the maximum road gradient allowed by the Local Highways Authority given that this is less than the natural slope of the site. This results in significant retaining structures particularly on the boundaries of the site. The applicant states that in order to minimise the visual impact of the walls they are positioned within garden areas where possible. The applicant has confirmed that the gabion walls will be faced in artificial stone.
- 10.34 Sample section drawings have been submitted showing the following:
- A retaining wall of 0.95m to the garden of plot 6 facing the rear garden of no 10 Ashbourne Way.
 - No retaining wall to the rear boundary of plot 20 to the rear garden of no 24 Ashbourne Way.
 - A retaining wall of 0.47 metre to the side and rear garden of 2 Ashbourne Croft facing into the rear garden of plot 46.
 - A retaining wall of 0.53 metre to the rear garden of plot 39 facing into the rear garden of 8 Ashbourne Croft.
 - A retaining wall of 2 metres to the rear garden of 30 Penn Drive facing into the rear garden of plot 36.
 - A retaining wall of 3 metres to the rear garden of 36 Penn Drive facing into the rear garden of plot 32.
- 10.35 Given the sloping nature of the site, the heights involved and the partial screening offered by the proposed and existing dwellings it is considered that these features are acceptable in terms of visual and residential amenity. The applicant has confirmed that the gabion walls will be faced in artificial stone.
- 10.36 The main consideration in the proposal is the way that the development has been designed to accommodate the site slope. The site is narrow so that whilst small sections at the access points are built along contours the majority of the layout climbs across the contours leading to stepped housing and retaining structures.
- 10.37 The applicant has submitted sectional drawings which highlight the following:-
- The finished floor level (ffl) of plot 1 would be 0.36 metre higher than that of nos 23 & 25 Ashbourne Way
 - Plot 2 would go in at existing ground level, plots 4-7 would be raised above existing ground reaching a maximum of 2.35 m above ground level at plot 7.
 - Plots 18 – 23 would be below existing ground level to a maximum of 1.76 m on plot 23 immediately next to no 28 Ashbourne Way. The finished floor level (ffl) of plot 20 would be 1.37 m below that of no 24 Ashbourne Way.
 - The ffl of plot 32 would be 5.22 metres below that of 36 Penn Drive.
 - The ffl of plot 46 would be 0.92 m below that of no 2 Ashbourne Croft.
 - The ffl of plot 39 would be 0.4 m above that of no 8 Ashbourne Croft.
 - The private drive serving plots 38-40 would lie close up to the boundary with the rear of no 8 Ashbourne Croft and would be approximately 0.4m above its garden level and 0.28 m above ffl.
 - The proposed ground level of the surface of the earth covering of the surface water attenuation tank would be 0.64m above ffl of nos 50 & 52 Ashbourne Drive.

- At the lower end of the site the ffl of the proposed dwellings (plots 4-7) adjacent to the rear of existing dwellings on Ashbourne Way would be above existing ground levels to varying degrees to a maximum of 2.37 metres. This is indicated to be dealt with by a mixture of soil grading and retaining walls.
- On the western side of the site the proposed dwellings are higher than existing ground levels peaking at 3.5 metres on plot 24.

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

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

Access

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

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

10.41 The layout plan shows a width of the public footpath crossing the site in accordance with that shown on the Definitive Map.

10.42 With regard to the Highways officer's request for real time bus information at nearby bus stops and the provision of Metro Cards to new residents, it is noted that these requirements were not imposed by the Inspector on appeal and it is not considered appropriate to do so at this stage.

Landscaping

10.43 The applicant has submitted an existing tree survey and proposed landscaping masterplan. This shows natural surveillance to public open spaces, screen planting close to the listed building and planting to soften long distance views.

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

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

Scale

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

Representations

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

- Previous applications have been refused on this site in the past.

Response: The proposal must be considered on its own planning circumstances current at the time of this application.

- Nuisance from play areas.

Response: The provision of public open space within the site is a requirement of UDP policy H18. Furthermore no objections have been raised by the Police Architectural Liaison Officer. There is no evidence to suggest that nuisance will be caused to a harmful degree.

- Uncertainty over maintenance of public open space.

Response: This is covered by the terms of condition 7 of the outline planning permission.

- Layout allows for potential increase in housing

Response: Any such proposal would be the subject of a future application for planning permission in its own right.

- Site includes land in other ownership

Response: No evidence has been submitted to justify this claim. Any planning permission would not override private ownership rights.

- Potential structural damage to adjacent property during construction.

Response: This is not a planning issue and is the responsibility of the developer.

- Drainage issues

Response: Drainage issues would be dealt with under condition 10 of the outline planning permission.

- Effects of Construction

Response: A construction management plan can be imposed as a condition as part of this approval.

- Property Value

Response: This is not a material planning consideration.

- Inadequate community benefits

Response: These have been established at the outline stage.

- Inadequate publicity

Response: The publicity for this proposal is considered adequate. Local residents consider that the position of the latest site notices are not conveniently placed on a cul de sac. However, the application has been the subject of three rounds of publicity with responses and Officers consider that this has attracted a comprehensive account of public concerns and this would be unlikely to be added to by a further round of publicity.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.
- 11.2 The proposal is considered to constitute sustainable development.
- 11.3 Subject to the applicant's confirmation of the amended description to 46 dwellings and the imposition of conditions including those below the application is considered to be acceptable.

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

1. Samples of all facing and roofing materials
2. Details of boundary treatment
3. Electric Charge Points
4. Removal of Permitted Development Rights for extensions and new openings
5. Construction Management Plan
6. Detailed road construction including flood water routing.
7. Retention of 6.1 metres width for the public bridleway crossing the site.
8. Details of levels of public open space areas
9. Garages to be used for storage of motor vehicles
10. Provision of secure covered and lockable cycle parking to house types T3, T5 and T6 to be provided outside of garages.

Background Papers:

Application and history files:

Link to the details for this reserved matters application

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

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

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

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-2018

Subject: Planning Application 2014/93145 Modification of Section 106 obligation relating to previous application 2012/93062 Land At, Ashbourne Drive, Cleckheaton

APPLICANT

J Dunbavin, ID Planning

DATE VALID

03-Oct-2014

TARGET DATE

28-Nov-2014

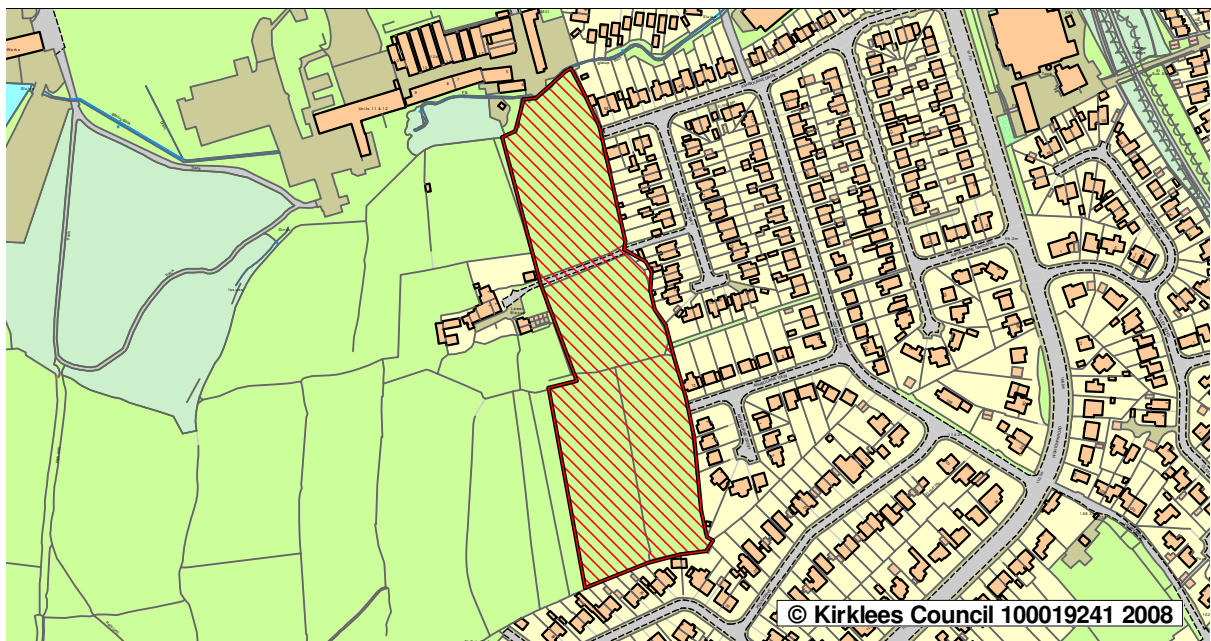
EXTENSION EXPIRY DATE

13-Apr-2017

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Cleckheaton

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the modification of the Section 106 obligation relating to previous application 2012/93062 and the issuing of the decision notice to the Head of Strategic Investment in order to secure a revised S106 agreement to cover the following:

1. The provision of 5 affordable units

1.0 INTRODUCTION:

- 1.1 This application relates to a current application for the approval of reserved matters for 46 dwellings off Ashbourne Drive, Cleckheaton. It has been brought to the Heavy Woollen Planning Sub-Committee at Members' own request following consideration and deferral of the reserved matters application in September 2017. The application for reserved matters is reported elsewhere on the Agenda.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an area of approximately 2.4 hectares abutting residential properties on Ashbourne Drive, Ashbourne View and Ashbourne Croft to the east and Penn Drive to the south.

3.0 PROPOSAL:

- 3.1 The proposal is to reduce the previously agreed level of affordable housing provision as part of the development.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2012/93062 – Following the refusal of outline planning permission for residential development (54 dwellings) the application was allowed on appeal on 18 December 2016 based on a revised layout of 53 dwellings. A S106 Agreement was concluded which made provision for;
- 9 units of affordable housing,
 - an education contribution of £130,996 for the provision or improvement of primary education facilities at Heaton Avenue Primary School and
 - traffic calming on Quaker Lane

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

- 5.1 The original proposal was to reduce the affordable housing provision from nine units to zero due to the costs of development. The applicant's viability statement to justify this was appraised by a consultant surveyor appointed by the Council. After a protracted discussion process the consultant concluded that the viability of the scheme could support five affordable units, four of which could be socially rented and one intermediate (i.e. shared ownership, discount for sale all below market rent but above social rent). The applicant agreed to this in writing on 21 June 2017

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:
- **H10** – Affordable Housing
 - **H12** – Affordable Housing to meet Local Needs
- 6.3 Supplementary Planning Guidance / Documents:
- Interim Affordable Housing Policy approved 14 December 2016
- 6.4 National Planning Guidance:
- National Planning Policy Framework (NPPF) Chapter 6 states that local planning authorities should identify a supply of market and affordable housing widen opportunities for home ownership and create mixed and balanced communities.
- 6.5 The National Planning Practice Guidance (NPPG) contains the following:
- Viability – a general overview

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has not been the subject of publicity.

7.2 Ward Members – no response

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

None

9.0 APPRAISAL

9.1 The Consultant's report and conclusion was based on the development costs and an acceptable profit margin. The Consultant is satisfied that the submitted development costs are reasonable but did identify the cost of surface water attenuation methods and the extent of retaining walls as two areas where development costs could be potentially reduced further which may allow further surplus.

9.2 The applicant has proposed a pre-cast concrete box culvert for surface water attenuation. It was thought that if plastic crates could be used this would give a substantial saving. However, the applicant has stated that Yorkshire Water would not adopt a plastic crate solution. Officers are awaiting verification of this from the applicant however, it is understood from the Council's own Drainage officer that this is likely to be the case.

9.3 This proposal is to reduce the provision for affordable housing only and the remaining requirements for education provision and highway improvements together with the future requirements to ensure future maintenance of public open space are not affected.

10.0 CONCLUSION

10.1 The applicant's viability assessment is considered to be reasonable.

11.0 RECOMENDATION

11.1 That proposal for a reduction to five units of affordable housing be accepted subject to the applicant entering into a revised S106 Agreement.

Background Papers:

Web link to application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f93145>

Web link to previous application 2012/93062:-

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

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-2018

Subject: Planning Application 2017/92504 Erection of 5 dwellings with associated site road, parking and landscaping Land to rear of, 49/51, Huddersfield Road, Skelmanthorpe, Huddersfield, HD8 9AR

APPLICANT

Chris Noble, D Noble Ltd

DATE VALID

12-Dec-2017

TARGET DATE

06-Feb-2018

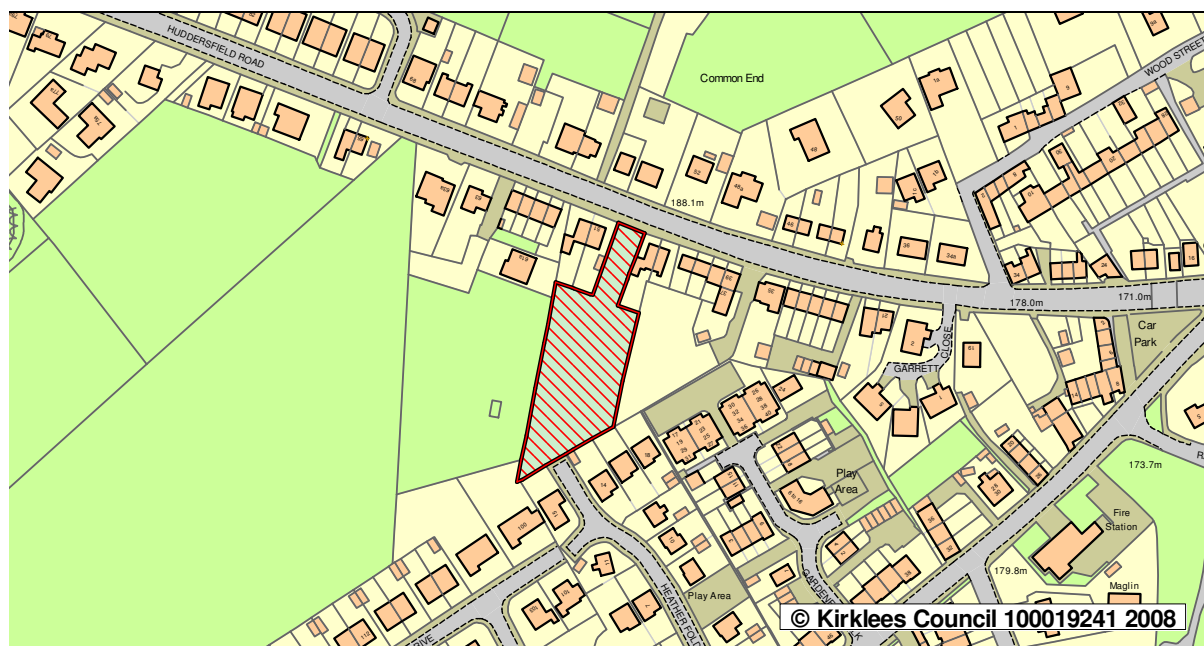
EXTENSION EXPIRY DATE

22-Mar-2018

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Denby Dale Ward

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 The application seeks full planning permission for the erection of five dwellings on land to the rear of 49/51 Huddersfield Road, Skelmanthorpe. The site is allocated as Provisional Open Land (POL) on the Kirklees Unitary Development Plan.
- 1.2 The application represents a Departure from the Development Plan and under the Council's Scheme of Delegation it is referred to the Heavy Woollen Planning Sub-Committee for a decision.
- 1.3 The principle of housing development is considered to be acceptable, and has previously been established following the granting of a previous planning application, reference 2014/92889. As a result of this proposal, it is considered by officers that there would be no detrimental impact on highway safety, visual amenity, and residential amenity.
- 1.4 The application was deferred from the previous meeting to enable the Stage 4 Hearings of the Kirklees Local Plan (Rural Sub-Area) to close. The reason was that the access and layout of the site is closely linked to a wider proposed housing allocation (site H502) of the Publication Draft Local Plan. There was no definitive conclusion on the matter of access into the proposed housing allocation, but there was an action for Highways Development Management to consider access from Cumberworth Road.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is an overgrown green field to the rear of No.49 and No.51 Huddersfield Road at Skelmanthorpe. The site is part of a wider allocation of Provisional Open Land (POL) on the Kirklees Unitary Development Plan which extends to the east and west of the site.

- 2.2 There is an existing vehicular access point off Huddersfield Road, and some works have taken place on site to clear the vegetation with crushed stone laid to form an temporary access into the site. The site is bounded by residential properties off Huddersfield Road to the north, open land to the east and west (also allocated as Provisional Open Land), and by properties off Heather Fold to the south.

3.0 PROPOSAL:

- 3.1 The application seeks full planning permission for the erection of five dwellings, with associated site road, parking, and landscaping.
- 3.2 It is proposed plots 1-4 would be accessed via Heather Fold; a residential cul-de-sac to the south of the site. It is proposed to create a new access road into the site to include a turning head to facilitate the turning and access of a refuse vehicle to the proposed bin collection point. Beyond this turning head, the access is proposed to be a private drive. Plot 5 would be accessed directly off Huddersfield Road via a private drive.
- 3.3 The proposed dwellings would be two storey in height and relatively substantial in scale. The proposed construction materials are Marshalls Cromwell pitched stone with artstone heads and cills, and Grey Marley Modern roof tiles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/92889 – Outline application for residential development – Conditional Outline Permission
- 2002/93375 – Outline application for residential development – Refused
- 89/00154 – Outline application for residential development – Refused

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

- 5.1 Officers have negotiated with the applicant to secure:
- An investigation of the culvert which runs through the site and its condition, and revisions to the plan to address drainage issues.
 - A revised House Type for Plot 5 and a street scene drawing along Huddersfield Road.
 - A revised layout to address residential amenity issues.
 - Confirmation of existing and proposed boundary treatment.
 - Revisions to the proposed access off Heather Fold to increase the width and secure 1.8m wide footways.
 - Inclusion of the approved dwellings to the east on the block plan to demonstrate the impact on residential amenity.

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.

6.2 The site is allocated as Provisional Open Land (POL) on the UDP proposals map and indicated as part of a wider Housing Allocation on the PDLP (this excludes the area of land between nos.49 and 51 Huddersfield Road, which is unallocated on both the UDP proposals map and on the PDLP).

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

D5 – Provisional open land

BE1 – Design principles

BE2 – Quality of design

BE12 – Space about buildings

T10 – Highway Safety

T16 – Pedestrians Safety

D2 – Unallocated Land

NE9 – Retention of mature trees

G6 – Contaminated Land

H1 – Meeting housing needs in the district

EP11 – Integral landscaping scheme to protect / enhance ecology

6.4 Kirklees Publication Draft Local Plan

PLP1 – Presumption in favour of sustainable development

PLP2 – Place shaping

PLP21 – Highway safety and parking

PLP 24 – Design

PLP25 – Highway safety and access

PLP 28 – Drainage

PLP 30 – Biodiversity and Geodiversity

PLP53 – Contaminated and unstable land

6.5 National Planning Policy Framework:

Chapter 4 - Promoting sustainable transport

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 7 - Requiring good design

Chapter 10 - Meeting the challenge of climate change, flooding

Chapter 11 - Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by neighbour letters and site notice with the publicity expiring 29th January 2018.

7.2 As a result of this publicity, 29 objections were received. The concerns raised have been précised below as follows:

Highway Safety

- The site falls within the boundaries of H502 a housing designation in the Publication Draft Local Plan. In the "Accepted Site Options" document, (page 103, Technical Appraisal it states "Access via Cumberworth Road unlikely because of required visibility splays. Access should be provided from Bedale Drive. Huddersfield Road offers access for part of the site" There is no reference to access via Heather Fold. There have been no objections that Heather Fold has not been included as a possible access route. Planning Decisions should comply with the LDP. Access to H502 via Heather Fold goes against the Local Plan.
- Cumberworth Road is hazardous when trying to get out of Heather Fold, with "blind spots" created by parked vehicles, and vehicles speeding. The Fire Station is not far from Heather Fold. Concern Heather Fold will be used as a short cut from Cumberworth Road to Commercial Road, for students and parents and a drop off/pickup point. There is also a public play area on Heather Fold, so additional traffic could jeopardise child safety.
- Huddersfield Road is the logical choice for access, it is a major road that takes traffic to Huddersfield, the motorway, Leeds or Wakefield. Traffic wanting to access Huddersfield would have to travel in to the village centre and use the difficult junction to access the road network.
- There also doesn't appear to be a turning area adequate for commercial vehicles.
- 'Round Hill Close' has access from Huddersfield Road, a safer approach.
- Leaving Heather Fold, onto Cumberworth Road is difficult in manoeuvring around parked cars due to local residents having no off road parking.
- Children play in the play area on Heather Fold and in the road. Children are relatively safe with a full view of oncoming traffic. The extended road veers to the right and drivers will not have a full view until they turn the corner. With parking for 14 cars, there is going to be significant increase in traffic.
- The exit from Heather Fold onto Cumberworth Road is hazardous. Since the building of developments off Cumberworth Road there has been a significant increase in parked cars, oncoming traffic is forced to the middle of the road.
- The entrance of Heather Fold onto Cumberworth is hard to joint due to on street parking and speeding motorists. In wintery conditions, on-street parking put an increase risk at the junction with Heather Fold.
- Concern how emergency services can access the site and how bin lorries and delivery vans will turn.

- Huddersfield Road provides the safest access and best servicing. There is insufficient turning space for waste collection lorries.
- D. Noble Ltd has written to residents of Heather Fold stating they “initially made enquiries with the Highways Officer to service the whole of the development from Huddersfield Road, but the Highways Officer insisted they use Heather Fold. As the developers preferred wish is to use Huddersfield Road, that request should be made available.
- The plans include a “spur road” for the purpose of servicing “further development”. Concern about Heather Fold being utilised for a larger development and the effect on volume of through traffic.
- The development will increase traffic by 25%. Exit from Heather Fold onto Cumberworth Road is hazardous. This is due to cars parking on Cumberworth Road narrowing the carriageway and restricting the view. On-street parking results in traffic breaching central line markings. 12 additional cars significantly increasing the likely hood of an accident. Cumberworth Road joins Huddersfield and this junction is hazardous. As well as food vending shops and a veterinary clinic there are 3 bus stops located within 200 metres radius of the junction. They cause traffic congestion and obstruction which impacts the exit / entry to Cumberworth Road. The new development will add to traffic at the junction.
- Concern about risk to children who use the playground on Heather Fold. Noble Ltd states 'it is understood that the site road was designed and constructed with spare capacity and is comfortably capable of being utilised to access this new development', but that was 20 years ago, and traffic in Skelmanthorpe has increased. Heather Fold, where residents and visitors already have to park on the road as off-road parking is insufficient.
- The site layout includes no turning for delivery vehicles who will have to turn in driveways or navigate in reverse back to the turning bay in Heather Fold.
- Heather Fold is an established cul de sac. Additional traffic will compromise the safety of children using the playground.
- Details within the submission by highways contains factual inaccuracies. *“Heather Fold is an existing traditional estate road off Cumberworth Road which is 5.5m wide with standard width 1.8 metre wide footways to both sides. Sight lines from this road along Cumberworth Road are good in both directions. Indicative proposals show the extension of Heather Fold into adjacent Public Open Land (POL). This is considered to be a potentially acceptable access to the POL site and preferable to an access from Huddersfield Road which provides less width and has existing driveways located to either side.”* Heather Fold is 5.5metres wide with 1.8metre footpaths. A total width of 9.1metres. Cumberworth Road is 8 metres wide and the foot path width as it enters Heather Fold is 2.8 metres. This tapers back to standard width. The opening off Huddersfield Road, the distance between the two adjacent boundary fences is 11 metres. The footpath at the entrance, from the existing property boundaries to the kerb edge is 3 metres and runs at that width to the extent of line of sight. Huddersfield road is 8.4 metres wide. The statement that “Huddersfield road provides less width and has exiting driveways” is incorrect and misleading.
- The spur road is a road extension onto allocation H502, with a spur off to access the site. It is not a turning circle for HGV's. The direction, shape and size of the circle is contradictory to best practice turning area design.

- Concern how residents safely negotiate the area when HGV's are operating. Require 1.8m footpath access around the road perimeter to segregate vehicular movement from pedestrians. If the development were independent a turning circle with standard 1.8m footpaths should be provided.
- Dispute Highways comments regarding safety and congestion. In the process of considering application 2014/92889, we identified safety concerns and congestion issues on Cumberworth Road. The outline plan to provide access via Huddersfield Road was a vindication of these concerns. The Highways quote of no complaints in the last 12 months sidesteps previous submissions to committee. In segregating congestion from safety, the statement hides the full picture. Complaints have been made to the police in the last 12 months, with regard to safety and speed of traffic using Cumberworth Road. The Police referred the issue to Highways safety who responded stating no suitable lampposts were available to allow traffic calming installations. There are two suitable lampposts at the junction with Heather Fold. The fatality involved a motorcycle accelerating beyond 60mph.
- With reference to the LDP, building on the potential access to Huddersfield Road, denies vehicular and pedestrian segregation. It blocks a direct access from H502 to the village centre. This leaves a convoluted route for pedestrians and cyclists and encourages vehicular travel to amenities, in contrast to the objectives of planning policy in the LDP.
- Concern about disruption during the building process. Request consent be conditional with the requirement that construction access is via Huddersfield Road. Access from Heather Fold should only occur when the four houses are signed off by building control. The fifth house accessed from Huddersfield Road, should be constructed last and with construction access from Huddersfield Road.
- Concerned about the impact on traffic flow on Cumberworth Road.
- The plan submitted contains an extension to Heather Fold, notionally as a turning circle. This is proposed as a road to be adopted. Given that the bin collection area is within the service area of the existing adopted road, Heather Fold, all the new extension should be treated as a part of the private driveways of the proposed new development. There is no reason to adopt the extension because it will terminate and not be used to facilitate any access to any other potential future developments.

Drainage

- A culvert runs through Heather Fold, has this been investigated?
- The gardens of 14, 16 and 18 Heather Fold already suffer from water-logged gardens. This has worsened since the removal of trees (identified on the proposed plans as remaining) whose canopies provided shelter and whose roots absorbed rainfall. The gardens will be completely unusable.
- The driveway has sunk over the drain area despite being rectified by Noble Homes.
- Major concerns regarding drainage issues and the impact it might have on already waterlogged back gardens at Heather Fold.

Ecology / Trees

- Concern trees and bushes have been cut down with no consideration given for wildlife.
- Over 7 months Nobles have been clearing the site of all habitation including several large trees. The previous Ecology Survey clearly states that the trees should not be removed between the months of March to September, to avoid causing harm or disturbance to nesting birds. Tree surgeons, instructed by Nobles, removing trees on 10th August 2017. The tree surgeons even tried to access the site through heather fold and were informed permission had not been granted and were turned away.
- The site layout is inaccurate as it shows trees in situ both now and after construction which have actually being felled. The majority of the trees shown no longer exist.

Residential Amenity

- Concern about the orientation of the two closes properties to 18 Heather Fold. Both directly look over and into two bedrooms at the rear of our property causing an invasion of privacy.
- Concern about security and privacy to the rear of properties off heather Fold. Retaining a low dry stone wall would leave back gardens exposed to being overlooked and accessed. Concern about car headlights shining into the rear of properties.

Other

- The development is now for fewer dwellings larger in proportion, this is not the best use of available building land.
- Object to the stub road from Heather Fold which has no purposes other than to seek to pre-determine future application on land adjacent.
- D. Noble Ltd have erected a billboard stating 5 dwellings is to be built. This is a presumption which shows scant respect for the planning process.
- Query why a Phase 2 Contamination Land report is required.
- Significant disturbance to residents on Heather Fold from construction traffic, noise and pollution.
- The materials to be used appear to be inconsistent with properties on Heather Fold. It would be better to continue the existing style, rather than make one style of house more desirable and affecting values.
- The current application is not legal. It gives the ordnance survey grid reference that would place the development on the entrance to Shelley High School and not the site of the proposed development. A new application with the correct ordnance survey grid reference be submitted.
- Disagree the application can be re-validated, the application has been incorrectly validated and proceeded through two consultation processes taking over 6 months. It is the applicant's responsibility to ensure all relevant documents pertinent to the application are completed correctly. A new application with fees and costs should have been applied.
- The application is now a full seven months from the original application date, the various reports from council officers are no longer valid and new reports should be submitted. There should be a proper examination of the application.
- The new application carries the same number as the original. This is not correct procedure. It is impossible for anyone to properly catalogue the documentation between the old and the new application, this is neither a fair or reasonable approach and would be open to statutory challenge.

Denby Dale Parish Council - Objections due to highways and access issues. This application is part of Site H502 in the Local Plan which is now subject Government Inspection. We note that the access points in the Local Plan do not include Heather Fold but show a larger south/west onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road. This application would open Heather Fold to a larger amount of vehicles than the five dwellings shown.

Councillor Jim Dodds - I would like to make known my objections to using Heather Fold for access to the above planning application. I believe that if this is allowed Heather Fold will become a rat run for parents getting their children to Shelley College. Am I correct in assuming that in the original application access was not via Heather Fold?

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – No objections

K.C Flood Management – No objections

8.2 Non-statutory:

K.C Environmental Services – No objections

K.C Ecology Unit – No objections

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 10.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan. As such the proposal is considered against Policy D5. Policy D5 states that:

“Planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”

- 10.3 Policy D5 is considered to be up to date and must be weighed in the balance. Paragraph 14 of the National Planning Policy Framework (NPPF) states however, that there is a presumption in favour of sustainable development. Where Local Planning Authorities cannot demonstrate a five year deliverable supply of housing, this tilted balance applies.
- 10.4 Consideration must therefore be given as to whether the proposal is sustainable development. The NPPF identifies the dimensions of sustainable development as economic, social, and environmental (Para.7). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8). The proposal has been assessed against each role as follows. A proposal for 5 dwellings provides economic gains by providing business opportunities for contractors and local suppliers. There will be a social gain through the provision of new housing at a time of general shortage. The development of a greenfield site represents an environmental loss. However, whilst national policy encourages the use of brownfield land for development it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.
- 10.5 In terms of more detailed issues within the site, NPPF paragraph 58 sets out the requirement for developments to *“optimise the potential of the site to accommodate development”*. As this proposal only covers part of the POL allocation, the proposal would need to demonstrate that it does not prevent the remainder of the POL site being developed. The POL allocation includes undeveloped land to both the west and east of the site. Planning permission has previously been granted for two dwellings on land to the east to be accessed off Huddersfield Road, and therefore this application needs to consider future access to the remainder of the POL allocation to the west. In this case the proposed turning head within the site adjacent to Heather Fold would not prevent access to the rest of the POL allocation.

Kirklees Publication Draft Local Plan

- 10.6 The Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public, which began in October 2017. The site forms a housing allocation (H502) within the PDLP. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.
- 10.7 The NPPF provides guidance in relation to the weight afforded to emerging local plans, paragraph 216 which states:

216. From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.8 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG states that *“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.9 Given the scale of the development when assessed against the wider context of the Local Plan the application could not be deemed to be premature as it is not considered to be central to the delivery of the Local Plan. Whilst Officers do not consider that the application is premature in terms of the PDLP, it has been confirmed that given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies within the PDLP. An assessment of the relevant local plan policies is therefore undertaken throughout this report.

The Planning Balance

10.10 In assessing the planning balance of the application consideration has been given in relation to social, economic and environmental factors. The social and economic benefits the proposal would provide through the provision 5 dwellings would make a contribution to the housing land supply. In conclusion the planning judgement on the proposal is that the benefits of housing provision weigh heavily in favour of the proposal and the adverse impacts of the loss of this green field and POL site do not demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal would accord with the Core Planning Principles of the NPPF.

Urban Design issues

- 10.11 The core planning principles in the NPPF provide guidance on design and state that new development should “*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*” Paragraph 56 states, “*The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*” Paragraph 58 states that decisions should aim to ensure that developments establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work, and visit. These policies are further supported by Policies BE1 and BE2 of the UDP which state that new development should create or retain a sense of local identity and is in keeping with surrounding development in respect of design and layout. Policy PLP24 of the PDLP states that good design should be at the core of all proposals such that the form, scale, layout, and details of all development respects and enhances the character of the landscape.
- 10.12 The proposed dwellings would be relatively substantial in their footprint and would be two storey in height. It is considered their design and scale would be satisfactorily in-keeping with the character of the area where dwellings are predominately two storey in height. Revised plans were secured for Plot 5, along with a street scene drawing as Plot 5 was originally considered to be out of character with the street scene and failed to meet the relevant distances to neighbouring properties. Plot 5 has now been reduced in scale and its design revised so that it will sit comfortably between existing dwellings on Huddersfield Road without harming the visual amenity of the street scene.
- 10.13 The proposed construction materials are Marshalls Cromwell pitched stone with artstone heads and cills, and Grey Marley Modern roof tiles. Concerns have been raised in the representations received that the materials are inconsistent with properties on Heather Fold and should continue the existing style. Neighbouring properties which flank the site comprise a mix of stone, brick and render, and it is considered artificial stone and concrete tiles may be satisfactorily in keeping with neighbouring properties subject to samples being inspected. The stone is however light in colour in comparison to older properties along Huddersfield Road and further consideration needs to be given to how Plot 5 can be assimilated satisfactorily into the street scene. A condition requesting samples of facing and roofing materials is therefore appropriate.
- 10.14 The number of dwellings would amount to approximately 20 dwellings per hectare. This is considered to be an acceptable response to the site which is flanked by existing housing which proposes a constraint to where dwellings can be sited without unduly impacting on residential amenity.

Residential Amenity

- 10.15 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties which would be affected by the proposed development include Nos. 49, 51 and 61a Huddersfield Road, the two approved dwellings to the east of the site, and Nos. 14, 15, 16 and 18 Heather Fold to the south. Concerns have been raised in the representations received that the proposal would result in a loss of privacy to neighbouring properties.

- 10.16 In respect of the impact on No.49, this is a semi-detached two storey dwelling which has habitable room windows in the rear elevation overlooking the site. There would be a distance of 21 metres from Plot 4 to this neighbouring property. It is considered due to this distance there would be no detrimental overbearing impact or loss of privacy.
- 10.17 In respect of the impact on No.51, this is a semi-detached two storey dwelling, also with habitable room windows in the rear elevation overlooking the site. There would be a distance of over 29 metres from Plot 3 to this neighbouring property. It is considered due to this distance there would be no detrimental overbearing impact or loss of privacy.
- 10.18 In respect of the impact on No.61a, this is a single storey property with habitable room windows fronting onto the site. The nearest proposed dwelling, plot 3, would sit to the south-east of this property and would not have a direct relationship. No windows are proposed in the side elevation of Plot 3 and there would be no overlooking of this neighbouring property.
- 10.19 In respect of the impact on the approved dwellings to the east of the site, the block plan now shows the proposed relationship to these properties. There would be a distance of between 8 and 12 metres from the proposed rear elevation of Plot 1 of this adjoining development to the proposed Plot 4. The design of Plot 4 however includes a single storey garage and study adjacent to the shared boundary, and due to the retention of the existing hedge it is considered there would be no detrimental loss of privacy or overbearing impact.
- 10.20 In respect of the impact on neighbouring properties off Heather Fold, the relationship from Plots 1 and 2 has been considered in response to concerns that these properties would directly face into bedrooms on the rear elevation of No.18 Heather Fold causing an invasion of privacy. On the revised plan there would be a distance of 25 metres from the front elevation of Plot 1 to No.18 Heather Fold, and a distance of 21 metres to No.16 and no.14. This meets the recommended distance set out in policy BE12 of the UDP. The dwellings are not directly facing and it is considered there would not be a detrimental overlooking or overbearing impact. Along the shared boundary with properties off Heather Fold it is proposed to erect a 2m high close boarded fence to avoid car headlights shining into ground floor windows. This will also secure the rear garden areas of these properties and avoid a detrimental loss of privacy.

Ecology Issues

- 10.21 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. A Great Crested Newt Survey supports the application.
- 10.22 The Council's Ecologist is satisfied that the risk of killing and injuring Great Crested Newts as a result of the proposed development works is low. However, due to the legal protection of this species, specific measures are required during construction. This can be addressed by condition. In addition information is required on how the development will provide an ecological enhancement. A condition is therefore suggested to secure an Ecological Design Strategy. It is noted that during the course of the application, the applicant has submitted a Mitigation Strategy and Site Enhancement report, however the Ecologist has

raised concerns about the content of this document and therefore the suggested conditions remain appropriate to include. Subject to conditions, ecological matters are addressed and the proposal is considered to comply with the aims of chapter 11 of the NPPF.

Highway issues

- 10.23 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. A significant number of objections have been raised by residents of Heather Fold regarding the highway safety aspects of accessing four of the dwellings via this cul-de-sac. There is also significant concern about the possibility of future access to the wider housing allocation in the Publication Draft Local Plan via Heather Fold.
- 10.24 In respect of the proposed application for five dwellings, each property includes either an internal or detached garage along with off-street parking in line with Kirklees UDP parking standards. Bin storage and collection points are shown. Heather Fold is an existing traditional estate road off Cumberworth Road which is 5.5m wide with standard width 1.8 metre wide footways to both sides. Sight lines from this road along Cumberworth Road are good in both directions. Highways Development Management (HDM) have secured revisions to secure adequate carriageway and footway widths for the proposed adoptable section of the access, the remainder of the access would be a private drive. There are no highway objections to the proposed development.
- 10.25 HDM has also considered the objections raised by local residents. These include concerns that access from Heather Fold to serve the development would be dangerous, and that the inclusion of a turning head at the top of Heather Fold may facilitate future access to a housing allocation identified in the PDLP, where no access from Heather Fold has been identified. HDM have provided the following comments:
- *It is apparent that this application has a long history, and this was looked into before Highways DM submitted comments in this specific application.*
 - *The outline application from 2014 sought and received approval for access from Huddersfield Road, however, this does not mean that Heather Fold is deemed an unsuitable route of access to this pocket of land. This application has been considered on its individual merits.*
 - *In term of access to the POL site, it would be regarded as good practice to “future-proof” developments against prospective or potential development. An adequate estate road of 5.5m with 2.0 footways is required so as not to preclude this access from possible, but not granted, future use.*
 - *The committee notes submitted by Highways DM for application 2014/92889 (for six properties) estimated traffic generation to be in the region of 3 two-way movements in both the morning and evening peaks. If the same estimate is used for the four properties gaining access from Heather Fold in this instance, the highway network should be able to take this additional traffic without issue.*

- *Cumberworth Road has an excellent safety record. The fatal accident in May 2017 was the first reported injury accident on the full length of Cumberworth Road and Ponker Lane since 2007. According to police reports, this particular collision occurred within the rural, 60mph section of Ponker Lane some 600m from the junction of Heather Fold and Cumberworth Road where the nature of the highway is very different to the built-up section between Dene Road and Huddersfield Road.*
- *With regard to this proposal, Highways DM has no wish to resist the granting of planning permission on highway capacity or specific road safety grounds.*

10.26 The width of the access road has been widened in accordance with the comments from Highways DM and is now considered acceptable. A 1.8m wide footway is now shown around the turning head, in response to safety concerns, including concerns raised by residents regarding segregation for vehicles and pedestrians. The issue of future access to a proposed housing allocation in the PDLP is not a matter for this application, however the application has demonstrated through the provision of the turning head that the proposal would not prevent the remainder of the POL site being developed should any future applications be made but it is important to assess this planning application on its own merits.

10.27 With the inclusion of appropriate conditions, the proposals are considered acceptable from a highway safety and efficiency perspective, complying with the aims of Policy T10 of the UDP and Policy PLP21 of the PDLP.

Drainage issues

10.28 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including Flood Risk Assessments, taking climate change into account and the application of the sequential approach. Concerns have been raised about drainage, as to whether a culvert which runs through the site has been investigated, and that the gardens of nos.14, 16, and 18, Heather Fold already suffer from water-logged gardens.

10.29 The applicant was asked to investigate where a culvert runs through the site and its condition. There are known flood incidents downstream, so this is a sensitive area and the culvert has potential to cause a significant issue.

10.30 The applicant has carried out an investigation and has established the location of a French drain in poor condition which is shown on the submitted layout plan. The applicant has also submitted a drainage plan for consideration. It is proposed the existing French drain would be diverted via a new drainage pipe located further away from the proposed dwellings. Revisions have also been made to the layout to move plot 4 further away from the existing drain. Proposed floor levels for buildings and roads have also been included as well as approximate levels of the existing French drain, in locations as it crosses the site. The Lead Local Flood Authority (LLFA) has assessed this additional information and is satisfied that the proposed measures to renew this system are reasonably practical, with flows to be restricted and attenuation provided. It is noted the French drain, including new drainage pipe diversion, will not pick up any of the new surface water drainage from the site which is considered to be acceptable as the area is served by combined sewers and the ground has

been observed as consisting of cohesive soils and not suitable for soakaways. The relocation of Plot 4 will minimise the risk of waterlogging. The LLFA raises no objections and no particular conditions are required. The proposal is considered to comply with the aims of chapter 10 of the NPPF.

Other Matters

- 10.31 Environmental Services have reviewed the Phase I Contaminated Land report and agree with its conclusions. They therefore recommend the submission of a Phase II report and associated remediation strategy, in accordance with Policy G6 of the UDP, Policy PLP53 of the PDLP, and chapter 11 of the NPPF.
- 10.32 In respect of air quality, the development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The development is considered to be a minor development and requires the provision of one charging point per dwelling. This is recommended to be conditioned and would comply with the aims of chapter 11 of the NPPF.

Representations

- 10.33 In so far as the concerns raised have not been addressed above:
- 10.34 Concern trees and bushes have been cut down with no consideration given for wildlife / Nobles have been clearing the site of all habitation including several large trees. The previous Ecology Survey clearly states that the trees should not be removed between the months of March to September, to avoid causing harm or disturbance to nesting birds.
Officer Response: It is noted the developer has already cleared vegetation and felled trees. The Council's Ecologist has suggested conditions to secure an Ecological Design Strategy to include how the development will provide an ecological enhancement.
- 10.35 The site layout is inaccurate as it shows trees in situ both now and after construction which have actually being felled. The majority of the trees shown no longer exist.
Officer Response: The applicant was asked to provide an up to date existing block plan to address this issue, along with details of proposed boundary treatment.
- 10.36 Concern about security and privacy to the rear of properties off heather Fold. Retaining a low dry stone wall would leave back gardens exposed to being overlooked and accessed. Concern about car headlights shining into the rear of properties.
Officer Response: A boundary detail plan has been secured which shows that along the shared boundary with properties off Heather Fold, a 2m high close boarded fence would be erected to avoid car headlights shining into ground floor windows. This will also secure the rear garden areas of these properties and avoid a detrimental loss of privacy.

- 10.37 The development is now for fewer dwellings larger in proportion, this is not the best use of available building land.
Officer Response: The number of dwellings would amount to approximately 20 dwellings per hectare. This is considered to be an acceptable response to the site which is flanked by existing housing which proposes a constraint to where dwellings could be sited without impacting on residential amenity.
- 10.38 D. Noble Ltd have erected a billboard stating 5 dwellings is to be built. This is a presumption which shows scant respect for the planning process.
Officer Response: This is not a material planning consideration.
- 10.39 Query why a Phase 2 Contamination Land report is required
Officer Response: Environmental Services recommend a Phase II report as the submitted Phase I report recommends sampling is carried out to ascertain ground conditions.
- 10.40 Concern about significant disturbance to residents on Heather Fold from construction traffic, noise and pollution.
Officer Response: Temporary disruption is a normal part of the construction process and is not a reason to refuse an application.
- 10.41 Denby Dale Parish Council raised objections due to highways and access issues. They note the application is part of site H502 in the current Draft Local Plan and the access sites in the Local Plan do not include Heather Fold but does include a larger area South/West onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road.
Officer Response: This matter has been addressed in the highways section above.
- 10.42 The spur road is a road extension onto allocation H502, with a spur off to access the site. It is not a turning circle for HGV's. The direction, shape and size of the circle is contradictory to best practice turning area design.
Officer Response: The issue of future access to a proposed housing allocation in the PDLP is not a matter for this application, however the applicant has demonstrated through the provision of the turning head that the proposal would not prevent the remainder of the POL site being developed. Highway Services raise no highway safety objections to the design of the turning head.
- 10.43 Concern how residents safely negotiate the area when HGV's are operating. Require 1.8m footpath access around the road perimeter to segregate vehicular movement from pedestrians. If the development were independent a turning circle with standard 1.8m footpaths should be provided.
Officer Response: This matter has been addressed through the provision of 1.8m footways to each side of the turning head.
- 10.44 Dispute Highways comments regarding safety and congestion. In the process of considering application 2014/92889, we identified safety concerns and congestion issues on Cumberworth Road. The outline plan to provide access via Huddersfield Road was a vindication of these concerns. The Highways quote of no complaints in the last 12 months sidesteps previous submissions to committee. In segregating congestion from safety, the statement hides the full picture. Complaints have been made to the police in the last 12 months, with regard to safety and speed of traffic using Cumberworth Road. The Police referred the issue to Highways safety who responded stating no suitable

lampposts were available to allow traffic calming installations. There are two suitable lampposts at the junction with Heather Fold. The fatality involved a motorcycle accelerating beyond 60mph.

Officer Response: Highway Services have assessed the proposal and considered the comments received, however they raise no objections.

- 10.45 The revised plans change the footprint of two types of houses, both enlarging the size of properties without increasing occupancy. The outline plan allowed for 6 dwellings, the application reduced that to five, the revision provides a more lucrative opportunity for the developer.

Officer Response: The revised house types have been assessed and it is considered there would be no detrimental impact on visual or residential amenity.

- 10.46 With reference to the LDP, building on the potential access to Huddersfield Road, denies vehicular and pedestrian segregation. It blocks a direct access from H502 to the village centre. This leaves a convoluted route for pedestrians and cyclists and encourages vehicular travel to amenities, in contrast to the objectives of planning policy in the LDP.

Officer Response: The future layout of the housing allocation identified in the Draft Publication Local Plan including pedestrian routes to amenities is not a matter for this application.

- 10.47 Concern about disruption during the building process. Request consent be conditional with the requirement that construction access is via Huddersfield Road. Access from Heather Fold should only occur when the four houses are signed off by building control. The fifth house accessed from Huddersfield Road, should be constructed last and with construction access from Huddersfield Road.

Officer Response: Disruption is a normal part of the construction process. A condition to restrict access to Huddersfield Road only or to phase the development would be unduly onerous. It is noted however that a temporary access has been created into the site from Huddersfield Road, indicating that access is likely to be from Huddersfield Road in any case.

- 10.48 Major concerns regarding drainage issues raised by Flood Management and the impact it might have on already waterlogged back gardens at Heather Fold.

Officer Response: This matter is being addressed.

- 10.49 Details within the submission by Highways contains factual inaccuracies. The statement that "Huddersfield road provides less width and has existing driveways" is incorrect and misleading.

Officer Response: Whilst Huddersfield Road itself is wider than Cumberworth Road, the gap between nos.49 and 51 Huddersfield Road would not allow for such a wide access as that which already exists at the Cumberworth Road/Heather Fold junction without the use of third party land to provide tapered kerbs and footways. This was the intended implication of this statement and in this respect it remains correct.

- 10.50 The current application is not legal. It gives the ordnance survey grid reference that would place the development on the entrance to Shelley High School and not the site of the proposed development. A new application with the correct ordnance survey grid reference be submitted.

Response: This is noted, however the red boundary clearly details the application site.

10.51 Disagree the application can be re-validated, the application has been incorrectly validated and proceeded through two consultation processes taking over 6 months. It is the applicant's responsibility to ensure all relevant documents pertinent to the application are completed correctly. A new application with fees and costs should have been applied.

Response: The application was originally submitted with the incorrect ownership certificate. This matter was brought to the attention of the Local Authority and raised with the applicant who confirmed the incorrect ownership certificate had been submitted. A correct certificate was provided and the application re-validated. No new fee is required.

10.52 The application is now a full seven months from the original application date, the various reports from council officers are no longer valid and new reports should be submitted. There should be a proper examination of the application.

Response: A new 25 day period of publicity has been undertaken, and all relevant consultees have been consulted following the re-validation of the application.

10.53 The new application carries the same number as the original. This is not correct procedure. It is impossible for anyone to properly catalogue the documentation between the old and the new application, this is neither a fair or reasonable approach and would be open to statutory challenge.

Response: This is the same application for the same development, it has been re-validated to address a technical issue that the incorrect ownership certificate had been originally submitted. All publicity and consultations have been carried out following the re-validation of the application and no third party has been prejudiced.

10.54 Denby Dale Parish Council has raised objections due to highways and access issues. This application is part of Site H502 in the Local Plan which is now subject Government Inspection. We note that the access points in the Local Plan do not include Heather Fold but show a larger south/west onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road. This application would open Heather Fold to a larger amount of vehicles than the five dwellings shown.

Response: In the MIQs (Matters, Issues and Questions) in the Stage 4 hearings of the Kirklees Rural Sub-Area, the Inspector has raised the question of whether housing allocation site H502 can be developed without accessing a southern strip which is within the green belt. The Inspector has noted the site has potential access points at Heather Fold, Bedale Drive and Cumberworth Road. Of these, there is potential to have two access points (off Heather Fold and Bedale Drive), which together would have the potential to serve the bulk of the site although access to Bedale Drive would include using the southern strip of this site. Alternatively, the site access off Cumberworth Road and Heather Fold would facilitate the potential to develop full site. This is an unresolved matter, relevant to this application in so far as it is necessary to ensure this proposal does not stymie future development of H502.

11.0 CONCLUSION

- 11.1 The principle of development is accepted on this site which is allocated as POL on the UDP proposals map following the granting of a previous application for outline permission by members of the Heavy Woollen Planning Sub-Committee (in accordance with officer recommendation) under application reference 2014/92889. The proposal, comprising of five dwellings, is considered to represent an appropriate response to the site and its surroundings. The benefits of housing provision weigh heavily in favour of the proposal given the councils lack of a 5 year housing supply and the adverse impacts of the loss of this green field site do not demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal is considered to accord with the Core Planning Principles of the NPPF and would not adversely impact visual and residential amenity and highway safety.
- 11.2 The recommendation is to 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 the report.

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 shall be implemented in accordance with the plans
3. Samples of all construction materials
4. Scheme for the part of the adoptable estate road
5. Surfacing and draining of vehicle parking areas
6. Phase II Report
7. Provision of electric charge points
8. No development to take place until a method statement for the avoidance of direct impacts to great crested newts has been submitted and approved.
9. No development to take place until an ecological design strategy addressing ecological enhancement has been submitted and approved.
10. Boundary treatment to be provided in accordance with the block plan
11. Removal of permitted development rights for new openings
12. Removal of permitted development rights for extensions

Background Papers:

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92504>

Certificate of Ownership –Certificate A signed and dated 13/07/2017.

Website link to the previously approved outline application reference 2014/92889:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92889>

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-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

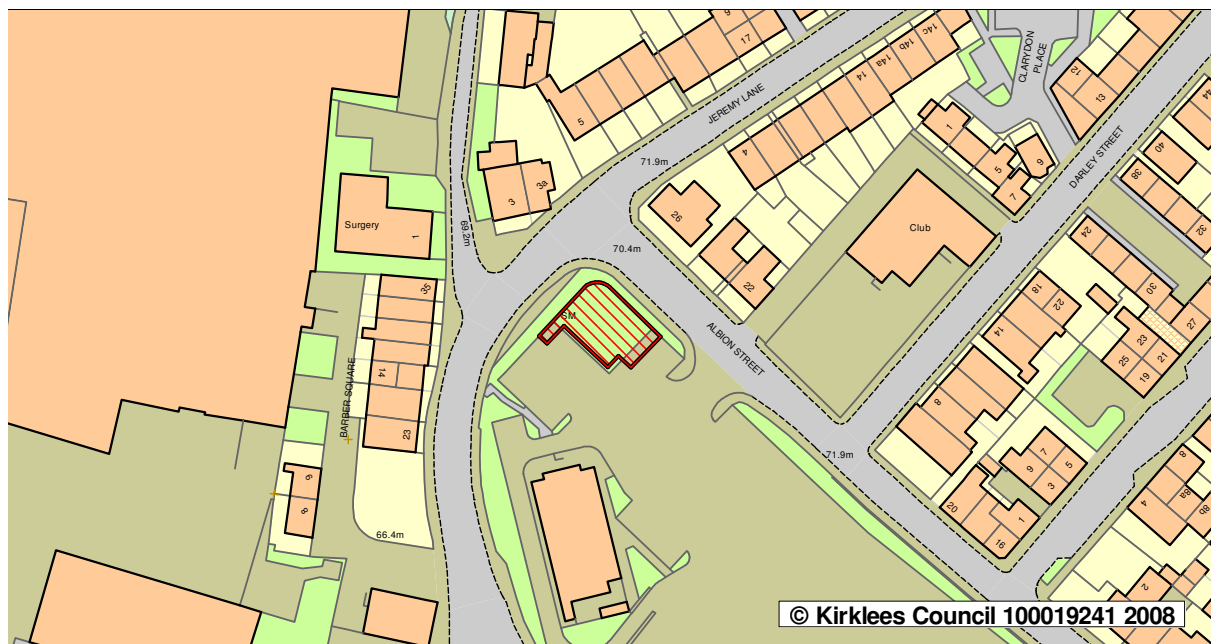
EXTENSION EXPIRY DATE

29-Jan-2018

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Heckmondwike

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

- await the expiration of the additional site publicity

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

1.0 INTRODUCTION:

- 1.1 The application was originally 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 standstill 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 Sub-Committee has previously confirmed that Councillor Steve Hall's reason for making the above request is valid having regard to the Councillor's Protocol for Planning Committees.
- 1.4 The application was subsequently considered by members of the Heavy Woollen Planning Sub-Committee on 25th January 2018 following their site visit, which was carried out on the same date. Members resolved to defer the application in order to provide the applicant with an opportunity to submit additional information relating to highway safety issues, distances to neighbouring properties and to demonstrate how they are to mitigate against any invasion of privacy.

- 1.5 The application was considered further at the Heavy Woollen Planning Sub-Committee on 15 March 2018. Members resolved to defer the application in order for officers to negotiate with the applicant reducing the impact of the building on residential amenity.
- 1.6 Since the application was deferred from the Planning Sub Committee meeting on 15th March 2018, the agent has submitted amended plans which show the following:
- Overall height of the building reduced by 500mm.
 - An indication of landscaping to two sides, adjacent to Jeremy Lane and Albion Street.
 - 1.8m high privacy screening to the proposed outdoor seating area on the side elevation to Albion Street.
 - Full landscaping details (including plant types and locations) to be secured by condition.
- 1.7 The amended plans have been re-advertised and the publicity end date is 12th April 2018. Any further representations will be reported in the Committee update.

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 eastern 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 The scheme under consideration at the Heavy Woollen Planning sub committee meeting on 25th January 2018 had been amended, in that 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 In addition, 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 12th Jan 2018, P008 rev A 12th Jan 2018, P009 rev A 12th Jan 2018, and P007 rev A 12th Jan 2018). Furthermore, the red line boundary of the site enlarged slightly to encompass the bin storage area (shown on dwgs. P001 rev A 12 Jan 2018 and B P004 rev A 12th Jan 2018). The amended plans were re-advertised and the recommendation worded to reflect the amended plan publicity end date.

- 5.3 Some additional traffic generation information was received and reported in the committee update. It gave information about total traffic generation from the proposed coffee shop, linked trips, and additional traffic generated by the proposed coffee shop. Highways Development Management (HDM) officers assessed it and found it acceptable and had no further comments.

- 5.4 Following deferral at the committee on the 25th January 2018, further information was submitted in the form of a block plan showing the distances to the neighbouring properties at Jermyn House, 3, Jeremy Lane, and 26, Albion Street, (which the agent has advised were measured on site), together with two site section drawings, one between 26, Albion Street and the proposed retail unit, and the other between Jermyn House, 3, Jeremy Lane and the proposed coffee shop.

- 5.5 Details of screening measures from the curved window to the neighbouring properties to prevent invasion of privacy issues were shown on amended elevation drawing P008 rev B indicating the use of obscure glazing between 500mm – 1800mm, and it was recommended that this is controlled by condition.

- 5.6 Details from the applicant's Highway specialists were submitted in a technical note, prepared by IMA Transport Planning, to address concerns regarding congestion at the site. These were reported and assessed in the 15th March Committee update. Kirklees HDM officers assessed the technical note and concluded that they agree with IMA's view that the proposed unit would have minimal impact on the local highway network or the existing problems with queues onto Albion Street. Highway mitigation measures for the existing car park detailed in IMA's report were recommended for control by condition.
- 5.7 Since the application was deferred from the Heavy Woollen Planning sub committee on 15th March 2018 to negotiate reducing the impact upon of the building on residential amenity, amended plans have been submitted. These show the following: The overall height of the proposed building has been reduced 500mm; a 1.8m high screen fence is proposed to the outdoor seating area on the elevation to Albion Street; and indicative landscaping shown adjacent to Albion Street and Jeremy Lane (detailed landscaping scheme to be controlled by condition).
- 5.8 The amended scheme has been re-advertised, the publicity end date is the 12th April 2018 and the representations will be reported in the Committee 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.

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

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

6.3 Kirklees Publication Draft Local Plan (PDLP):

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

6.4 National Planning Policy Framework (NPPF):

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 were 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 was undertaken with the expiration date being 23rd January 2018 and representations were reported to members in the committee Update. Furthermore, the recommendation was worded to reflect the additional publicity.
- 7.4 Following deferral at the Committee meeting on 25th January 2018, further amended plans and a technical note prepared by the applicant's highways consultants IMA Transport Planning were submitted and the application re-advertised. The additional publicity ended on 14th March 2018 and the representations received were reported to Members in the Committee update.
- 7.5 Following deferral at the Committee meeting on the 15th March 2018, further amended plans were received. The additional publicity expires on the 12th April 2018 and representations will be reported in the Committee update.

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 and congestion at the site was requested to support the application. A technical note by IMA Transport Planning was received. HDM officers agree with IMA's view that the proposed unit would have minimal impact upon the local highway network or the existing problem with queues onto Albion Street.

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, and 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. Beyond the immediate area 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, in particular facing Albion Street however these would be subject to separate advertisement consent and do not form part of this application should planning permission be granted.
- 10.12 It is acknowledged that when the application was under consideration at the previous committee, an amended plan was submitted which incorporated 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 Details of obscure glazing to the curved window of the proposed building and a screen fence to the outdoor seating area to mitigate any invasion of privacy to neighbouring properties have been submitted and shown on proposed elevation drawing P008 rev D. It indicates the use of obscure glazing between 500mm – 1800mm and a 1.8m high timber screen to the boundary of the outdoor seating area facing Albion Street. In officers' opinion this is satisfactory from a visual amenity point of view and it is recommended that they are controlled by condition.
- 10.14 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

- 10.15 When the application was previously being considered by Committee Members on the 25th January 2018, they resolved to defer the decision in order to (amongst other things) obtain accurate measurement of the distance between the proposed coffee shop and the nearest neighbouring properties as a speaker from one of the neighbouring properties reported that distances from boundary walls of neighbouring properties were less than reported in the committee report. These neighbouring properties are Jermyn House, 3, Jeremy Lane and 26, Albion Street.
- 10.16 The agent supplied an additional information plan (P010- dated 23rd February 2018) on which there is a block plan entitled distance to neighbouring properties. It shows distances of 17.8m and 16.4m from the middle of the curved window and a parallel section respectively to the mid-point of the facing front elevation of 26, Albion Street.
- 10.17 It also shows distances of 17.6m and 19.7m from the middle of the curved window to the nearest window and mid-point of the front elevation of Jermyn House, 3, Jeremy Lane. In addition it indicates a distance of 18.4m between the mid-point of Jermyn House, 3, Jeremy Lane and the nearest part of the curved window.
- 10.18 These distances are similar to those reported at the previous committee of approximately 17m from the proposed coffee shop to the nearest houses on the opposite side of Albion Street and Jeremy Lane.
- 10.19 In relation to the speakers query, distances of less than those given above are possible from the boundary walls of these neighbouring properties as the boundary walls are closer to the proposed coffee shop.
- 10.20 The agent was asked to confirm that these distances were measured on site and confirmed that this is the case.
- 10.21 Two site sectional drawings showing the proposed coffee shop in relation to 26, Albion Street and Jermyn House, 3, Jeremy Lane, were also submitted (P010 – dated 23rd February 2018). They illustrate that the proposed coffee shop would be subservient, in terms of overall height in relation to these neighbouring properties with significant separation distances.
- 10.22 Given the separation distances to neighbouring properties described above and the subservient scale of the proposed coffee shop relative to the neighbouring properties it is considered by officers that the overbearing and overshadowing effect would be relatively restricted.
- 10.23 In terms of overlooking, details of obscure / frosted glazing for the curved window were submitted and shown on proposed elevation drawing P008 rev B. It indicates the use of obscure glazing between 500mm – 1800mm. In officers' opinion this provided mitigation to prevent invasion of privacy, and can be conditioned accordingly.
- 10.24 At the Committee meeting on the 15th March 2018, Members resolved to defer the application in order for officers to negotiate with the applicant further reductions of the impact of the building on residential amenity.

- 10.25 Subsequently further amended plans were received which reduced the overall height of the proposed building by 500mm; provide a 1.8m high screen fence to outdoor seating area on the boundary facing Albion Street, and show an indicative landscaping scheme adjacent to Albion Street and Jeremy Lane.
- 10.26 It is considered by officers that the combined impact of the previous amendments and the further amendments negotiated since the 15th March 2018 and described above would provide mitigation to prevent overshadowing, overbearing, and overlooking impact, and can be conditioned.
- 10.27 In terms of noise pollution, Environmental Health officers 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.
- 10.28 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.
- 10.29 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.
- 10.30 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.
- 10.31 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.
- 10.32 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

- 10.33 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.
- 10.34 As previously set out, the application was deferred at the planning sub-committee meeting held on 25th January 2018 in order for the applicant to (amongst other things) address highway safety concerns.
- 10.35 Subsequently the applicant provided a technical note prepared by IMA Transport Planning to address concerns regarding congestion at the site. This was assessed and summarised by Kirklees HDM officers and comments reported in the update to the committee meeting held on 15th March 2018.
- 10.36 In summary and based on the IMA surveys provided, the existing queues mostly result from demand peaks at the McDonalds unit and the fact that there is only a short lead-in to the drive-thru lane. Queues on entry are generally contained within the site, but can extend to the highway in the Friday afternoon peak and in the Saturday lunchtime and evening peaks. There were also occasional issues with queues and delays on exit when drivers heading for the fast-food unit block exit from the site and additional delays arise from the entry arrangement and geometry.
- 10.37 With regards to mitigation measures, IMA Transport Planning have proposed potential measures to address existing issues including the following;
- Improvements to the radius entering the site to make turning easier which should reduce the likelihood of blocking other drivers attempting to exist.
 - Removing the one entry aisle to the first section of the car park to the south entrance from Albion Street making this section of the car park two way.
 - A give-way line is suggested to provide a clear indication to drivers heading towards the fast food unit that they consider oncoming drivers and give priority rather than pulling across the path of existing traffic as some do at present.
- 10.38 Officers consider that these measures would result in some improvement to the existing operation of the car park particularly for vehicles exiting the site, and can be secured by condition. It should however be acknowledged that they are not designed to address the existing issue of the short lead-in to the McDonalds drive-thru line which is identified as the main cause of the queuing out onto Albion Street.
- 10.39 Overall, HDM officers conclude that they agree with IMA's view that the proposed unit would have minimal impact on the local highway network or the existing problems with queues onto Albion Street.
- 10.40 Taking the above into account, it was considered that the proposal would have relatively limited impact upon highway safety and efficiency over and above the existing situation and subject to condition relating to mitigation measures for the existing car park, the proposal would be compliant with Policies D2, T10 and T19 of the UDP as well as Policies PLP21 and PLP22 of the PDLF.

- 10.41 No further highways information has been submitted since committee meeting held on 15th March 2018.

Representations

- 10.42 No representations were received during the original advertisement period for the application. A further round of advertisement of amended plans took place prior to the initial committee on the 25th January 2018 and expired on 23rd January 2018. Five letters of representations and one petition with 43 signatures were received and reported in the Committee update.
- 10.43 The issues raised and addressed were related to highway safety, noise nuisance, littering, invasion of privacy to nearest neighbouring properties, blocking views, and other empty buildings in Heckmondwike town centre could be used.
- 10.44 Following deferral at the committee meeting on 25th January 2018, amended plans to clarify distances to neighbouring properties and obscure glazing to the curved window were submitted together with sectional drawings and highway information. These were re-advertised and the advertisement end date was 14th March 2018. As a result two representations were received and reported and addressed in the Committee update.
- 10.45 Following deferral at the committee meeting on the 15th March 2018, further amended plans were received which reduced the overall height of the proposed building by 500mm; provide a 1.8m high screen fence to the outdoor seating area on the boundary facing Albion Street, and show an indicative landscaping scheme adjacent to Albion Street and Jeremy Lane. These are being re-advertised with the advertisement end date extended to the 12th April 2018. Any representations will be addressed in the Committee update.
- 10.46 Cllr S Hall raised concerns about traffic on the highway and the entrance/ exit. Since the application was deferred at the committee meeting on the 25th January 2018, the applicant has submitted a technical note prepared by IMA Transport Planning to address concerns regarding congestion at the site. This was assessed by Kirklees HDM officers and reported in detail in the update to the Committee meeting on the 15th March 2018 and a summary is given in the section above relating to highway safety.
- 10.47 As a result, subject to conditions relating to highway mitigation measures for existing car park, which include the following:

- Improvements to the radius entering the site to make turning easier which should reduce the likelihood of blocking other drivers attempting to exist.
- Removing the one entry aisle to the first section of the car park to the south entrance from Albion Street making this section of the car park two way.
- A give-way line is suggested to provide a clear indication to drivers heading towards the fast food unit that they consider oncoming drivers and give priority rather than pulling across the path of existing traffic as some do at present.

It is considered that the proposal would have relatively limited impact upon highway safety and efficiency over and above the existing situation and subject to condition relating to mitigation measures for the existing car park, the proposal would be compliant with policies D2, T10 and T19 of the UDP as well as policies PLP21 and PLP22 of the publication draft local plan.

Other Matters

Access for disabled people:

- 10.48 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.
- 10.49 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 the aims of policy BE20 of the UDP.
- 10.50 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 To conclude since the application was deferred at Heavy Woollen Planning Committee on 25th January 2018, additional information regarding the distances to neighbouring properties, sectional drawing to neighbouring properties indicating scale of the proposed building relative to neighbouring properties, and mitigation against any invasion of privacy in the form of a deep band of obscure glazing to the curved window have been submitted.
- 11.2 Since the application was deferred at the Heavy Woollen Planning Committee on the 15th March 2018, amended plans have been submitted which also reduce the overall height of the proposed building by 500m, provide a 1.8m high screen fence to the outdoor seating area on the boundary facing Albion Street, and show an indicative landscaping scheme adjacent to Albion Street and Jeremy Lane.
- 11.3 These have been carefully assessed and officers are of the opinion that the proposal would not result in any significant detriment to the visual or residential amenities of nearby residential properties or to the wider street-scene.
- 11.4 With regard to highway safety, a technical note prepared by IMA Transport Planning has been submitted and assessed in the update to the committee meeting of 15th March 2018 and found to be acceptable subject to a condition relating to mitigation measures for existing car park.
- 11.5 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...'*
- 11.6 Provided no new material planning consideration are raised as a result of a further round of publicity, approval of the application is recommended.
- 11.7 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.

11.8 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
6. Details of obscure glazing to prevent over looking
7. Details of 1.8m high timber screen fence to boundary of outdoor seating area facing Albion Street
8. Highway mitigation measures for existing car park.
9. Details of landscaping scheme and maintenance adjacent to Albion Street and Jeremy Lane.

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.

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-2018

Subject: Planning Application 2018/90650 Erection of two storey front side and rear extension 10, Moor End Lane, Dewsbury Moor, Dewsbury, WF13 4QE

APPLICANT

S Mahmood

DATE VALID

06-Mar-2018

TARGET DATE

01-May-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

Electoral Wards Affected: **Dewsbury West**

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: **REFUSE**

1. The proposed two storey front extension, due to its height, scale and prominent location as well as the proposed design, would result in an incongruous feature both in relation to the host property and the wider street scene. To permit the proposed extension would be harmful to visual amenity and contrary to Policies D2 and BE14 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and the aims of chapter 7 of the National Planning Policy Framework.

2. The proposed two storey side and rear extension, due to its width and prominent location, as well as the proposed design, would result in an incongruous feature both in relation to the host property and the wider street scene. To permit the proposed extension would be harmful to visual amenity and contrary to Policies D2 and BE14 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and the aims of chapter 7 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination at the request of Councillor Darren O'Donovan for the following reason: *"I would like the members to consider whether the harm perceived by the Officers is really so detrimental that the scheme should be refused given the diverse types of extension approved across the district."*

1.2 The Chair of the Sub-Committee has confirmed that Councillor Darren O'Donovan'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.10 Moor End Lane, Dewsbury Moor, Dewsbury is a red brick semi-detached dwelling. The property is two storey with a hipped roof form and has gardens to the front, side and rear. A drive is also located to the side of the property.

- 2.2 The property is surrounded by residential development with similar dwellings to the sides and rear. The properties on the opposite side of Moor End Lane differ in terms of age, design, style and materials.
- 2.3 To the western side boundary of the application site is a grassed area of Council owned land with a public footpath running diagonally through it from Moor End Lane to Moorside Avenue. There is a tree located in the south-eastern corner, adjacent to the boundary with the application site.

3.0 PROPOSAL:

- 3.1 The applicant applied for and was refused planning permission for a very similar scheme last year under application reference 2017/92307. The current application is seeking permission for the erection of two storey extensions to the front, side and rear of the dwelling.
- 3.2 The front extension is proposed to project out 1.5m for the most part from the original front wall of the dwelling spanning the full width of the property and including the area to the front of the proposed two storey side extension. The single storey elements would have lean to roof forms. The scheme also includes a central two storey section which would have a width of 5.2m over part of the original front elevation and part of the proposed two storey side extension, this element would have a projection of 1.8m. The roof form is proposed to be a pitched roof perpendicular to the main roof forming a substantial gable feature on the principle elevation.
- 3.3 The side extension is proposed to project 6m from the original side wall of the dwelling and would extend the depth of the property. The roof over the dwelling would be altered from a hip to a pitched roof form.
- 3.4 The extension continues out 2.3m past the rear elevation and would utilise a hipped roof form.
- 3.5 The walls of the extensions are proposed to be constructed using red brick with tiles for the roof coverings.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2017/92307 – Erection of two storey extensions to the front, side and rear – refused for the following reasons:-
1. The two storey front extension proposed, due to its height, scale and prominent location as well as the proposed design, would result in an incongruous feature both in relation to the host property and the wider street scene. To permit the proposed extension would be harmful to visual amenity and contrary to Policies D2 and BE14 of the Kirklees Unitary Development Plan and the aims of chapter 7 of the National Planning Policy Framework.
 2. The two storey side and rear extension proposed, due to its width and prominent location, as well as the proposed design, would result in an incongruous feature both in relation to the host property and the wider street scene. To permit the proposed extension would be harmful to visual amenity and contrary to Policies D2 and BE14 of the Kirklees Unitary Development Plan and the aims of chapter 7 of the National Planning Policy Framework.

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

- 5.1 This application is a resubmission of a previously refused scheme. It is considered by officers that none of the previous reasons for refusal have been addressed and the submitted proposal, along with the supporting information, does not mitigate the previous concerns. As the current submission is for a larger extension than the previously refused scheme and the applicant, through negotiations prior to this submission is aware that the proposal is unacceptable, no further negotiations have been entered into during the course of the 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.

- 6.2 The application site is unallocated on the Kirklees Unitary Development Plan (UDP) proposals map and on the Kirklees Publication Draft Local Plan (PDLP).

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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway Safety
- **T19** – Parking

6.4 Supplementary Planning Guidance / Documents:

None relevant

6.5 National Planning Policy Framework (NPPF):

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

6.6 Publication Draft Local Plan Policies (PDLP):

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP21** – Highway safety
- **PLP 22** - Parking
- **PLP 24** - Design
- **PLP 30** - Biodiversity

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was publicised by letters and site notice. Two objections have been received from the adjacent neighbour which expressed the following concerns:-

- The size of extension proposed would be out of place within the area.
- The extension to the side could result in a loss of privacy for the adjacent neighbours.
- Potential for damage to the neighbour's property.
- Insufficient parking for such a large extension.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

None

8.2 **Non-statutory:**

None

9.0 **MAIN ISSUES**

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

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 These issues along with other policy considerations will be addressed below.

Urban Design issues

- 10.3 The properties on Moor End Lane are mostly residential with some variety in terms of age, design and scale. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.

- 10.4 The scheme under consideration consists of three distinct elements which shall be addressed below.

10.5 *Two storey front extension*

Policy BE14 of the UDP does set out that extensions to the front of properties will normally be permitted where the proposal is '*relatively small in scale*'. The projection of the single storey elements to either side of the two storey central section is limited to 1.5m however, the two storey height of the central section of the extension with its projection of 1.8m together with the large gabled roof form would create a feature which would be incongruous within the street scene. Furthermore, despite the use of matching material, the detailing proposed would not complement the existing design of the host property and the adjoining 12 Moor End Lane as the property is one of a pair. As such, this element of the scheme is considered to be unacceptable in terms of visual amenity.

10.6 *Two storey side extension*

There is a significant area to the side of the dwelling which could support a substantial side extension. However, the scale proposed with its projection of 6m would result in an extension which would form a disproportionate feature relative to the scale of the host property. The lack of set back from the front elevation or set down of the roof in this instance is not considered to be so detrimental as the property is located in a corner position and would be unlikely to be capable of forming an undesirable terracing effect. However the roof form proposed, together with the appearance of the proposed two storey front extension, would further exacerbate the unacceptable design and scale of the extension. Therefore, despite the proposed use of matching materials, the overall scale and appearance of the extension would, in the opinion of officers, be detrimental in terms of visual amenity.

10.7 *Two storey rear extension*

The proposed two storey extension to the side would continue out past the existing rear elevation and wrap around to form a two storey side extension. The scale of the rear extension could be considered to be modest in terms of its projection at 2.3m. The roof form proposed, being a hipped roof, along with the use of matching materials is considered by officers to be appropriate. However the width of the extension would result in a very large mass along the side boundary in a highly prominent position given the location of the dwelling in an elevated corner plot. Whilst it is acknowledged that there are some trees on the land to the west of the application site, these will only screen the proposed extensions at certain times of the year. Therefore the rear extension, particularly when viewed with the proposed two storey side extension would result in an overly dominant which would be unacceptable in terms of visual amenity.

- 10.8 The extensions proposed, for the reasons set out above, is each considered unacceptable in its own right, and cumulatively would result in an inappropriate form of development. It may be possible to consider a single storey front extension and reduction in the width of the side extension would, with a change to its design, be more appropriate. However, the changes proposed would require a new application because a scheme significantly different to that proposed would be anticipated by officers.
- 10.9 Having taken the above into account, the proposed extensions would cause significant harm in terms of visual amenity for both the host dwelling and the wider street scene. The proposal therefore fails to comply with Policies D2, BE1, BE13 and BE14 of the UDP, Policy PLP24 of the PDL and the aims of chapter 7 of the NPPF.

Residential Amenity

10.10 *Impact on 5 & 7 Moor End Lane*

The front and side extensions would face towards the properties on the opposite side of the road. However, given the separation provided by the road together with the difference in land levels with the properties opposite occupying lower positions than the host property, there would be limited impact on the amenities of the occupiers of the properties opposite as a result of the proposed front and side extensions.

10.11 *Impact on 12 Moor End Lane*

The front extension would be set back from the common boundary with the adjoining property. Despite the two storey height, the limited projection and the separation from the common boundary is such that there would be no significant harm caused to the amenities of the occupiers of the adjoining 12 Moor End Lane as a result of the two storey front extension proposed.

- 10.12 The side extension would be sited on the opposite side of the dwelling to no.12 and therefore would have no impact upon the amenities of the occupiers of the adjoining property.

- 10.13 The rear element of the extension does extend out 2.3m past the rear elevation. However, it would be set back from the common boundary with the adjoining property and has been designed with a hipped roof form which would limit the impact of the extension. It is considered that the rear extension would have no significant impact upon the amenities of the occupiers of the adjoining 12 Moor End Lane.

10.14 *Impact on 1 & 3 Moorside Place*

The properties to the rear, 1 & 3 Moorside Place are situated some 25m to the rear of the host property. Given the separation distance, together with the limited 2.3m projection of the rear extension, there would be no significant impact upon the amenities of these occupiers.

10.15 *Impact on 1 Moorside Avenue*

The adjacent neighbour to the south west, 1 Moorside Avenue occupies a lower position than the host property with their rear elevation aligning with the rear garden of the host property. The position of the properties relative to each other, together with the land level difference, is such that there would be no significant impact upon the amenities of the occupiers of the neighbouring 1 Moorside Avenue.

- 10.16 Having considered the above factors, the proposals are not considered to result in any 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 PDLP.

Highway issues

- 10.17 The proposals would result in some intensification of the domestic use and would result in access to the existing garage being blocked. It is appreciated that the parking area to the front of the property would not be affected by the proposed extension. However, it would be preferable for such a large extension to include parking for three vehicles and the area to the front of the dwelling could only host two vehicles. It is considered that there would be insufficient parking within the curtilage although there is capacity for on street parking for one vehicle in front of the property. The scheme would not represent any additional harm in terms of highway safety and as such complies with Policies D2, T10 and T19 of the UDP as well as Policy PLP21 of the PDLP.

Other Matters

- 10.18 As part of the supporting information accompanying this planning application, the agent has referred to a number of extensions across the district which he believes justifies the proposed design and scale of the extension proposed at no. 10 Moor End Lane. Whilst development within the immediate vicinity would be relevant in the assessment given the direct relationship in terms of visual amenity and street scene, other extensions which are some considerable distance from the site would not form the basis of a justification to support this scheme. Each application is assessed on its own merit and assessed against relevant local and national planning policy guidance.

Representations

- 10.19 Two objections have been received from the adjacent neighbour. The concerns raised are summarised and addressed by officers as follows:-
- The size of extension proposed would be out of place within the area.
Officer Response: *This is a material consideration and has been addressed within the visual amenity section of this report. It is considered by officers that the proposed extensions would result in overly large additions to the original dwelling.*

- The extension to the side could result in a loss of privacy for the adjacent neighbours.
Officer Response: *This is a material consideration and has been addressed within the residential amenity section of this report. For the reasons set out in the main assessment, it is the view of the officers that the proposal would not result in any adverse impact upon residential amenity of surrounding occupants.*
- Potential for damage to the neighbour's property.
Officer Response: *This is not a material consideration. However, paragraph 120 of the NPPF does put the onus on the developer to ensure a safe development.*
- Insufficient parking for such a large extension.
Officer Response: *This is a material consideration and has been addressed within the highway safety section of this report. It is the view of officers that the proposal would not result in any undue harm in relation to highway safety and parking.*

Negotiations

- 10.20 This application is a resubmission of a previously refused scheme. It is considered by officers that none of the previous reasons for refusal have been addressed and the submitted supporting information does not mitigate the concern of officers. As the current submission is for a larger extension than the previously refused scheme and the applicant, through negotiations prior to this submission is aware that the proposal is unacceptable no further negotiations have been entered into during the course of this application.

11.0 CONCLUSION

- 11.1 This application to erect two storey extensions to the front, side and rear of 10 Moor End Lane has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.
- 11.2 The proposed front extension given the two storey height and use of a large gable with inappropriate design is considered to represent an incongruous feature which would be harmful in terms of visual amenity.
- 11.3 Similarly the side and rear extension is significantly larger than would be appropriate in terms of design, bulk and massing. Furthermore, the host property is located in a very prominent position on the corner of Moor End Lane and Moorside Avenue with views of the front, side and rear of the dwelling from both roads. It is considered that the proposed side extension together with the front extension would result in an incongruous feature within the street scene.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

11.5 It is recommended that the application be refused for the reasons set out at the beginning of this report.

Background Papers:

Web link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92307>+

Certificate of Ownership – Certificate A signed and dated 23 May 2017.

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 19-Apr-2018

Subject: Planning Application 2018/90355 Alterations to convert garage to living accommodation and erection of single storey rear extension 11, Park Lodge View, Skelmanthorpe, Huddersfield, HD8 9UN

APPLICANT

D Bates

DATE VALID

02-Feb-2018

TARGET DATE

30-Mar-2018

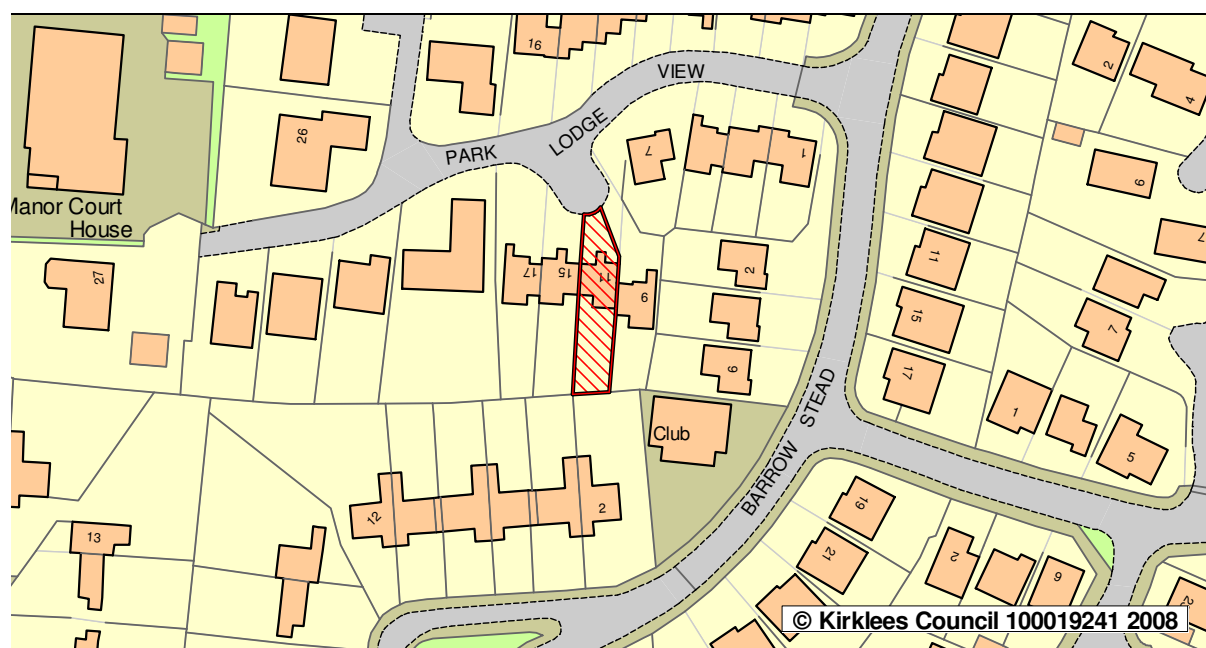
EXTENSION EXPIRY DATE

24-Apr-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

Electoral Wards Affected: Denby Dale

No

Ward Members consulted
(referred to in report)

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

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination due to the applicant being an employee in the Investment & Regeneration Service. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 11 Park Lodge View, Skelmanthorpe is a two storey link-detached dwelling. It is constructed in brick with a gable roof form which is finished in concrete roof tiles. The dwelling benefits from an integral garage which is located to the west of the site and is accessed via a driveway that leads off Park Lodge View. A conservatory is located to the rear of the property. The front of the dwelling is set back from the access road with a small garden to the front and a larger garden and amenity space to the rear.
- 2.2 The site is located in a residential area with the vicinity comprising of properties of a similar character and style to the application site. Along Park Lodge View there is some variation in the design of the properties. The topography in the local area rises towards the south such that the properties located to the rear of the site, nos. 2 and 4 Manorstead are located at a higher level than the application site.

3.0 PROPOSAL:

- 3.1 The application is seeking planning permission for alterations to convert the integral garage into living accommodation and the erection of a single storey rear extension.
- 3.2 The existing garage will be converted to provide an additional bedroom. The existing garage doors will be replaced with a door, two windows and a brick infill to match the host dwelling. The openings will be finished in uPVC. No alterations are proposed to the front elevation of the dwelling as a result of the garage conversion.

- 3.3 The rear extension will replace the existing conservatory and will provide a new conservatory, a lobby and a WC. The extension is proposed to project 3.00 metres from the original rear wall of the dwelling and 5.00 metres from the rear elevation of the existing integral garage. The extension will extend the full width of the property.
- 3.4 The rear extension will be designed with lean-to roof forms which will connect to the pitched roof form of the integral garage. Patio doors and windows are proposed for the rear elevation of the extension. The side elevations of the extension will feature high level glazing. All openings will be finished in uPVC to match existing. The walls of the extension are proposed to be constructed in brick with uPVC roof windows for the roof covering of the proposed new extension. Tiles will form the roof covering for the lobby and WC.
- 3.5 The scheme includes the introduction of a 1.20 metre high bin store to the front of the site.
- 4.0 RELEVANT PLANNING HISTORY (including enforcement history):**
- 4.1 **90/02429:** Erection of 11 dwellings. Conditional Full Permission.
- 5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**
- 5.1 No negotiations were undertaken during the course of the 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.
- 6.2 The site is located on land allocated for housing on the UDP Proposals Map and is unallocated on the Publication Draft Local Plan. With regard to the UDP allocation because the land has now been implemented with residential development, it reverts to unallocated land for the purposes of considering relevant UDP policies.

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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway Safety
- **T19** – Parking

6.4 Supplementary Planning Guidance / Documents:

None relevant.

6.5 Kirklees Publication Draft Local Plan (PDLP)

- **PLP1** – Achieving sustainable development
- **PLP2** – Place shaping
- **PLP21** – Highway safety
- **PLP22** - Parking
- **PLP24** - Design

6.6 National Planning Policy Framework (NPPF):

- **Chapter 7** – Requiring good design

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by letters and site notice. No representations have been received as a result of the statutory publicity.

7.2 Denby Dale Parish Council – ‘no objections’

8.0 CONSULTATION RESPONSES:

8.1 None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The site is located on land allocated for housing. The site has now been developed for residential purposes and the site is therefore considered as unallocated for the purposes of relevant UDP policies. 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 of the UDP (specific policy for development on unallocated land).

- 10.2 These issues along with other policy considerations will be addressed below.

Urban Design issues

- 10.3 The proposal seeks planning permission for the conversion of the integral garage into living accommodation and the erection of a single storey rear extension. The proposal would replace the existing conservatory and would provide the dwelling with additional living accommodation which will include a bedroom, lobby, WC and new conservatory. The extension will be finished in brick with tiles forming the roof cover for the section of the extension that will serve the lobby and WC. The replacement conservatory will feature high level glazing and will be finished in uPVC roof windows. Given the nature of the surrounding area, the roof form of the existing conservatory and given that the proposal will not be visible from Park Lodge View, the proposed materials are considered acceptable.
- 10.4 In the context of the site and surrounding area, the scheme would not create a visually intrusive feature within the local area in terms of its scale and design. The proposed single storey rear extension will remain subservient to the existing dwelling and would not be visible from Park Lodge View. The proposed garage conversion and replacement openings on the front elevation of the dwelling will not look out of place within the street scene. In this context the proposed development would not be incongruous with the wider character of the area.
- 10.5 Given the above, the proposal is considered acceptable from a visual amenity perspective and in accordance with the aims of Policies D2, BE1, BE13 and BE14 of the UDP, Policies PLP1, PLP2 and PLP24 of the PDLP and chapter 7 of the NPPF.

Residential Amenity

- 10.6 *Impact on 9 Park Lodge View*

The rear extension will project 2.00 metres along the boundary shared with this neighbouring property. No openings other than the high level glazing are proposed for the side elevation of the extension which will prevent overlooking. Due to the fact that the proposed extension will project an additional 0.20 metres along the boundary shared with the property than the existing conservatory, it is not considered that the overbearing impact of the new conservatory would be significantly greater than existing. Furthermore it is noted that the maximum height of the extension will not exceed the maximum height of the existing conservatory. Due to the location of the site to the west of the property, the single storey nature of the proposal and the fact that it will replace an existing conservatory, it is not considered that the development will have a significant overshadowing impact.

10.7 *Impact on 15 Park Lodge View*

Due to the garage being set back from the rear elevation of the dwelling, the extension will project 5.00 metres along the boundary shared with the property. Guidelines set out within Policy BE14 of the UDP indicates that extensions to the rear, with a projection greater than 3.00 metres, will not normally be supported. Due to the property being set in from the boundary by approximately 2.50 metres with a linked garage connecting it to the application site and given its location to the east of the application property, it is considered that there would be limited impact on the amenities of the occupiers of the adjoining property and that the projection of the proposed extension would be acceptable in this instance. No openings other than the high level glazing are proposed for the side elevation of the extension. This, along with current boundary treatment, will eliminate the potential for overlooking.

10.8 *Impact on 14 and 12 Park Lodge View*

The new openings which are proposed for the front elevation of the bedroom which will be created as a result of the conversion of the existing integral garage will face towards the properties located across Park Lodge View. However, given the separation provided between the two properties, there would be limited impact on the amenities of the occupiers of the properties opposite as a result of the proposed garage conversion.

10.9 *Impact on 2 and 4 Manorstead*

Due to the topography of the surrounding area which rises to the south of the site, the properties that are located to the rear of the application site are sat at a higher level. It is therefore not considered that the proposed development will have a significant impact on the residential amenity of these occupants.

Overall

- 10.10 Having considered the above factors, the proposal is not considered to result in any 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 PDLP.

Highway issues

- 10.11 The proposal will result in some intensification of the domestic use of the dwelling and would result in the loss of a current off-street parking space due to the conversion of the existing integral garage. It is appreciated that the driveway to the front of the property would not be affected by the proposal and would be able to accommodate two parking spaces. Parking areas are located along Park Lodge View which would allow on street parking without having a significant impact on the safety of the highway. The scheme would not represent any additional harm in terms of highway safety and as such complies with Policies D2, T10 and T19 of the UDP as well as Policies PLP21 and PLP22 of the PDLP.

Representations

- 10.12 No representations have been received as a result of the statutory publicity and Denby Dale Parish Council have raised no objection to the proposals.

Other Matters

- 10.13 There are no other material considerations relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 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. It has been considered that the application meets the requirements set out within the relevant policies and is therefore recommended approval.
- 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. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS

1. Time limit to commence development
2. Development in accordance with approved plans
3. Proposed materials to match existing
4. No additional openings in the side elevations

Background Papers

Application web page:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/90355>

Certificate of Ownership – Certificate A signed and dated 30 January 2018.

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