

Public Document Pack



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

Julie Muscroft

The Democracy Service

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Huddersfield

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Please ask for: Andrea Woodside

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Wednesday 30 January 2019

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 7 February 2019**.

(A coach will depart the Town Hall, at 9.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Reception Room.)

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 Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Mark Thompson
Councillor Graham Turner

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

Substitutes Panel

Conservative

B Armer
D Bellamy
V Lees-Hamilton
N Patrick

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
S Hall
N Mather
H Richards
M Sokhal
R Walker

Liberal Democrat

R Eastwood
C Iredale
A Munro

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 - 6

To receive the Minutes of the previous meeting of the Sub-Committee held on 20 December 2018.

3: Interests and Lobbying

7 - 8

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: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application No: 2018/93126

Erection of rear extension with store below and rear dormer window at 16, Thomas Street, Heckmondwike.

(Estimated time of arrival at site – 9.40am)

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Heckmondwike

8: Site Visit - Application No: 2018/93781

Change of use of existing post office into living accommodation and erection of new Post Office/General Store (modified proposal 2014/90895) with raised garden area and drive to rear at Hightown Post Office, 483, Halifax Road, Hightown, Liversedge.

(Estimated time of arrival at site – 10.15am)

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Liversedge and Gomersal

9: Site Visit - Application No: 2018/92175

Change of use and alterations to convert from driving range to dog day care facility at Mount Pleasant Farm, Jackroyd Lane, Upper Hopton, Mirfield.

(Estimated time of arrival at site – 10.55am)

Contact Officer: Anthony Monaghan, Planning Services

Wards

Affected: Dalton; Mirfield

10: Site Visit - Application No: 2018/91571

Demolition of existing dwelling and workshop and erection of 4 dwellings at 16, Cumberworth Lane, Upper Cumberworth.

(Estimated time of arrival at site – 11.30am)

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Denby Dale

11: Local Planning Authority Appeals

9 - 48

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: Batley East; Birstall and Birkenshaw; Denby Dale; Dew; Heckmondwike; Kirkburton; Mirfield

Planning Applications

49 - 52

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 4th February 2019.

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 prior to the meeting.

12: Conservation Area Notification 2019/90208

53 - 56

To consider the approval of consent for tree work at Blenheim House, Oxford Road, Dewsbury.

Contact Officer: Nick Goddard, Planning Services

Wards

Affected: Dewsbury West

13: Planning Application - Application No: 2018/91571 57 - 70

Demolition of existing dwelling and workshop and erection of 4 dwellings at 16, Cumberworth Lane, Upper Cumberworth.

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Denby Dale

14: Planning Application - Application No: 2018/92175 71 - 82

Change of use and alterations to convert from driving range to dog day care facility at Mount Pleasant Farm, Jackroyd Lane, Upper Hopton, Mirfield.

Contact Officer: Anthony Monaghan, Planning Services

Wards

Affected: Dalton; Mirfield

15: Planning Application - Application No: 2018/93781 83 - 94

Change of use of existing post office into living accommodation and erection of new Post Office/General Store (modified proposal 2014/90895) with raised garden area and drive to rear at Hightown Post Office, 483, Halifax Road, Hightown, Liversedge.

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Liversedge and Gomersal

16: Planning Application - Application No: 2018/92718 95 - 102

Alterations to convert one dwelling into two dwellings at 33-35, Windy Bank Lane, Hightown, Liversedge.

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Liversedge and Gomersal

17: Planning Application - Application No: 2018/93126

103 -
110

Erection of rear extension with store below and rear dormer window at 16, Thomas Street, Heckmondwike.

Contact Officer: Jennie Booth, Planning Services

Wards

Affected: Heckmondwike

Planning Update

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

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 20th December 2018

Present: Councillor Paul Kane (Chair)
Councillor Mahmood Akhtar
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Kath Taylor
Councillor Mark Thompson
Councillor Graham Turner
Councillor Eric Firth
Councillor Steve Hall

1 Membership of the Committee

Councillor E Firth substituted for Councillor Scott.
Councillor S Hall substituted for Councillor Loonat.

2 Minutes of Previous Meeting

RESOLVED - That the Minutes of the Meeting held on 15 November 2018 be approved as a correct record

3 Interests and Lobbying

Councillor Kane declared that he had been lobbied on Application 2014/94021.

Councillors Akhtar and Kane declared that they had been lobbied on Application 2017/94255.

4 Admission of the Public

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

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2014/94021

Site visit undertaken.

8 Site Visit - Application No: 2018/93001

Site visit undertaken.

9 Local Planning Authority Appeals

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

RESOLVED - That the report be noted.

10 Planning Application - Application No: 2017/94255

The Committee gave consideration to Application 2017/94255 – Demolition of existing building and erection of Place of Worship/Faith Centre at Al Hikmah Centre, 28 Track Road, Batley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mr Al Samarrie, Mr Mohamed Ali Lunat and Abdul Ravat (in support of the application), Cllr Loonat and Cllr Zaman.

RESOLVED – That (i) contrary to the Officer’s recommendation, the application be delegated to officers to approve subject to securing a Section 106 agreement to secure a financial contribution of £15,000 towards the monitoring of the Travel Plan and (ii) the conditions of the permission be circulated to the Sub-Committee prior to the issue of the decision notice.

(The Sub-Committee considered that, further to the previous deferral, the submitted proposal relating to highway concerns, and the mitigation measures regarding the loss of trees, were acceptable.)

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

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, K Taylor and Turner (9 votes)

Against: Councillors A Pinnock and Thompson (2 votes)

11 Planning Application - Application No: 2014/94021

The Committee gave consideration to Application 2014/94021 – Erection of one dwelling (within a Conservation Area) at East Paddock, 3 Deer Croft, Farnley Tyas.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Jane Faulkner and Mary Palmerley (local residents) Tom Sykes (applicant’s agent) and Cllr Bill Armer.

RESOLVED – 1) That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- time limit for implementation
- development in accordance with approved plans
- materials
- window details
- external joinery

Planning Sub-Committee (Heavy Woollen Area) - 20 December 2018

- gutters/rainwater goods
- landscaping plan
- boundary treatments
- removal of permitted development rights
- surfacing of parking and turning areas
- field land highway works
- unexpected contamination
- drainage
- construction management plan
- extent of residential curtilage

2) That additional conditions be included relating to (i) levels (the submitted section as a minimum) (ii) roofing material to be stone slates (iii) the dwelling cannot be occupied until the surfacing of Field Lane has been completed.

3) That authority be delegated to the Head of Strategic Investment to secure a S106 Agreement to regarding the off-site contribution for affordable housing.

4) That, pursuant to (3) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Strategic Investment shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, A Pinnock, K Taylor, Thompson and Turner (11 votes)

Against: (no votes)

12 **Planning Application - Application No: 2018/93001**

The Committee gave consideration to Application 2018/93001 – Outline application for erection of a residential development at 230 Cumberworth Lane, Denby Dale.

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

RESOLVED – 1) That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard conditions for submission of reserved matters, implementation of reserved matters, reserved matters submission time limit, reserved matters implementation time limit
- details of access, internal roads, visibility and highways works
- travel plan
- construction management
- ecology, landscaping and ecological design strategy

Planning Sub-Committee (Heavy Woollen Area) - 20 December 2018

- drainage
- affordable housing (if reserved matters is more than 11 dwellings)
- public open space
- education
- transport measures
- noise report
- contamination reports
- drainage and Yorkshire Water conditions
- construction environmental plan
- electric vehicle charging point

2) That the subsequent Reserved Matters application be referred back to the Sub Committee for determination.

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

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, A Pinnock, K Taylor, Thompson and Turner (11 votes)

Against: (no votes)

13 **Planning Application - Application No: 2018/91900**

The Committee gave consideration to Application 2018/91900 – Erection of 5 dwellings (modified proposal) at land off Barnsley Road, Flockton.

RESOLVED – 1) That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- time limit for implementation – 3 years
- plans to be approved
- materials
- visibility splays
- internal roads
- footway widening
- construction arrangements
- remediation
- validation
- ecological design strategy
- POS
- vehicle charging points
- removal of PD rights
- no additional doors/windows
- drainage
- works for 1 in 100 year flood
- surface water drainage

2) That authority be delegated to the Head of Strategic Investment to secure a S106 Agreement to cover (i) uplift in public open space provisions off site commuted sum of £2,645 (total for site £22,645) (ii) uplift in metro card contributions of £481.25

Planning Sub-Committee (Heavy Woollen Area) - 20 December 2018

(total for site £22,618.75) and (iii) uplift in education contributions of £26,894 (total for site £157,881).

3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Strategic Investment shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, A Pinnock, K Taylor, Thompson and Turner (11 votes)

Against: (no votes)

14 **Planning Application - Application No: 2018/92048**

Application approved (delegated).

The Committee gave consideration to Application 2018/92048 – Erection of 4 detached dwellings at land at Gregory Drive, Kirkburton.

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

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

- standard three year timeframe for the development to begin
- development to be in accordance with approved plans
- submission of details of building materials
- submission of report of unexpected land contamination
- submission of noise report
- electric vehicle charge points
- submission of ecological design strategy
- restriction of timescale for removal of hedgerows, trees, shrubs and brambles
- submission of a scheme for internal adoptable estate roads
- submission of a scheme detailing works to reconstruct unadopted section of Gregory Drive
- surfacing and drainage of areas to be used by vehicles and/or pedestrians
- restriction of PD rights for new openings within north elevation plots 1 and 4 and south elevations of plots 3 and 4
- submission of a full hard and soft landscaping scheme
- submission of details of boundary treatments
- submission of a construction management plan (specifically regarding times/avoidance of school times and the routing of construction traffic on Burton Acres Lane

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

Planning Sub-Committee (Heavy Woollen Area) - 20 December 2018

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, A Pinnock, K Taylor, Thompson and Turner (11 votes)
Against: (no votes)

15 Planning Application - Application No: 2018/93686

The Committee gave consideration to Application 2018/90390 – Erection of single storey front and two storey side and rear extensions and outbuilding at 7 Church Walk, Staincliffe, Batley.

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

- timescale for implementation
- development to be carried out in accordance with approved plans
- submission of details of building materials

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

For: Councillors Akhtar, E Firth, Grainger-Mead, S Hall, Kane, Lawson, Pervaiz, A Pinnock, K Taylor, Thompson and Turner (11 votes)
Against: (no 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: 7 FEBRUARY 2019

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.

Electoral wards affected: Denby Dale, Dewsbury South, Kirkburton, Batley East, Birstall and Birkenshaw, Heckmondwike, Mirfield

Ward councillors consulted: No

Public or private: Public

1. Summary

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

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

- 2.1 2017/60/94093/E - Outline application for two detached dwellings on land adjacent, Plough Barn, Birds Edge Lane, Birds Edge, Huddersfield, HD8 8XR. (Officer) (Allowed)
- 2.2 2017/62/92595/E - Erection of agricultural building at Wilson House Farm, Bristfield Road, Bristfield, Dewsbury, WF12 0PA. (Officer) (Dismissed)
- 2.3 2018/62/91226/E - Demolition of existing building and erection two storey workshop and office (B1 Use) and detached garage on land at, Holly View Farm, Field Head Lane, Birstall, WF17 9BW. (Officer) (Dismissed)
- 2.4 2018/62/90390E - Erection of extensions, creation of first floor terrace and external alterations at 11, Hollybank Avenue, Upper Batley, Batley, WF17 0AQ. (Committee) (Dismissed)
- 2.5 2016/62/90773E - Erection of one detached dwelling (within a Conservation Area) on land off Bath Street, Low Town, Kirkburton, Huddersfield, HD8 OSD. (Officers) (Dismissed)
- 2.6 2018/60/90560/E - Outline application for erection of detached bungalow on land adjacent to 57 Timothy Lane, Upper Batley, Batley, WF17 0BA. (Officer) (Dismissed)

- 2.7 2018/62/92294E - Erection of two storey and single storey rear extension and single storey front extension at 6, Churchbank Way, Thornhill Lees, Dewsbury, WF12 9DA. (Committee) (Allowed)
- 2.8 2017/62/93674/E - Erection of class A1/A3 coffee shop with external seating area on land at, Northgate Retail Park, Albion Street, Heckmondwike, WF16 9RL. (Committee) (Allowed)
- 2.9 2018/62/92184/E - Erection of conservatory to front at 14 Coppin Hall Lane, Mirfield, WF14 0EL. (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



Appeal Decision

Site visit made on 5 November 2018

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2018

Appeal Ref: APP/Z4718/W/18/3207394

Land adj. Plough Barn, Birdsedge Lane, Birdsedge, Huddersfield HD8 8XR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Wright against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/60/94093/E, dated 28 November 2017, was refused by notice dated 24 January 2018.
 - The development proposed is an outline application for two detached dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for two detached dwellings at Land adj. Plough Barn, Birdsedge Lane, Birdsedge, Huddersfield HD8 8XR in accordance with the terms of the application, Ref 2017/60/94093/E, dated 28 November 2017, subject to the following conditions:
 - 1) Details of the landscaping, (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Applications for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: (16461)1_Site Plan Rev A, (16461)2_Ground Floor Plan, (16461)3_First Floor Plan, and (16461)4_Elevations Rev A, and with the Design and Access Statement.
 - 5) Prior to the development hereby approved commencing, a scheme for the permeable surfacing of the vehicle parking areas and driveways specified on approved plan (16461)1_Site Plan Rev A, shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the development first being occupied, and thereafter retained.
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no

buildings or extensions apart from those expressly authorised by this permission shall be erected within the site edged red, shown on approved plan (16461)1_Site Plan Rev A.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no doors, windows or any other openings apart from those expressly authorised by this permission shall be inserted in the north-eastern elevation of the easternmost dwelling.

Preliminary Matters

2. The Government published the revised National Planning Policy Framework (the Framework) on 24 July 2018. The appellant was notified of the publication and invited to make comments. Representations received in relation to the Framework have been taken into account in determining this appeal.
3. The address on the application form and on the decision notice refers to the settlement of 'Birds Edge'. However, on the appeal form, the settlement is referred to as 'Birdsedge'. Both main parties also refer to 'Birds Edge Lane' as the road the appeal site is located on.
4. Royal Mail refers to the settlement as 'Birdsedge' and the road as 'Birdsedge Lane' and I have used these in my decision. From the postcode and the submitted plans it is clear where the appeal site is located and I am content that no party would be prejudiced by my actions in this regard.

Main Issues

5. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and development plan policy
 - the effect of the proposal on the living conditions of the occupiers of 2 and 4 Highfield Avenue, with regards to outlook.

Reasons

Inappropriate Development in the Green Belt

6. Policy D13 (infill development in existing settlements) of the Kirklees Unitary Development Plan 2007 (UDP) outlines circumstances in which the construction of new buildings in the Green Belt can be considered acceptable. Policy D13 predates and is inconsistent with the Framework, insofar as it is having regard to a defined scale of infill development and in respect of the character and appearance of the area. Accordingly I have attributed it very limited weight.
7. The Framework states that new buildings are inappropriate within the Green Belt unless they comprise one of the exceptions outlined in paragraph 145. These include limited infilling in villages. I have given significant weight to the Framework as a material consideration in determining this appeal.
8. The appeal site is within a field on the southern side of Birdsedge Lane, between a small housing estate to the east and converted stone barns and other buildings at Highfield Farm to the west and southwest. To the south of

the site is the remainder of the field with the countryside beyond. On the northern side of Birdsedge Lane are fields, with a small stone church directly opposite the appeal site.

9. In terms of the Framework, the Council does not consider that Birdsedge is a village to which limited infilling could apply. The Council has stated that Birdsedge is not considered to be a 'sustainable village' with regards to Paragraph 89¹ of the Framework and infill development, due to limited access to shops and services. Notwithstanding the presumption in favour of sustainable development contained within the Framework, a specific assessment of the sustainability of a village is not needed or required to determine whether a proposal would or would not be inappropriate development in the Green Belt. The issue of sustainable development is a separate matter, one that has not been raised in this case.
10. The Council has previously accepted that Birdsedge is a village in terms of Green Belt policy², and has assessed the proposed development against Policy D13 of the UDP. Notwithstanding the Council's position regarding the Framework, from the information before me and my observations on site, Birdsedge is a village, and I have considered it thus in terms of Green Belt policy.
11. The appeal site is located within Birdsedge, a village to which the principle of infill development in the Green Belt could apply. Having regard to the size and position of the site, the neighbouring buildings and uses, and the number of dwellings proposed, in my view the proposal would be limited infilling and would not, therefore, be inappropriate development in the Green Belt. It would therefore accord with Policy D13 in the UDP and with the Framework, in this regard.

Living conditions of the occupiers of 2 and 4 Highfield Avenue

12. The Council's officer report notes that 'There would be no detrimental impact on residential amenity' as a result of the proposed development, however, this is based on a separation distance of 12 metres between the proposed easternmost dwelling and the rear elevations of Nos 2 and 4 Highfield Avenue.
13. The parties are in dispute regarding this separation distance. The appellant maintains that there is a separation distance of 12 metres, whilst the Council state that it could be either 10.5 metres or 8 metres, depending upon which of the submitted drawings is referred to. The plans before me are not at a measurable scale, and I was unable to gain access to the site when I visited Birdsedge. I note that Denby Dale Parish Council objected to the proposed scheme in part on the grounds of its 'overbearing nature'. However, none of the nearby residents consulted on the proposal objected to it.
14. Nos 2 and 4 Highfield Avenue are at a somewhat lower elevation than the proposed dwelling. However, the heights of the ridgelines of the proposed easternmost dwelling and the bungalows on Highfield Avenue would be similar, notwithstanding the slope of the ground. Furthermore, the eastern part of the roof of the proposed easternmost dwelling would be pitched in relation to the

¹ This is a reference to the 2012 version of the Framework; the equivalent paragraph in the 2018 Framework is paragraph 145.

² The Council refers to a previous planning permission granted in Birdsedge to support this position: Ref 2010/92840

dwellings on Highfield Avenue. These factors would limit the visual impact of the proposed dwelling. In my view, based upon my observations on site and the drawings that the Council based their decision upon, in this instance the separation distance would be satisfactory.

15. The proposed development would not therefore adversely affect the living conditions of the occupiers of Nos 2 and 4 Highfield Avenue with regards to outlook and would therefore accord with Policies BE1 (character and design), BE2 (design) and BE12 (separation distances) in the UDP, and with the Framework, in this regard.

Conditions and Conclusion

16. The Council has provided a set of suggested conditions to be attached to the planning permission granted, should the appeal be allowed, the appellant has made a number of comments in relation to the suggested conditions and has suggested a number of further conditions. I have considered these matters with regard to relevant government guidance.
17. Conditions relating to the reserved matter, the submission of the reserved matter application, the commencement of development and the approved drawings are necessary for reasons of certainty.
18. A condition requiring the production of a permeable surfacing scheme for vehicle parking areas and driveways would be necessary to protect the living conditions of future occupiers.
19. Planning Practice Guidance³ sets out that *conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances*. However, given the small plot sizes, the close proximity of nearby properties and the sloping topography of the land in this area, such conditions would in this case, be necessary to make the proposed development acceptable in planning terms. Therefore, conditions removing permitted development rights for new extensions and buildings within the site edged red, and for new windows, doors or other openings in the north-eastern elevation of the proposed easternmost dwelling, would be necessary, in order to protect the living conditions of future and neighbouring occupiers.
20. Reference is made to a condition requiring the provision of bat / bird boxes and native planting, in the ecology section of the Council's officer report. From the evidence before me this would not be necessary to make the development acceptable in planning terms, or in any event would be addressed by the reserved matter.
21. A condition requiring the provision of a 2-metre wide footway, outside of the site edged red, for the full width of the site would not be necessary to make the development acceptable in planning terms, given the nature of Birdsedge Lane and that there is footpath on the northern side of the road.
22. A condition requiring the provision of an electric vehicle charging point would not be necessary in order to make the development acceptable in planning terms.

³ Paragraph 17 – Use of Planning Conditions

23. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Andrew Parkin

INSPECTOR



Appeal Decision

Site visit made on 5 November 2018

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 December 2018

Appeal Ref: APP/Z4718/W/18/3204427

Wilson House Farm, Bristfield Road, Bristfield, Dewsbury WF12 0PA

- 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 D Lawrie against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/92595/E, dated 9 June 2017, was refused by notice dated 22 February 2018.
 - The development proposed is described as 'demolition of existing agricultural building and erection of replacement agricultural building'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published the revised National Planning Policy Framework (the Framework) on 24 July 2018. The appellant was notified of the publication and invited to make comments. No representations were received in relation to this matter within the specified timescales.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and development plan policy
 - the effect of the proposal on land stability.

Reasons

Inappropriate Development in the Green Belt

4. The Council has referred to Chapter 9 - *Protecting Green Belt Land* of the National Planning Policy Framework. Given the date of the decision notice, this would be the superseded 2012 version of this document. The equivalent chapter in the 2018 Framework is Chapter 13 and in terms of inappropriate development in the Green Belt in relation to this appeal the text is unchanged.
5. The Framework states that new buildings are inappropriate within the Green Belt unless they comprise one of the exceptions outlined in paragraph 145. These include buildings for agriculture or forestry. I have given significant

- weight to the Framework as a material consideration in determining this appeal.
6. The Council has also referred to Policy PLP54 (buildings for agriculture and forestry) of the Kirklees Publication Draft Local Plan 2016 (PDLP), which contains criteria for determining whether new buildings for agriculture or forestry would be acceptable, including in the Green Belt. However, notwithstanding that the PDLP is a significant way through its preparation process, as a draft policy I have given it only limited weight in my decision.
 7. Wilson House Farm is on the southern side of Bristfield Road, with the appeal site itself located by the western boundary of the farm, a short distance from the road and the other farm buildings. To the south of the appeal site and the farm buildings close to Bristfield Road, the land is divided into two small fields.
 8. The appeal site includes a single storey building that is largely overgrown with vegetation. The proposal would see this building demolished and replaced with a materially larger building extending southward, with a significantly larger floor area and a dual-pitched roof with a higher ridgeline.
 9. The replacement building is described as an agricultural building and the submitted design and proposed materials are consistent with this type of use. The Council states that the appellant has not demonstrated that the building is required for a genuine agricultural purpose and would therefore conflict with Policy PLP54 of the PDLP. As mentioned above, I have given only limited weight to Policy PLP54.
 10. Paragraph 145 of the Framework simply requires a building to be used for agriculture, in order for it to be not inappropriate development. The appellant has provided a brief description of the intended agricultural use in their appeal statement. The proposed building would have an agricultural appearance, such as of a small barn. From the submitted information and from my observations on site I have no reason to doubt that the building would be used for agricultural purposes, as the appellant states.
 11. For the reasons set out above, the proposal would not be inappropriate development in the Green Belt because it would be a building for agriculture. It would therefore accord with the Framework in this regard.

Land Stability

12. Planning Practice Guidance (PPG) sets out the role of the planning system in respect of land stability, including minimising the risk and effects of land stability on property, infrastructure and the public.
13. The appellant's statement in support of their planning application provided a limited amount of information in relation to issues with historic coal mining. The appellant stated that the proposed building would be a lightweight structure with minimal loading onto the ground, and that the footings would not be at a depth that historic coal mining would be an issue.
14. The appeal site falls within a *Development High Risk Area* according to the Coal Authority (CA). The CA expressed *Substantive Concern* in respect of the proposed development. It objected to the application on the grounds that the submitted information did not adequately address the impacts of historic coal

mining. A thick coal seam is conjectured to outcrop across the appeal site, which could have been worked from the surface. The proposed development has the potential to trigger ground movement and destabilise former shallow coal mine workings. Therefore, the CA requested that a Coal Mining Risk Assessment or an equivalent document be provided, which would consider geological / mining information.

15. The Council, it seems, did not communicate this request to the applicant and no such document was provided as part of the application process. However, the Council's officer report makes reference to the CA's concerns and request for further information. Notwithstanding this, no such information has been provided as part of the appeal process, and the appellant has not addressed this issue in their appeal statement or final comments.
16. I note what the appellant says in respect of the existing building on the site not suffering as a result of ground instability, in the statement supporting their planning application. While I have no evidence to contradict this claim, nor have I any that substantiates it, such as an engineer's survey. There is also no information before me regarding the construction of the existing building, including the depth and design of any associated footings. Moreover, the proposed building would be significantly larger than the existing building, including in terms of its footprint.
17. Given the comments of the CA, and bearing in mind the circumstances set out above, in my view it is essential to establish whether the proposed development, and the nearby farm buildings, would be put at an unacceptable risk from land instability. In the absence of any substantive evidence to the contrary, I consider that a precautionary approach is necessary.
18. For the reasons above, in the absence of a Coal Mining Risk Assessment or equivalent document, I conclude that the proposed development would be likely to pose an unacceptable risk to land stability and would therefore conflict with paragraphs 170, 178 and 179 of the Framework¹. These paragraphs seek to ensure that new and existing development is not put at unacceptable risk or adversely affected by land instability.

Other Matters

19. The appellant notes that a previous application on the site did not attract any issues with regard to coal mining. The CA states that this application was a householder application and therefore exempt from the requirement to produce a Coal Mining Risk Assessment.
20. With regard to whether the proposed development represents 'any other (Green Belt) harm' in terms of the openness of the Green Belt, where development is found to be 'not inappropriate', it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.

¹ The Council's decision notice does not refer to any development plan policies in this regard, and refers to paragraphs 120 and 121 of the Framework 2012; the paragraphs I have listed are broadly equivalent ones contained in the Framework 2018.

Conclusion

21. The proposal would not be inappropriate development in the Green Belt. However, there is insufficient information about the effect of the proposal on land stability for me to be confident that it could be carried out without an unacceptable risk to local property. I therefore conclude that the appeal should be dismissed.

Andrew Parkin

INSPECTOR



Appeal Decision

Site visit made on 5 November 2018

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 December 2018

Appeal Ref: APP/Z4718/W/18/3207598

Land at :- Holly View Farm, Field Head Lane, Birstall, West Yorkshire WF17 9BW

- 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 Ian Ghiloni against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/91226/E, dated 12 April 2018, was refused by notice dated 8 June 2018.
 - The development proposed is demolition of dilapidated building, former equine use, and erection of part 2-storey workshop and offices building (use class B1) and detached garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published the revised National Planning Policy Framework (the Framework) on 24 July 2018. The appellant was notified of the publication and invited to make comments. No representations were received in relation to this matter within the specified timescales.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and development plan policy
 - if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in the Green Belt

4. The Framework states that new buildings are inappropriate within the Green Belt unless they comprise one of the exceptions outlined in paragraph 145.

These include:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development;

I have given significant weight to the Framework as a material consideration in determining this appeal.

5. The Council has referred to Policy PLP59 (infilling and redevelopment of previously developed land) of the Kirklees Publication Draft Local Plan 2016 (PDLP), which outlines circumstances in which the construction of new buildings on previously developed land (PDL), or limited infilling, can be considered acceptable. However, notwithstanding that the PDLP is a significant way through its preparation process, as a draft policy I have given it only limited weight in my decision.
6. PDL is defined in the Framework Glossary as *land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure*. However, this would exclude: *land that is or was last occupied by agricultural or forestry buildings*.
7. It is not disputed that the appeal site was once part of Holly View Farm. The appellant states that the previous use of the currently dilapidated building was for an 'equine use' and the building does have the appearance of a former stable.
8. I note that the Council has sought to clarify with the appellant whether the 'equine use' was separate to the farm use, and what the 'equine use' entailed, but was not able to do so. Whilst it does not necessarily follow that a stable on a farm is a building for agricultural purposes and therefore not PDL, it could conceivably be so.
9. However, even if the land was classed as PDL, or if the proposed development was considered to be limited infilling, it can only be regarded as 'not inappropriate' under paragraph 145(g) if it would not have a greater impact on the openness of the Green Belt than the existing development.
10. The Framework states that openness is an essential characteristic of the Green Belt¹. The appeal site currently contains a dilapidated building which abuts a tall stone wall by Field Head Lane. Most of the roof is missing, but it appears that it was a mono-pitched roof, sloping down from the top of the tall stone boundary wall. The southern part of the building is set back a short distance from the main front elevation.
11. There is a yard area that has been partly covered with a concrete hardstanding, and there are two metal storage containers in the southeast of the appeal site, by existing buildings at Holly View Farm. A blockwork wall topped with timber panelling is situated along the eastern boundary of the site. The northern boundary is formed by a wire fence with a small field beyond.

¹ Paragraph 133

12. The proposed development would comprise two buildings and an associated yard. A 2-storey, rectangular-shaped workshop/office building, with a dual-pitched roof and with a first floor terrace would be located where the dilapidated building currently stands. A new free-standing garage, also with a dual-pitched roof would be located in the northeastern corner of the appeal site on currently vacant land. The two metal storage containers would be removed as part of the proposed development.
13. The appeal site is reasonably well screened from surrounding land, including by the existing buildings at Holly View Farm. The removal of the storage containers would have a positive effect on the openness of the Green Belt. However, due to their position within the site and their height, which is lower than the adjacent farm buildings and eastern boundary wall, this effect would be limited.
14. The proposed workshop / office building would have a slightly larger footprint than the building it would replace, but would have a significantly greater massing as a result of its design, its greater height and its dual-pitched roof. The ridgeline of the roof would extend some 1.3 metres above the retained stone boundary wall by Field Head Lane according to the submitted drawings. The roof of the proposed workshop / office building would therefore be visible above the retained stone wall, whilst the building itself would be visible in views from the north and the east. The larger size, height and massing of the proposed workshop / office building would significantly reduce the openness of the Green Belt in comparison to the existing situation.
15. The proposed garage due to its design, height and massing would have a significantly negative effect on the openness of the Green Belt in comparison to the existing situation, where no building exists.
16. The appellant states that the proposal would be located within an existing cluster of farm buildings on the edge of the Green Belt rather than on open land. Whilst this is true, the proposal would still be harmful to the openness of the Green Belt, as set out above.
17. For the reasons given above, irrespective of whether the land is PDL or the proposal is limited infilling, it would be harmful to the openness of the Green Belt. It would therefore be inappropriate development in the Green Belt and would conflict with the Framework, in this regard, and I give this harm substantial weight.

Other Considerations

18. There is no dispute between the main parties in terms of non-Green Belt harm from the appeal development, and no representations from neighbouring properties are listed by the Council. These are therefore neutral factors which do not weigh for or against the proposal.
19. The appellant wishes to consolidate various business activities onto the appeal site, however, it is not evident that this consolidation is needed for the business to continue to function. I have therefore given this only limited weight.
20. The appellant states that the proposed development would return the largely derelict site to a meaningful use and would improve its appearance. I agree

that the derelict appearance of the site would be improved and give weight to this statement.

21. The appellant refers to previous planning permissions for a residential development at the appeal site². These planning permissions have now lapsed, and since these approvals were granted, the planning policy framework has changed considerably. I therefore give this very limited weight.

Conclusion

22. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I find that the other considerations in this case, as set out above, do not clearly outweigh the totality of the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would therefore conflict with the Framework, in this regard.
23. For the reasons given above, the appeal should be dismissed.

Andrew Parkin

INSPECTOR

² Council Ref. App.2008/62/93963/E1.
This permission was extended in 2012 - Council Ref. App.2012/62/90065/E but has now expired.



Appeal Decision

Site visit made on 17 December 2018

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2019

Appeal Ref: APP/Z4718/D/18/3214636

11 Hollybank Avenue, Upper Batley, Batley WF17 0AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs A Laher against the decision of Kirklees Council.
 - The application Ref 2018/62/90390/E, dated 5 February 2018, was refused by notice dated 3 September 2018.
 - The development proposed is double and single storey extensions; and increase in ridge height, with associated material alterations.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the living conditions of the residents of 9 and 14 Hollybank Avenue with regard to privacy and outlook; and the effect on the character and appearance of the area.

Reasons

3. In addition to the Council's concern that the proposal would be overbearing, other concerns have been raised with regard to privacy and design. I have included these within the main issues.

Impact on 14 Hollybank Avenue

4. The existing property has large forward facing windows that provide a view towards the side elevation and front garden of 14 Hollybank Avenue. A view towards the rear conservatory of that property is also possible from a more constrained angle. The property formally had a front balcony, central to the frontage of the house, which would have offered a wider range of views.
 5. The proposed two storey gable would extend towards the boundary with number 14. Bedroom 3 would have a small balcony under the projecting gable roof. The set-back of the bedroom, within the extension, would restrict the angles of views from its windows but it would bring residents closer to the boundary and the side facing bedroom and dining room windows of number 14. Although secondary windows, which already have a relatively intimate relationship with the existing neighbouring bedroom window, the distance between them would be reduced.
-

6. Whilst the reduction in window to window distances would be unacceptable, of greater concern would be the proposed balcony. This would allow a wide range of views and activity even closer to the windows of the neighbouring property and its rear conservatory. This impact would be significantly greater than the original front balcony due to its revised position. It would unacceptably reduce existing privacy levels within the neighbouring property.
7. The outlook from the side facing windows and conservatory of number 14 would be dominated by the new gable. In addition to the loss of privacy, the proposal would also be unacceptably overbearing for the neighbouring residents. There would be conflict with Policy D2(v) of the Kirklees Unitary Development Plan 1999 (UDP) as the proposal would prejudice residential amenity. Policy PLP 24(b & c) of the Kirklees Publication Draft Local Plan (DLP) includes similar requirements. As these policies generally accord with the amenity requirements of the *National Planning Policy Framework 2018*, I afford them considerable weight.
8. The proposal includes a large single storey side extension that would extend close to the dividing hedge and have large windows that would face directly towards the neighbouring conservatory. Given its proximity and relative height, although the hedge would provide some screening, it would be an imposing new feature and the large windows would be an unneighbourly addition. A fence is proposed adjacent to the hedge which, if of sufficient height, would limit the impact of the side extension. However, a high fence immediately adjacent to a mature hedge would be a regrettable intervention. Whilst the fence and the side extension may be erected as permitted development, they represent negative design features.

Impact on 9 Hollybank Avenue

9. The proposal would increase the height of the property and add a large dormer to the rear roof slope and to the front, over the garage. There would be a replacement flat roofed side extension close to the boundary with 9 Hollybank Avenue and a deep rear single storey extension. Although the extended building would be more imposing when in the neighbouring house and its gardens, I am not satisfied that it would be unacceptably overbearing.
10. The deep flat roofed rear extension would incorporate a raised terrace. This would allow views back towards the rear garden of number 9. Although not of the most private area of garden, these views and any significant level of activity, at this raised level, would unacceptably harm the living conditions of the neighbouring residents when in their garden. A screen is depicted on the 3D images but it is not shown on the submitted plans. This could be required by condition. Such a screen, if of permanent construction and sufficient height, would address my concerns with regard to the impact on the neighbouring residents. If located as shown on the 3D images, it would be far enough from the boundary to ensure that it would not be unacceptably overbearing.

Character and appearance

11. The proposal would significantly alter the appearance of the front of the dwelling resulting in it having a more contemporary appearance. Although it is clear from the representations that it would not be to everyone's taste, the re-

modelling would be a positive design intervention with regard to the appearance of the property when viewed from Hollybank Avenue.

12. To the rear of the property, there would be a very large box dormer that would extend close to the height of the raised ridge. Although a similar dormer, set within the lower existing roof, may benefit from permitted development rights, this element would not be a positive feature of the overall design. Similarly, the high solid first floor screen would not be an attractive addition to the rear of the property. These elements would represent poor design. Although to the rear, they would be clearly visible from the adjacent footpath which appears to fall within, or is adjacent to, the boundary of the conservation area. Although they would not result in harm to the setting of the conservation area, they would detract from the character and appearance of this group of houses.
13. The benefits of the improved overall appearance of the front of the property would not be sufficient to outweigh or justify the shortcomings with regard to the necessity for the large rear raised screen. Despite the potential for other works to be carried out without the need for formal planning permission, the large high dormer and the introduction of boundary fencing adjacent to mature hedging, would detract from the design quality of the development overall. I find conflict with the design requirements of UDP Policy BE1(ii) and the similar requirements of DLP Policy PLP 24. The proposal would also fall short of the aspirations of paragraph 127b of the *Framework* which requires that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Given the design shortcomings, the proposal would not represent sustainable development as defined by the *Framework*.

Other matters and conclusions

14. I have had regard to the positive comments made by some residents and the support offered by the Council's officers. It is also apparent that the appellant has taken a positive approach in seeking to overcome the concerns raised. Although I must consider the proposal as submitted, I have limited the weight that I have afforded to elements that could be undertaken without consent.
15. The proposal would result in substantial additions to this property and whilst some elements would improve its appearance, others would detract from it. A more considered design could address these concerns. The proposal would not meet the highest of design standards, particularly the rear raised terrace. My main concern relates to the impact on the living conditions of the residents of 14 Hollybank Avenue with regard to loss of privacy and the increase in dominance of the works to the frontage. The matters put forward by the appellant and the support offered, are not sufficient to outweigh these concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visits made on 4 and 5 December 2018

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 January 2019

Appeal Ref: APP/Z4718/W/18/3206042

Land off Bath Street, Low Town, Kirkburton, Huddersfield HD8 0SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs H Ayres against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90773/E, dated 4 March 2016, was refused by notice dated 31 January 2018.
 - The development proposed is the erection of one dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs H Ayres against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The first part of the site address in the heading above is taken from the Council's decision notice as it provides a more comprehensive description of the development's location.
4. The Council's decision notice refers to the development's effect on 'heritage aspects'. I have taken this as a typographical error although, other than the Conservation Area, the reason for refusal does not specify which designated heritage assets the Council consider would be affected. However, both the Council and the appellant have referred to nearby listed buildings; the Church of All Hallows (the Church) and Yew Tree Farm, 29 and 31, Lowtown (Yew Tree Farm), listed at grade I and II respectively, and I have determined the appeal on that basis.
5. Since the Council took its decision and the appeal was made the National Planning Policy Framework (the Framework) has been revised and I have therefore determined the appeal in light of the new version of the Framework. The main parties are aware of the changes and I have taken any comments made in response to the revised Framework into account.

Main Issues

6. The main issues raised by this appeal are the effect the development would have on the character and appearance of the area and on the significance of

designated heritage assets, in particular Kirkburton Conservation Area, the Church and Yew Tree Farm.

Reasons

Character and appearance

7. The appeal site is an undeveloped area of land, largely enclosed by a low dry stone wall. To one side is a large detached house of a recently constructed appearance, 48 Low Town. To the other side is a cemetery and the rear of the site adjoins open countryside. On the opposite side of the lane from the site is a domestic garden beyond which is the older churchyard rising up the hill towards the Church.
8. The open, undeveloped character of the site has much in common with the countryside it adjoins and it marks a change in character to the more built up area of Low Town to the west. Along with the garden and churchyard opposite, and the cemetery to the side, it forms part of a largely undeveloped area extending south from the Church. These spaces are relatively green and open. They merge with open countryside to the south, separating the more built up areas of Low Town and development to the east of Huddersfield Road. The locally distinctive combinations of townscape and open spaces create a positive and attractive character and appearance to which the appeal site contributes.
9. The pastoral character and appearance of the site itself would be lost as a result of the sizeable detached house and its situation within the site. This would markedly erode the green, open space at the edge of the built up part of the village. Whilst it would not be so extensive as to entirely sever those spaces to the north of the lane from those to the south, it would nevertheless have a significant intrusive and enclosing effect which would harm the character and appearance of the area.
10. The design and appearance of the dwelling itself would relate reasonably well to existing buildings, and particularly No 48. Its plan form and mass would create a firm visual end to the group of largely traditional buildings on either side of the lane to the west. I note that the appellant has taken note the Council's design advice in this respect. Whilst the design of the building would not be visually incongruous considered just in its built context, this attribute would nonetheless have little influence on the harmful effect of the building eating into a presently open area which is important to local character.
11. Although fields and the adjacent cemetery to the south are in Green Belt the development would be outside it and not affect that designation which has little bearing on the consideration of the scheme. The development would not be harmful by way of its extension of the built form of the village adjacent to this open rural aspect but through the incursion into the open wedge of largely undeveloped space which forms part of the character of the village. The site's location outwith the Green Belt does not indicate that development of the site would be acceptable in principle.
12. Although the development would be on a site without notation on the saved Unitary Development Plan¹ (UDP) proposals map, the scheme would prejudice visual amenity and the character of its surroundings, contrary to saved UDP Policy D2. The development would not retain that sense of local identity which

¹ Kirklees Unitary Development Plan, Written Statement, 2007.

is derived from the open, undeveloped character of the site and consequently the development would also be contrary to saved UDP Policy BE1. It would not meet the Framework objective that developments should, amongst other criteria, be sympathetic to local character and surrounding landscape setting.

13. However, as the design of the building itself would be in keeping with some attributes of surrounding development it would not conflict with saved UDP Policy BE2 in that respect.

Conservation Area

14. As the appellant points out that no character appraisal or similar has been presented and the Council have provided limited evaluation as to the contribution the site makes to the Conservation Area. Nevertheless, on the basis of the evidence before me and from my observations, the Conservation Area derives considerable significance from the varied and historic townscape of largely stone buildings interspersed with mature trees where the topography adds character and drama to streets and key buildings. Open areas make an important contribution to its character and appearance both by way of their historic associations and the spaces they create between built up areas.
15. For the reasons set out in the section above, the site makes a contribution to such an open area. It therefore also contributes to the significance of the Conservation Area as part of the green gap of largely undeveloped land which leads up from the village fringe through the churchyard to the Church's commanding position as a landmark building in the Conservation Area.
16. Whilst the design and materials of the building itself would complement its neighbours, its intrusive effect of effectively losing the open and undeveloped space which exists on the site would considerably undermine the character and appearance, and consequently significance, of the Conservation Area. Whilst the development may accord with the first part of saved UDP Policy BE5 which requires respect for architectural qualities of surrounding buildings and materials, it would conflict with the latter part as it would not contribute to the preservation or enhancement of the Area.
17. I have noted that the Council's Conservation and Design Group Leader supported the scheme in light of revised drawings. However, in paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, this does not lead me to a different conclusion on this issue.

The Church

18. The Church is a designated heritage asset of the highest national significance which it derives in part from its great age, architecture and built form, materials and many fine features of architectural and historic distinction inside and out. As mentioned above, its situation relative to the village and churchyard also makes an important contribution to the character and appearance of the area. This wider setting, including the surrounding churchyard contributes to revealing and understanding its significance.
19. The insertion of a sizeable building and loss of an open area would change an aspect of this setting. However, the new house would be a considerable distance away from the Church. Although it would be seen from the Church looking down the slope through the churchyard, the combination of the

distance and intervening trees would limit intervisibility even when not in leaf. There is no suggestion that there are any historic links between the site and the Church that would contribute to its significance.

20. The building would appear as a relatively minor incursion into views of the countryside beyond the village from the elevated vantage point of the Church. The building would only have a very limited effect on how the Church would be experienced from that surrounding countryside. Overall the development would have a neutral effect on the significance that the Church derives from its wider setting.

Yew Tree Farm

21. The significance of Yew Tree Farm depends to a considerable extent on its age, history, architecture, materials and architectural and other features of interest. It also gains some significance from its setting by way of its juxtaposition within a tightly arranged but irregular grouping of older buildings to one side and its spacious gardens to the other.
22. The proposed development would affect this setting however there is no information to suggest that there is any historic or functional link between the listed building and the appeal site. Yew Tree Farm's significance does not depend on the open nature of the appeal site and the proposed dwelling, although large, would, by extending the built up context of the listed building, not prevent Yew Tree Farm from being experienced from within its setting. Consequently, the scheme would not harm the significance Yew Tree Farm obtains from its setting but rather would have a neutral effect and thereby preserve that significance.

Balance

23. I have found harm in terms of the development's effect on the significance of one designated heritage asset but not the other two. Given the scale of the site and development in the context of the Conservation Area as a whole, that harm would be less than substantial in the Framework's terms. These are circumstances where the Framework requires such harm to be weighed against the public benefits of the proposal.
24. The proposal would have the public benefits of delivering an additional home in a location accessible to services and facilities, which would be enhanced given housing land supply shortfall reported by the Council but be limited in terms of its scale. The proposed junction improvements could also be of benefit to all vehicular users of the lane. These benefits carry moderate weight in support of the proposal. Avoidance of harm in other respects does not amount to public benefits weighing in support of the appeal. Nevertheless the designated heritage asset's conservation carries great weight and less than substantial harm does not equate to the harm that would be caused not carrying considerable importance and weight. In this case public benefits would not outweigh the harm.
25. I am conscious that planning permission was granted for a house on the site in 1976 although I have only been presented with limited information. It would have preceded the current development plan and it is not certain that heritage designations were the same. In any event a subsequent proposal, albeit also including a larger site opposite, was dismissed at appeal and the earlier

permission only carries very limited weight. As the appellant points out, there have been changes in national Green Belt and heritage policy since that appeal, the UDP was only draft at that time and it was for a materially different scheme before No 48 was built which reduces the weight it carries. Nevertheless, I note that the Inspector made a similar assessment of the character of that part of the village and reached similar conclusions in respect that development's effect on the rural character and attractive appearance of this part of the Conservation Area.

26. There would also be harm to the character and appearance of the area considered in more general terms. Although it would not conflict with all Policies cited or parts of them, considered overall the development would be contrary to the development plan. The Council have also pointed towards an emerging plan and the proposal would not accord with criterion a. of Local Plan² Policy PLP 24 albeit that there may not be conflict with other criteria. That Policy, whilst a consideration, cannot be afforded the weight of the adopted development plan given its stage of preparation.
27. As the Council cannot demonstrate a five year supply of deliverable housing sites the Framework considers that the policies which are most important for determining the application are out-of-date. Nevertheless, as the application of policies in the Framework that protect assets of particular importance, in particular designated heritage assets, provides a clear reason for refusing the development proposed, this does not mean that planning permission should be granted in light of the approach in paragraph 11 of the Framework.
28. The harm to the character and appearance of the area and Conservation Area, and conflict with development plan policies, would outweigh the benefits of the scheme and material considerations do not indicate otherwise.

Other Matter

29. I can appreciate that the appellant will have taken comfort from the lack of objections at pre-application stage and design advice received whilst the application was being considered. However, such advice would have been given without prejudice and in any event I have determined the appeal on its merits so this does not provide a convincing reason to alter my conclusion.

Conclusion

30. For the above reasons, the development would harm the character and appearance of the area and the significance of a designated heritage asset, contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

² Kirklees Publication Draft Local Plan.



Appeal Decision

Site visit made on 26 September 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2019

Appeal Ref: APP/Z4718/W/18/3205394

Land on south east side of Timothy Lane, Batley, West Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Blakeley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/90560/E, dated 16 February 2018, was refused by notice dated 11 April 2018.
 - The development proposed is the construction of one detached bungalow with all matters reserved, except for access to the site (access within the site is reserved).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. I have had regard to the Revised Framework in reaching my decision.
3. Outline planning permission is sought, but with all matters reserved, except for access. I have determined the appeal on this basis.
4. The Council has referred to policies contained within the emerging Kirklees Local Plan which, although in the process of examination it has yet to be adopted by the Council. Consequently, the weight that I can attach to the policies contained within the emerging plan is limited and the statutory development plan for the purposes of the determination of this appeal remains as the Kirklees Unitary Development Plan (2007) (UDP). However, I consider the policies relevant to this appeal to be broadly consistent with the Framework.

Main Issues

5. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the development plan and the Framework;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the 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 necessary to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

6. Paragraph 143 of the Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 provides that the construction of new buildings should be regarded as inappropriate subject to exceptions.
7. Policy D13 of the UDP requires infill development within existing settlements in the Green Belt to be permitted where : i) the site is small, for no more than 2 dwellings and within an otherwise continuously built up frontage, or ii) the site is small and largely surrounded by development, and iii) no detriment will be caused to adjoining occupiers of land or to the character of the surrounding area.
8. Paragraph 145 of the Framework, amongst other things, lists the exceptions for new buildings in the Green Belt. In particular Paragraph 145 g) specifies that limited infilling or the partial or complete redevelopment of a previously developed site, whether redundant or in continuing use as an exception providing it would not have a greater impact on the openness of the Green Belt than the existing development. The appellant argues that the proposal would be a limited infill development. As a result, the appellant states that based on the context of the site, including its proximity to surrounding properties, the proposal should be considered as being within the settlement of Upper Batley.
9. On the evidence before me the appeal site does not appear to be located with any defined settlement boundary, and I note the dispute between the parties on whether the appeal site is located within Upper Batley. I noted the presence of the 'Welcome to Batley/Upper Batley' road sign on my site visit, which is sited a moderate distance along the road, to the left of the appeal site when viewed from the front. I do agree that this sign indicates to road users and pedestrians that they are entering Batley/Upper Batley. However, I consider that the sign is located in this location primarily due to the siting of the existing dwellings that are on the opposite side of the road to the appeal site, and first encountered by users of the road, from this direction. This does not alter the fact that the site is not located within a defined settlement boundary, and that the appeal site is located within the open countryside.
10. The question is whether the development would constitute limited infilling. There is no detailed definition of 'limited infilling' in the UDP. The character of the site is very much of open countryside rather than a limited gap between other development or of being within an otherwise built up frontage. Whilst the appeal site is located adjacent to a dwelling, and faces further dwellings across the road, it has large agricultural fields to the left side of the appeal site when viewed from the front. The site significantly contributes to the open rural setting of Batley/Upper Batley. For these reasons I do not consider that the development would constitute 'infill', but would be regarded as an extension of the existing built environment.

11. Consequently, I conclude that having carefully considered the surrounding area and character of the site, the proposed dwelling would be contrary to Policy D13 of the UDP. Additionally, the scheme would not constitute a form of development identified in paragraph 145 of the Framework as an exception to inappropriate development in the Green Belt. Accordingly, I conclude that the proposed dwelling would be inappropriate development in the Green Belt and would therefore be at odds with the Framework in this regard.

Effect on openness

12. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development rather than being primarily about visual effects.
13. Having carefully considered the characteristics of the site and its surroundings, I find that the appeal site is relatively open and is adjacent to the area of open land to the east, away from No 57. Whilst the proposal is for outline permission only, the effect of erecting a dwelling on this site, and the associated domestic paraphernalia, that would be associated with a residential development can still be determined. The site's existing connection to surrounding fields, countryside and Green Belt means it would inevitably have an adverse impact on the openness of the Green Belt. It would result in a significant built form where there is presently none. As such, the visual impact of the proposed dwelling on openness would be exacerbated. Furthermore, it would result in the spread of development eastwards into the countryside.
14. The proposed dwelling, albeit a bungalow, would still be a development of significant bulk and massing and would be a dominant feature in the area. As such, it would have a material visual impact on the openness of the area. This impact would be significant as the site presently has no built development. In addition, the proposal would conflict with the fundamental aim of Green Belt policy by resulting in urban sprawl and its purpose to safeguard the countryside from encroachment.
15. I note the appellant's argument that the proposal would be infill development on previously developed land. Notwithstanding this, given my assessment of the appeal proposal as an extension of the built environment, rather than infill, I find this argument to have little weight in this case. Furthermore, and in any event, whether the proposal would be on previously development land is not relevant as I consider that the proposal would fail to meet the relevant test in paragraph 145 and would therefore be clearly harmful to the openness of the Green Belt.
16. Consequently, I conclude that the proposed dwelling would have a significant adverse impact on Green Belt openness and its related purpose of safeguarding the countryside from encroachment. Therefore, it would be contrary to the relevant Green Belt guidance within the Framework. Accordingly, I must give such Green Belt harm substantial weight in my assessment and determination of this appeal.

Other considerations and whether very special circumstances exist

17. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm.
18. The appellant argues that as, in their view, the proposed dwelling would be infill development there is no requirement to demonstrate very special circumstances which would justify the proposal in the Green Belt. However, given my findings on inappropriateness in the Green Belt and the nature of the proposal not being infill development, I find this argument to have little material weight in this case.
19. Notwithstanding this, the appellant states that very special circumstances exist as the Council is not able to demonstrate a 5 year supply of deliverable housing sites, which is not disputed by the Council. This represents a housing shortfall. Despite the deficiency in housing land supply, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, does not apply because specific policies relating to the Green Belt indicate development should be restricted in this case.
20. Footnote 6 of paragraph 11 specifically refers to land designated as Green Belt as falling within the categories of the Framework policies indicating development should be restricted. Therefore, while I can give some weight to the benefit of providing an additional dwelling in an area where there is a shortfall in supply, I cannot give any appreciable weight to the guidance to grant planning permission contained in paragraph 11. I note the reference to an appeal decision¹ in regard to the Council's housing supply, but notice that the appeal site in this instance was not located within the Green Belt, which differs from the case before me, I therefore give it limited weight.
21. Whilst I acknowledge there would be some limited economic and social benefits resulting from the development they are not sufficient to outweigh the harm identified above. My finding remains for the reasons indicated that the site does not accord with local or national Green Belt policy. Additionally, concerns have been expressed by neighbouring occupiers. However, I have considered this appeal proposal on its own merits and concluded that such matters would not affect the conclusions I have reached on the main issues.
22. Taking account of the above and all of the evidence, I find there are no other matters before me which demonstrate the very special circumstances required that would outweigh the substantial weight given to the Green Belt harm resulting from the proposed development were it allowed.
23. Consequently, I conclude that very special circumstances, as identified in the Framework, do not exist. Accordingly, the proposed dwelling would be at odds with the relevant sections of the Framework regarding development in the Green Belt in terms of inappropriateness and openness.

Conclusion

24. The proposal would be inappropriate development in the Green Belt which is harmful by definition, and there would be a reduction in openness. According to the Framework substantial weight must be given to any harm to the Green

¹ APP/Z4718/W/16/3147937

Belt. I have balanced these factors against the weight of all the other considerations raised in support of the application. I have reached the view that the considerations in support of the proposal do not outweigh the harm that would be caused.

25. Accordingly, for the reasons given above, and having regard to all matters raised, the appeal is dismissed.

W Johnson

INSPECTOR



Appeal Decision

Site visit made on 4 January 2019

by **J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th January 2019

Appeal Ref: **APP/Z4718/D/18/3215787** **6 Churchbank Way, Dewsbury, WF12 9DA**

- 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 Y Azad against the decision of Kirklees Metropolitan Council.
 - The application Ref 2018/62/92294/E, dated 13 July 2018, was refused by notice dated 8 October 2018.
 - The development proposed is the construction of a rear double-storey extension with a front single-storey extension.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a rear double-storey extension with a front single-storey extension at 6 Churchbank Way, Dewsbury, WF12 9DA in accordance with the terms of the application, Ref 2018/62/92294/E, dated 13 July 2018, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: PL-01
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this case is the effect of the proposed rear extension on the living conditions of the occupiers of No 4 Churchbank Way and No 57 Ashfield by way of outlook.

Reasons

3. No 6 is a semi-detached house, situated on the south-eastern side of Churchbank Way. It has a two-storey side extension that is attached to the single-storey garage building at the adjacent No 4. It also has a large conservatory to the rear and a small single-storey rear extension to the side of the conservatory. The proposed development would involve the demolition of the existing rear extensions and the construction of a new full-width rear extension, some 5 metres deep at ground floor level and 3 metres deep at first floor level. It would also involve the construction of a small projection to the front of the existing side extension.

4. The property benefits from a recent planning permission for a development proposal that is very similar to that relating to this current appeal, the only exception being that the already approved first-floor rear element would have a more restricted width. The existence of this recent permission represents a significant fall-back position that I must take into account. Since the front projection, the ground-floor rear extension and much of the first-floor rear extension can be constructed using the earlier permission, the only issue with regard to this current proposal is the effect of widening the first-floor element by a little under 2.5 metres to the boundary with No 4.
5. Saved Policy BE14 of the Council's Unitary Development Plan (UDP) indicates that unless a proposal would have a detrimental effect on visual amenity, adjoining dwellings or any occupier of adjacent land, extensions to semi-detached dwellings will normally be permitted where the proposal is to the rear and does not exceed 3.0m in overall projection. In this case, the proposed first-floor extension would not exceed 3.0 metres in overall projection. The earlier permission, in common with this current proposal, would result in the first-floor extension being built up to the boundary with No 8 Churchbank Way. It would also result in the first-floor extension having an overall width of somewhat over 5 metres, whereas in the current scheme, it would be a little less than 8 metres wide and would extend to the boundary with No 4.

Impact on No 4 Churchbank Way

6. The Council accepts that the projection is limited to 3m, which is in line with the advice set out in policy BE14 of the UDP, but it contends that the land level difference between Nos 4 and 6 exaggerates the overbearing impact of the proposed extension and that the harm caused to the amenities of the occupiers of the adjoining 4 Churchbank Way would be unacceptable. However, from my inspection of the site, the difference in levels would appear to be very small and the two main dwellings are separated by the width of the garage at No 4, unlike the situation at the boundary between Nos 6 and 8. Moreover, there are no dwellings immediately to the rear of No 4, and the proposal at No 6 would have no impact on the relatively undeveloped and "soft" views to the east and south-east currently available to the occupiers of No 4. Finally, since the proposed extension would be located to the north-east of No 4, it would, therefore, have negligible impact on light reaching the rear elevation of No 4.
7. In the light of the above, I find that the proposed first-floor extension at the appeal property would not result any significant harm to the living conditions of the occupiers of No 4 Churchbank Way by way of outlook.

Impact on No 57 Ashfield

8. The Council contends that the widening of the first-floor element of the proposed extension over that already approved would result in a significantly overbearing and oppressive outlook at No 57. The Council also refers to differences in land levels, although it would appear that any such difference is minimal. No 57 has a large full-width, two-storey rear extension, but the rear boundary between No 57 and No 6 currently includes high and relatively dense conifer trees, such that any inter-visibility is restricted. The increased width of the proposed first-floor extension at No 6 would not result in any projection any further out than the approved first-floor extension. Moreover, the increase in roof height associated with the additional width would be very slight, and the roof ridge would remain well below the level of that of the main roof.

9. In the light of the above, I find that the proposed first-floor extension at No 6, by virtue of its limited additional width and limited increase in overall height when compared with that already approved, would have no significant adverse impact on the outlook of the occupiers of No 57.

Conclusion

10. In determining this appeal, I have had regard to the significant fall-back position that currently exists with regard to the appeal property. I conclude that the very limited increases in width and height over that fall-back position, coupled with the configuration of the appeal property in relation to neighbouring properties, are such that the proposal would have no significant detrimental impacts on the living conditions of the occupiers of those neighbouring properties by way of outlook. On this basis, it would not conflict with Policy PLP24 of the Council's Draft Local Plan, or with Policies D2 and BE14 of the UDP, all of which require development to ensure high standards of residential amenity, and to avoid detrimental effects on that amenity.

Conditions

11. I have attached a condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I have attached a further condition relating to materials in the interests of the visual amenities of the area.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 4 December 2018

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 January 2019

Appeal Ref: APP/Z4718/W/18/3204703

Land at Northgate Retail Park, Albion Street, Heckmondwike WF16 9RL

- 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 London & Cambridge Properties Limited against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93674/E, dated 20 October 2017, was refused by notice dated 1 May 2018.
 - The development proposed is the erection of building for use within class A1/A3 coffee shop with external seating area.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of building for use within class A1/A3 coffee shop with external seating area at Land at Northgate Retail Park, Albion Street, Heckmondwike WF16 9RL in accordance with the terms of the application, Ref 2017/62/93674/E, dated 20 October 2017, subject to the conditions in the schedule attached to this decision letter.

Preliminary Matter

2. Since the Council issued its decision and the appeal was made the National Planning Policy Framework (the Framework) has been revised. The main parties are aware of the change and I have made my decision in light of the revised Framework.

Main Issues

3. The main issues raised by this appeal are the effect the development would have on the character and appearance of the area and on the living conditions of occupiers of 3 Jeremy Lane and 24 and 26 Albion Street.

Reasons

4. The appeal site is presently a grassed area adjacent to a surface car park serving a retail park and has a totem sign advertising businesses in the park on it. The proposed building would be located on the upper part of the site level with the car park with a modest grass verge sloping down adjacent to Jeremy Lane and Albion Street. The building would be in an elevated situation relative to the end of Albion Street and Jeremy Lane which itself is on an incline sloping down to the south west.

Character and appearance

5. The site and its immediate surroundings of the retail park car park are open and presently create very little definition to the streets it adjoins, in contrast to the largely built up and strongly defined frontages of the other side of the roads and surrounding streets largely lined with traditional stone built dwellings. The proposed building would be of a single storey and relatively simple form with a parapet at roof level and curved glazing at the corner with Albion Street and Jeremy Lane. This would create a relatively strong built feature at the junction with the partly curved plan form responding positively to its corner situation. By creating a more coherent built frontage at a corner point the development would make a positive contribution to the townscape of the area.
6. Using stone materials would assist in assimilating the building into its environs including the nearby dwellings and existing retail park buildings. The simple design with extensive glazing at the corner point and a strong parapet line would differ from the traditional two storey houses with pitched roofs. However this contrast would not be a harmful one and the limited height would help to limit the effect on occupiers of houses opposite.
7. Overall the proposed building would enhance the character and appearance of the area. This aspect of the development would accord with saved Kirklees Unitary Development Plan, 2007 (KUDP) Policies D2, BE1 and BE2 which, together and amongst other criteria, require development not to prejudice the character of its surroundings, be visually attractive, create a sense of local identity, and respect surrounding development.

Living conditions

8. Although single storey, the building's height and relative elevation would mean that it would appear as a prominent feature from windows serving habitable rooms in Nos 3, 24 and 26, particularly given the close proximity of the existing and proposed buildings to one another.
9. This would change the relatively open aspect those existing properties currently enjoy at the front, an effect which would be most noticeable from No 26 whose ground floor windows would look directly onto the site although its floor is slightly raised up relative to street level, as is that of No 24. The outlook from the latter would be affected to a more limited degree given the offset situation the coffee shop would have relative to it. No 3 is set at an angle to the site but lower than it. As a result, occupiers of all three properties would experience an enclosing effect from ground floor windows to varying degrees.
10. As substantial areas of the proposed corner window would be treated with obscure glazing, this would largely avoid direct overlooking of windows to habitable rooms in nearby dwellings and thereby a loss of privacy. Those properties will already experience a degree of loss of privacy given their public aspects close to footways adjacent to busy roads near a town centre. Nevertheless, the proximity of the coffee shop window to nearby dwellings and its large size would result in a perception of overlooking from a static location being experienced in ground floor rooms served by windows facing the site.
11. Considered together these intrusive effects would give rise to limited harm to the living conditions of occupiers of Nos 3, 24 and 26. This aspect of the

development would be contrary to criterion v of saved KUDP Policy D2 which requires development to avoid prejudice to residential amenity.

Overall balance

12. The limited harm to neighbours' living conditions carries modest weight against the development. However the development would have benefits in terms of townscape enhancement, economic benefits by way of employment and wider contribution to the economy of the town as well as some benefits in providing retail services which together carry considerable weight. Considered overall these benefits would outweigh the harm to neighbours' living conditions.
13. Whilst the development's effect on living conditions would breach part of a particular policy, considering the development plan as a whole, overall the development would comply with the development plan. Although not afforded full weight given its stage of preparation, the development would similarly overall accord with the good design aspirations of emerging Kirklees Local Plan Policy PLP 24 albeit that it would not fully meet the requirements of criterion b.
14. Overall the development takes the opportunities available for improving the character and quality of the area and the way it functions, contributing to the Framework's aspiration of achieving well-designed places.

Other Matters

15. I have noted the petition against the development as well as the specific concerns of interested parties about other effects of the development.
16. It is evident from the neighbours' reports and the appellants' traffic surveys that there is existing congestion associated with vehicles visiting the retail park at certain times. Bearing in mind the appellants' estimates, even if additional vehicle visits associated with development are more than expected this would be unlikely to materially worsen present traffic conditions outside the site on Albion Street or elsewhere. Whilst an additional use adjacent to an existing fast food outlet with drive through facilities might lead to more competition for spaces or vehicle conflicts there is no substantive evidence that this would lead to unacceptably adverse effects with the proposed access and circulation improvements.
17. As pedestrians already traverse the car park to visit facilities, either from their cars or elsewhere, it is unlikely that an additional destination would lead to harmful effects on pedestrian safety. There is no substantive evidence that emergency vehicles could not service the development. Overall, with the mitigation proposed, the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe, avoiding the only circumstances the Framework advises development should be refused on highways grounds.
18. Bearing in mind that there is an existing 24 hour drive through fast food outlet adjacent to the site it is unlikely that the additional comings and goings associated with a relatively modest café with more limited hours of operation would give rise to noise and disturbance which would be materially more intrusive than might already exist in the vicinity. These other matters do not, therefore, lead me to consider that the development would be unacceptable.

Conditions

19. It is necessary to specify the approved plans as this provides certainty. Limiting the hours of operation and of deliveries will ensure that unacceptable noise and disturbance to neighbouring occupiers is avoided. An unacceptable loss of neighbours' privacy will be avoided by requiring obscured glazing to be installed and retained in the large window and side door, along with a screen fence around the outdoor seating opposite homes. It is necessary to require levels to be approved as this provides certainty about the heights of elements of the building relative to nearby residential buildings. To be effective this would need to be a pre-commencement condition.
20. Specifying external walling in stone and requiring landscaping alongside the road frontages will preserve and improve the character and appearance of the area. Approval of details of the latter will enable the Council to ensure that it would not be of a type or extent that would adversely affect neighbours' living conditions or interfere with highway visibility. Requiring a scheme of improvements to the layout of the car park will assist in circulation and reduce the likelihood of queuing in Albion Street.

Conclusion

21. For the above reasons, and having had regard to all other matters, the development would enhance the character and appearance of the area which would outweigh harm to neighbours' living conditions. Overall the development would accord with the development plan and the Framework, and the appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P001 Rev A; P004 Rev A; P005, P006 Rev D; P007 Rev A; P008 Rev D; P009 Rev D, and; P010.
- 3) The development hereby permitted shall not be open to customers outside the hours of 0700 to 2000 on any day.
- 4) Service deliveries to or dispatches from the development hereby permitted shall not take place outside the hours of 0700 to 2000 on any day and shall be by vehicles not larger than box van type with no more than two such deliveries or dispatches in any one day.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor and top of the parapet of the proposed building, in relation to existing ground levels and ground floor levels of 3 Jeremy Lane and 24 and 26 Albion Street have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 6) Notwithstanding the submitted plans, the external walling materials of the building hereby approved shall be constructed in natural stone, a sample of which shall have been submitted to (or left on site for inspection) and approved in writing beforehand by the local planning authority. The development shall be implemented in accordance with the approved sample and thereafter retained as such.
- 7) The development hereby permitted shall not be first brought into use until the windows and door as shown on elevations drawing No P008 Rev D have been fitted with obscured glazing, and no part of those windows shall be capable of being opened. Details of the type of obscured glazing and their precise locations and heights shall be submitted to and approved in writing by the local planning authority before the windows and door are installed and once installed the obscured glazing shall be retained thereafter.
- 8) The development hereby permitted shall not be first brought into use until the 1.8m high timber screen fence to the boundary of outdoor seating area facing Albion Street as shown on elevations drawing No P008 Rev D has been installed. Details of the type, materials and construction of the fence shall be submitted to and approved in writing by the local planning authority before the fence is installed and once installed the fence shall be retained thereafter.
- 9) The development hereby permitted shall not be first brought into use until a scheme of highway mitigation measures for the existing car park have been implemented in accordance with a scheme which has been submitted to and approved in writing beforehand by the local planning authority. The highways mitigation measures scheme shall 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 exit.
 - Removing the one-way 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 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.The approved scheme shall be retained thereafter.
- 10) Details of landscaping and a maintenance scheme for the area adjacent to Albion Street and Jeremy Lane shall be submitted to and approved in writing by the local planning authority before works to construct the superstructure of the building commences. The scheme shall include details of numbers, position and types of species to be used together with their size at planting. The scheme shall include details of the pre-planting ground preparation and a post planting maintenance regime for a period of 5 years.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the development first being brought into use or the completion of the development, whichever is the sooner; and any trees or plants

which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and the landscaping shall be maintained in accordance with the approved scheme.

*** End of Schedule of Conditions ***

Appeal Decision

Site visit made on 3 January 2019

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

Appeal Ref: APP/Z4718/D/18/3216541

14-16 Coppin Hall Lane, Mirfield, West Yorkshire, WF14 0EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs C Walker against the decision of Kirklees Council.
 - The application Ref 2018/62/92184/E dated 30 June 2018 was refused by notice dated 30 August 2018.
 - The development proposed is a proposed conservatory to front.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised by the appeal proposal is the effect of the development on the character and appearance of the host dwelling and the area.

Reasons

3. The appeal property is a two storey end terrace dwelling, which is set back from Coppin Hall Lane. The area contains a range of dwellings, situated at varying distances from the highway. Due to a change in levels in the area, the surrounding properties are also at differing elevations from the road level. Despite this variety and variation, the majority of the properties use traditional materials, such as stone and generally have modest projections off the front main elevations, which contributes to a cohesive residential character.
 4. The proposal would consist of a conservatory structure, which would span the width of most of the appeal property's front elevation. It would have a mono pitch roof and its projection from the front elevation would be 3m. I recognise that the site has a long garden and is set back from the highway, as well as further back than the two storey element of No. 18 Coppin Hall Lane. Nevertheless, the proposal would have, by virtue of its forward positioning, a considerable prominence in views from the front. It would be further forward and of a greater width than the porch at No. 12. Although I was able to see the presence of some vegetation and a tree that would partially obscure views, it was clear from my site visit that it would still, however, be seen from various vantage points along Coppin Hall Lane. I also note the presence of a wall to the front of the site, but the proposal would still be seen by pedestrians in more distant views, due to the curvature of the highway and rising land levels to the
-

north-west. Its largely glazed design to its front and roof would also not reflect the use of stone and other traditional materials on the host dwelling.

5. I therefore conclude that the proposal would cause unacceptable adverse harm to the character and appearance of the host dwelling and the area. It would conflict with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan, which seek, amongst other matters, development that is of a good quality design and which is in keeping with the design, materials, scale and layout of surrounding development. It would also conflict with Section 12 of the National Planning Policy Framework.
6. My attention has been drawn to a modern conservatory at No. 24 Coppin Hall Lane. I have not however been provided with any further details on its circumstances. I also note that the Council have stated that there is no planning history for this structure. In any event, I am required to determine this appeal on its own merits.

Conclusion

7. For the reasons given above and having considered all other matters raised, including the proposal would not encroach on the garden, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR

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

PLANNING POLICY

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

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

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The 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 48 of the National Planning Policy Framework 2018. 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 (2018), 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 24th July 2018, the Planning Practice Guidance Suite (PPGS) first 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 54 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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LOCATION PLAN – Blenheim House, Oxford Road, Dewsbury



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury West

RECOMMENDATION:

DELEGATE approval for no objection to a Conservation Area Notification 2019/90208.

1.0 INTRODUCTION:

- 1.1 The purpose of this report is to provide Members with the information required to make a decision regarding this Conservation Area Notification.
- 1.2 Members are required to make this decision as it is stipulated within the Delegation Agreement for Investment and Regeneration, “all applications submitted by or on behalf of... any Elected Member or a member of their family.”

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to two trees in the rear garden of Blenheim House, Oxford Road, Dewsbury, WF13 4LN. The tree is protected by the Northfields Conservation Area.

3.0 PROPOSAL:

- 3.1 The proposal is to reduce the height by approximately 50% and shape the remaining crown accordingly of a Silver Birch in the rear garden of the property and to fell and remove a Eucalyptus.
- 3.2 The applicant is a Mr Mohammed Pandor, the brother of Councillor Pandor, Leader of the Council, As a result this application must be decided at committee according to the Delegation Agreement.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 Consent was issued at this property to prune two trees at the front of the property in 2018 following approval by planning committee. In preparing to carry out the permitted work Mr Pandor has approached the Council seeking consent for work to additional trees.

5.0 PUBLIC/LOCAL RESPONSE:

- 5.1 None, however note that the application was only received on 22/01/2019.

6.0 MAIN ISSUES

- 6.1 The works proposed are to reduce the height of the Silver Birch tree by approximately 50% and shape the remainder of the crown accordingly. The work is to be carried out to allow more light in to the rear garden and aid satellite reception at the property.
- 6.2 The application also includes the removal of a Eucalyptus tree, growing adjacent to the Silver Birch. This tree is to be removed on the grounds of safety.

7.0 APPRAISAL

- 7.1 As the application is for work to trees within a Conservation Area, and not protected by a Tree Preservation Order, the Council cannot refuse the application but can either record 'no objection' or authorise the serving of a TPO to prevent the work taking place.
- 7.2 An assessment of the trees quality and significance with regard to public amenity has been made on 24th January 2019. Both trees were positioned near the site's southern boundary and as such were entirely hidden from view by the property when viewed from Oxford Road. The trees were also mostly obscured from view to users of Halifax Road by the site's ornamental shrubs and small trees that flank this road and therefore have limited public amenity value.
- 7.2 The Silver Birch tree appears to have been reduced significantly in the past and therefore has developed a poor multi-leadered form. Silver Birch that are reduced in height, as this one has been, often develop decay at the junction of the old and new growth which increases the likelihood of branch or stem failure.
- 7.3 The Eucalyptus had two bark wounds present close to the ground and decay of the heartwood was evident in these wounds. The Eucalyptus had also not developed a good crown form and was leaning away from the adjacent tree and had developed no lateral branches.
- 7.3 It is the Officer's assessment that neither of these trees would warrant protection by a Tree Preservation Order due to the defects, poor form and limited public amenity they present.
- 7.4 The considerations for Committee are whether the trees warrant a Tree Preservation Order to prevent the work. If not then the Council should record a decision of 'No Objection'.
- 7.5 Should Committee decide that the work is inappropriate and cannot support it then Officers will be required to serve a Tree Preservation Order to prevent the proposed work.

8.0 CONCLUSION

- 8.1 The trees are not prominent from Oxford Road or Halifax Road being screened by the property or other trees in the garden which are adjacent to the road.
- 8.2 The trees had sufficient defects as to limit their safe future life expectancy, either caused by basal decay or poor regrowth from past pruning points.
- 8.3 In the Officer's opinion the trees do not warrant protection by a Tree Preservation Order and it is recommended that the Council records a decision of 'No Objection' to the proposed works.

Background Papers:

Copy of the Application and modification

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/91571 Demolition of existing dwelling and workshop and erection of 4 dwellings 16, Cumberworth Lane, Upper Cumberworth, Huddersfield, HD8 8NU

APPLICANT

Timothy Scott, B T Scott
And Son

DATE VALID

14-May-2018

TARGET DATE

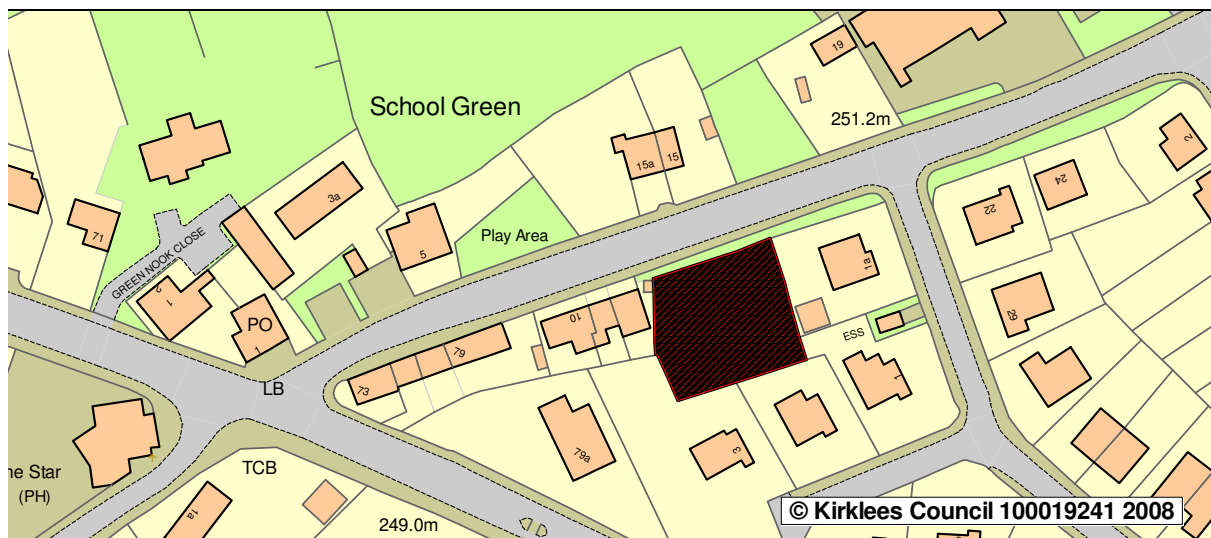
09-Jul-2018

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: Denby Dale

No

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 Planning permission is sought for the demolition of the existing dwelling and workshop on the site and the erection of 4no dwellings.

1.2 The application is brought to Heavy Woollen Planning Sub-Committee in accordance with the Council's Scheme of Delegation due to both the number of representations received and at the request of Councillor Watson. Councillor Watson states that

"it is very much in the interests of everyone involved that [the application] should be determined by the sub-committee having regard to the fact that this could be a potentially controversial application locally'.

Within his committee request, Councillor Watson refers to the visual impact of the development, the effect on public amenity, highway safety and that fact that he has received comments from local residents expressing concerns.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to a roughly square-shaped parcel of land on the southern side of Cumberworth Lane in Upper Cumberworth. The northern boundary of the application fronts Cumberworth Lane and land levels fall gently away from the road.

2.2 The site contains a dormer bungalow and a detached workshop building both of which are owned by the applicant. The bungalow's side elevation faces Cumberworth Lane and the rear elevation has a close relationship with the eastern boundary of the site and the adjacent dwelling (no.1a, Dearnfield), which is located at a lower level. The workshop building is located to the west of the site and has a large footprint which projects past the rear elevation of the adjacent end-terrace property (no. 14, Cumberworth Lane).

- 2.3 The external walls of the dormer bungalow are mixture of stone, orange-coloured brick and off-white render. The roof is hipped and constructed from terracotta tiles. There is a large dormer window on the east facing (rear) elevation which faces no. 1a, Dearnfield. The workshop is constructed from metal and plastic-coated corrugated sheeting. The applicant runs an upholstery business from this unit.
- 2.4 There is an area of hardstanding to the front of the workshop building and an area of grassed amenity space to the south of the bungalow. Along the rear boundary of the site is the boundary treatment is formed of trees, vegetation and dense conifer hedging. Beyond this lie the properties of Dearnfield at a lower level.
- 2.5 The application site is surrounded by residential development; dwellings on Cumberworth Lane to the north and west and dwellings of Dearnfield to the east and south.
- 2.6 The application site is unallocated on the Kirklees UDP Proposals maps and on the Kirklees PDLP. It is, however, adjacent (but not within) the Upper Cumberworth Conservation Area.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for demolition of the existing bungalow and workshop and the erection of 4no terraced dwellings.
- 3.2 Each dwelling would be 2.5 storeys in height, with 3 bedroom accommodation being provided across the 3 floors. Internally, each floor would be split level in order to take into account the site topography. The two western dwellings would be slightly larger than the eastern two in terms of both footprint and ridge height. Both end properties would have an attached garage with a lean-to roof which would be set back from the front elevations significantly.
- 3.3 The front elevations would have a traditional appearance in terms of their fenestration detail and design. The rear elevations would have a more contemporary appearance with large areas of glazing to the ground floor and rooflights proposed.
- 3.4 On the application form, materials are stated as being a mixture of stone, brick, render and cedar wood cladding.
- 3.5 The end two dwellings would have 1 no parking space within the attached garage and a driveway for additional parking. The inner two dwellings would have 2 parking spaces to the front of the properties. The parking areas would be broken up by areas of soft landscaping.
- 3.6 To the rear of the properties, each dwelling would have its own area of private amenity space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 96/90248 – external leaf to front and side elevations of existing timber workshop on this site – approved
- 2001/91962 – erection of detached dwelling on adjacent site (now known as 1a, Dearnfield) – approved
- 94/91205 – erection of first floor extension at no. 14, Cumberworth Lane – approved

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

5.1 The proposal under consideration has been amended in the following ways:

- Reduction in number of dwellings from 5no dwellings to 4no
- Amendments to the design of the dwellings
- Amendments to the layout of the dwellings both within the site and in terms of the internal arrangement
- Amendments to the parking area
- Sections sought
- Existing plans sought

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 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2
- D2 – Unallocated Land
 - BE1 – Design principles
 - BE2 – Quality of design
 - BE11 – Materials (use of natural stone)
 - BE12 – Space about buildings
 - T10 – Highway Safety
 - T19 – Parking
 - H1 – Meeting housing need within the district
 - B4 – Loss of employment use
 - G6 – Contaminated land
 - NE9 – Trees

Kirklees Publication Draft Local Plan

- 6.3 PLP 1 – Presumption in favour of sustainable development
PLP 2 – Location of new development
PLP 21 – Highway Safety and Access
PLP 22 – Parking
PLP 24 – Design
PLP 28 – Drainage
PLP 33 – Trees
PLP 35 – Historic environment
PLP 52 – Protection and improvement of environmental quality
PLP 53 – Contaminated and unstable land

National Planning Guidance:

6.4 Core Planning Principles

- Chapter 2 – Achieving sustainable development
Chapter 5 – Delivering a sufficient supply of homes
Chapter 6 – Building a strong, competitive economy
Chapter 8 – Promoting Healthy and Safe Communities
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making efficient use of land
Chapter 12 – Achieving well designed places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of the publicity processes (based on the original plans and amended plans), 17 representations have been received on the application. 13 were received in response to the first round of publicity and 4 were received following the publicity of the amended plans.

7.2 These can be summarised as follows:

- Drainage concerns (both foul and surface water)
- Highway safety, including congestion, lack of on-site parking and nearby school and facilities
- No publicity of application at the time that the representation was written
- Loss of light to kitchen and hall, windows and garden
- Imposing/overbearing
- Loss of privacy
- Question about boundary treatment
- Suggestion that the building is a similar depth to the existing terrace row
- Concerns about the design and the proximity to the conservation area
- Noise from traffic generated by the development and during the construction phase
- Overdevelopment
- There are trees and hedges on the site and the application form states that there are not
- Disturbance during the construction phase

Denby Dale Parish Council: objections on the grounds of over-development of the site and the materials not being in-keeping with the area (based on the original plans)

8.0 CONSULTATION RESPONSES:

8.1 Statutory

KC Highways Development Management: no objection subject to conditions

Denby Dale Parish Council: objections on the grounds of over-development of the site and the materials not being in-keeping with the area (based on the original plans)

8.2 Non-statutory:

KC Conservation and Design: no objection to the amended scheme

KC Environmental Health: no objection subject to conditions

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters
 - Land contamination
 - Sustainable Transport

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the UDP Proposals Map and on the PDLP. Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.2 Also of relevance in determining the principle of development is Policy B4 of the UDP which states that proposals involving the change of use of premises and sites with established use, or last used, for business and industry will be considered having regard to several criteria. As the applicant runs an upholstery business from this workshop, an assessment against this policy is required.

- 10.3 Notably, the site is not allocated for employment uses in either the UDP or the emerging Local Plan. After discussion with the agent, it is understood that the applicant intends to enter into retirement thus ceasing his business activity on the site. When considering the quality of the workshop, its size and its close proximity to surrounding residential units, it is not considered that this is not a site that would easily lend itself to re-use for business and industry purposes. It is also noted that PDLP policy PLP 8 does not protect the previous use of the site. As such, Officers have no objection to the loss of this unit of this business premises.
- 10.4 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development where local planning authorities should positively seek opportunities to meet the development needs of their area. The site is within an established residential street and within close proximity of the local amenities of Upper Cumberworth. The site could be considered as appropriate for residential redevelopment in principle; subject to an assessment of all relevant material considerations as follows within this report.

Urban Design issues

- 10.5 The scheme under consideration has been amended following Officer concerns being relayed to the agent. Concerns in relation to urban design and visual amenity were centred on an overdevelopment of the site and the design of the front elevations of the dwellings.
- 10.6 Following detailed discussions with the agent, an amended scheme has been submitted in an attempt to address Officer concerns. This reduces the number of dwellings proposed from 5no to 4no dwellings. As set out above, these dwellings would take the form of a terraced row of four, with the two western dwellings being slightly larger in ridge height and footprint than the two eastern ones. This results in a slight stagger being formed in the centre of the front elevation which would break up the row. With one less dwelling, the scheme is considered to sit more comfortably on the site, however, in order to prevent potential overdevelopment of the site, it is recommended that permitted development rights are withdrawn for development within Classes A and E of the GPDO (extensions and outbuildings).
- 10.7 Each dwelling would be 2.5 storeys in height, appearing as two storey buildings when viewed from Cumberworth Lane. As demonstrated on the submitted plans, the dwellings would not appear out of scale with the adjacent terraced block, with their proposed ridge height being similar to that of the adjacent terraced row, and lower than the ridge of no. 1a, Dearnfield. In addition to this, alterations to the design of the dwellings means that the proposed development appears more in-keeping with the local vernacular; the proposed dwellings have a strong rhythm, similar to the terraced properties adjacent the site, and the variation in door position adds visual interest to the row. The openings are shown to be set within stone mullions which is considered to enhance their character and allow them to harmonise better with development within the adjacent conservation area. To the rear elevation, more contemporary elements of design are introduced; this is not readily visible from public vantage points and is considered acceptable. The proposed garages to either end of the row are set well back from the front elevations; thus reducing their prominence and meaning that they do not detract from the character of the terraced row.

- 10.8 With regard to the proposed materials, it is stated on the application form that a combination of stone, render, brick and cedar wood cladding is proposed. Policy BE11 states that in areas where natural stone is the prevailing building material, this too shall be used in new development. In this instance, it is acknowledged that there are a variety of materials surrounding the site. Within the application site itself, the existing dwelling has stone fronting Cumberworth Lane with render and brick present too on other elevations. No. 1a, Dearnfield is constructed from red brick as are the properties of Dearnfield to the rear of the site. The majority of dwellings within the adjacent conservation area are however, stone fronted. In this instance, it is considered that the dwellings should be fronted in stone, which could extend to prominent section of the side elevations. On less prominent elevations, there could be an opportunity to introduce other materials, such as render. Cedar cladding is not a material that is visible within the immediate surrounding area and is not considered as an appropriate facing material for the proposed dwellings. A condition is recommended for details/samples of all materials to be submitted for approval.
- 10.9 In order to break up the driveways to the front of the properties, soft landscaping has been introduced. This will take the form of low level shrub planting and some tree planting, however details have not been provided as to the species proposed. The incorporation of soft landscaping to the frontage is considered to soften the visual impact of the development and enhance its appearance. It is noted that no boundary treatment details have been submitted under this application. As such, a condition will be added requiring details of the landscaping plan (including boundary treatment) to be submitted for approval.
- 10.10 To summarise, the amended scheme is considered to overcome Officer concerns in relation to visual amenity and overdevelopment. It is now considered that the proposed development would represent an enhancement to the current appearance of the site. It is considered to comply with the aims of Policies, D2, BE1, BE2, BE11 of the UDP as well as PLP 24 and 35 of the PDLP and the guidance contained within Chapters 12 and 16 of the National Planning Policy Framework.

Residential Amenity

- 10.11 The closest residential properties are no. 1a, Dearnfield, a detached dwelling to the west of the site, no. 14, Cumberworth Lane, the end-terraced dwelling to the east of the site, the properties of Dearnfield to the south of the site and properties on the opposite site of Cumberworth Lane to the north.
- 10.12 No. 1a, Dearnfield is a detached property to the east of the application site. This property is at a lower level. This property already has a very close relationship with the existing bungalow on the application site which contains several openings including large dormer window openings that face directly into the neighbouring site. After reviewing the planning history, it is clear that this neighbouring property, which was approved under a 2001 application, was designed in order to prevent being overlooked by the existing bungalow on the site, with the habitable room openings being relocated to its side elevations. Consequently, there was only a kitchen and bathroom window on the rear elevation when approved, which are non-habitable windows as defined in the pre-amble to Policy BE12. There is now also a conservatory on the rear

elevation, which is a later addition, however, the main habitable rooms for this dwelling remain on the front and side elevations of the dwelling. The existing bungalow on the application does however have a close relationship with the rear amenity space of no.1a, Dearnfield.

- 10.13 Amendments to the scheme have focused on, amongst other things, reducing the impact on the amenity of this property. Under the current scheme, only the garage element, which is single storey and set back significantly from the front elevation, is built close to the boundary with this property. Whilst the proposed dwellings would have a greater height and massing than the existing dwelling, it must be noted that there would be a 13m separation distance between the rear elevation of no. 1a and the two storey side elevation of the proposed dwelling. Further to this, as the dwellings under consideration would be pushed back from the road, the impact on the garden space of no 1a, would be reduced relative to the existing situation, as the existing bungalow extends along the full shared boundary between the sites. Furthermore, the existing overlooking impact has been designed out and a condition is recommended removing permitted development rights for future openings in this side elevation to protect no. 1a from potential overlooking. A condition is recommended for the submission of a boundary treatment plan to be submitted for approval. In summary, for the reasons set out above, the impact on the amenity of this neighbouring property is considered acceptable.
- 10.14 No. 14, Cumberworth Lane is the end terrace property which is located to the west of the application site. This property has its main habitable room windows to the front and rear elevations. There is also an opening in the side elevation of the first floor extension which is judged as being non-habitable from its size and position within the building. This property currently has a close relationship with the workshop building on the site, which currently extends along the full boundary of this neighbouring site along the shared boundary, as demonstrated on the submitted plans.
- 10.15 Amendments have been sought to reduce the impact on this property during the course of the application. The amended scheme shows an increased separation distance between the side elevations of the existing and proposed dwellings. The front elevation of the dwelling would be around 6.5m from the side elevation of the existing property and the two storey part of the rear elevation would be around 7.2m from the shared boundary. Whilst a lean-to garage structure would adjoin the two storey side elevation, this is single storey with a lean-to roof which slopes away from the boundary. No openings are proposed in the side elevation and the provisions of the General Permitted Development Order (GPDO) would restrict future openings at first floor level. In summary, whilst the proposed dwellings would have a greater height than the existing workshop, the set back from the boundary of the two storey element is considered to ease the relationship between the dwellings and reduce the impact in relation to overbearing and overshadowing relative to the original scheme. It is also considered that the proposed residential use would represent the introduction of a more compatible adjacent use than the existing workshop. Whilst it is acknowledged that there would be a degree of harm to the amenity of this neighbour, within the planning balance it is considered that the level of harm would not be significant enough to warrant refusal of the scheme and therefore this relationship can be supported.

- 10.16 The properties of Dearnfield also lie to the south of the application site. Nos. 2 and 3, Dearnfield adjoin the application site boundary. These properties are two storey detached dwellings located on a lower level to the application property and sectional drawings have been sought which demonstrate the proposed relationship with these properties.
- 10.17 Policy BE12 of the UDP sets out that a distance of 21m should be achieved between habitable room windows when considering new dwellings. In this instance, there is a shortfall in these distances with there being around 18m achieved between the rear elevations of these properties and the properties of Dearnfield to the south. However, it is noted that there is currently high level trees and vegetation coverage to the southern boundary of the site, which the applicant intends to retain, as shown on the plans. It is considered that this vegetation eases the relationships between the properties, and that the changes in levels means that direct relationships between upper windows can be avoided. Alterations were also sought internally, to position the master bedroom to the front of the property with the secondary bedrooms to the rear. The existing relationship with no.1a, Dearnfield and no. 1 Dearnfield is also noted, and the ridge level of the dwellings proposed is not proposed to exceed that of no. 1a. The application site is positioned due north of these properties, it is also considered that there will not be any significant overshadowing that would occur. This relationship is considered on balance acceptable.
- 10.18 Nos. 15 and 15a, are located on the northern side of Cumberworth Lane. There is a distance exceeding 21m between the existing and proposed habitable rooms in the front elevations of these dwellings. The dwellings would also be separated by the highway. The impact in terms of overlooking, overbearing and overshadowing is considered acceptable and can be supported.
- 10.19 In summary, the impact on residential amenity is considered acceptable and to largely comply with the aims of Policies D2 and BE12 of the Kirklees Unitary Development Plan, as well as the aims of Policy PLP 24 of the PDLP and the NPPF. However, given the close proximity of the existing residential properties, it is considered necessary for a Construction Management Plan to be submitted and approved before development commences which will give the Local Planning Authority control over details of the construction period, such as deliveries and hours of construction. This condition is recommended in the interest of residential amenity.

Drainage Considerations

- 10.20 The application site does not fall into Flood Zones 2 or 3 on the EA's flood map. The site is also not within a SFRA flood zone.
- 10.21 No drainage scheme has been submitted as part of the proposal, however the application form indicates that soakaways would be used in order to drain the site. No testing has been provided in order to demonstrate that this is an appropriate drainage solution for the site. As such, a condition will be added requiring details or testing to be submitted to ensure that their use would be viable on site. The condition will be worded flexibly in order to allow for an alternative scheme to be submitted if testing rules out soakaway drainage. This is considered to comply with the aims of Chapter 14 of the NPPF.

Highway Safety

- 10.22 The proposed dwellings would be accessed directly from Cumberworth Lane. The application proposes private off-street parking for each of the dwellings proposed. The two outer dwellings would benefit from a private garage and driveway and inner dwellings would have two private parking spaces to the front of the application property.
- 10.23 The application has been reviewed by KC Highways DM. They raise no objection to the proposed development, commenting that sight lines are good in both directions from the application site. The amended scheme has garages that are adequate sizes internally in accordance with the Manual for Streets standard and the parking areas to the front are acceptable in terms of highway safety in relation to their size. The level of parking provision included within the proposals complies with the guidance of Policies T19 of the UDP and PLP 22 of the PDLP. A condition will be added in relation to the surfacing of the parking areas to ensure that this is permeable thus limiting surface run off. Given the site constraints, it is considered necessary for a Construction Management Plan to be submitted prior to the commencement of development on the site. This is in the interest of highway safety during the construction phase.
- 10.24 The application is considered to have an acceptable impact on highway safety and to comply with the aims of Policies T10 and T19 of the UDP and PLP 21 and 22 of the PDLP.

Representations

- 10.25 The representations received to date are summarised and responded to below.
- Drainage concerns (both foul and surface water)
 - **Response:** a condition recommends that a scheme for drainage is submitted. This will cover foul and surface water drainage. Yorkshire Water are not consulted on applications for less than 10 dwellings. The site is not within an area annotated on the flood risk maps
 - Highway safety, including congestion, lack of on-site parking and nearby school and facilities
 - **Response:** KC highways DM raise no objections to the site, given the number of dwellings proposed, the sight lines available and the off-street parking proposed.
 - No publicity of application at the time of the response
 - **Response:** the application has been publicised by site notice, neighbour letter and press notice.
 - Loss of light to kitchen and hall, windows and garden
 - **Response:** this matter is addressed within the residential amenity section of the report
 - Imposing/overbearing
 - **Response:** this matter is addressed within the residential amenity section of the report
 - Loss of privacy
 - **Response:** this matter is addressed within the residential amenity section of the report
 - Question about boundary treatment
 - **Response:** this is covered by condition requiring details to be submitted

- Suggestion that the building is a similar depth to the existing terrace row
 - **Response:** noted, amendments received, however a need to provide parking on the frontage requires the row is set further back.
- Concerns about the design and the proximity to the conservation area
 - **Response:** an amended design has been sought and a condition in relation to materials has been recommended
- Noise from traffic generated by the development and during the construction phase
 - **Response:** limited weight is given to the disturbance in the construction phase given that this is a temporary period of time
- Overdevelopment
 - **Response:** the number of dwellings proposed has been reduced in order to ease concerns from this perspective
- There are trees and hedges on the site and the application form states that there are not
 - **Response:** the trees and hedging on the site are noted from the site visit. These are not protected trees. The applicant intends to retain the vegetation and trees on the boundaries.
- Disturbance during the construction phase
 - **Response:** limited weight is given to the disturbance in the construction phase given that this is a temporary period of time

Denby Dale Parish Council: objects on the grounds of over-development of the site and the materials not being in-keeping with the area (based on the original plans).

Response: amended plans have been received that reduces the number of dwellings and a condition requires details of proposed facing materials to be submitted for approval, notwithstanding the submitted plans and information.

Other Matters

Reporting of unexpected contamination

10.26 In line with the consultation response from KC Environmental Health, a condition will be added requiring any unexpected contamination to be reported to the LPA. The condition also contains steps in relation to remediation and validation of the site.

10.27 This condition will be imposed as a cautionary measure, in the interests of health and safety and to accord with the aims of Policies G6 of the UDP and PLP 53 of the PDLP.

Sustainable Transport

10.28 Chapter 9 of the NPPF states the government's intentions of the decision-making process to maximise sustainable transport solutions which includes the supporting the transition to low emission vehicles. This is also set out within Policy PLP 24 of the PDLP and the West Yorkshire Low Emissions Strategy.

10.29 In accordance with the above, the requirement for one electric vehicle charging point to be installed per dwelling on the site can be controlled by condition. This is in order to aid the transition to ultra-low emission vehicles.

10.30 With the inclusion of the above condition, the application is considered to comply with the aims of Policy PLP 24 of the PDLP, Chapter 9 of the NPPF as well as the Low Emissions Strategy.

11.0 CONCLUSION

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

11.2 For the reasons outlined in the report, the proposed development is considered to have an acceptable impact on visual and residential amenity subject to the conditions set out. The impact on highway safety is considered acceptable.

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

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

1. Timeframe of 3 years for implementing the development
2. Development in accordance with submitted plans
3. PD rights removed for extensions and outbuildings
4. Notwithstanding submitted information, details of all facing materials and roofing materials to be submitted for approval
5. Landscaping plan including boundary treatment details
6. PD rights removed for openings to the side elevations
7. Permeable surfacing
8. Drainage scheme
9. Charging points
10. Reporting of unexpected contamination
11. Notwithstanding submitted plans, details of areas for bin storage
12. Submission of a Construction Management Plan

Note to be added recommending working hours

Background Papers:

Application web link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91571>

Certificate of Ownership: Certificate A signed and dated 11th May 2018

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/92175 Change of use and alterations to convert from driving range to dog day care facility Mount Pleasant Farm, Jackroyd Lane, Upper Hopton, Mirfield, WF14 8EH

APPLICANT

J Chambers

DATE VALID

09-Jul-2018

TARGET DATE

03-Sep-2018

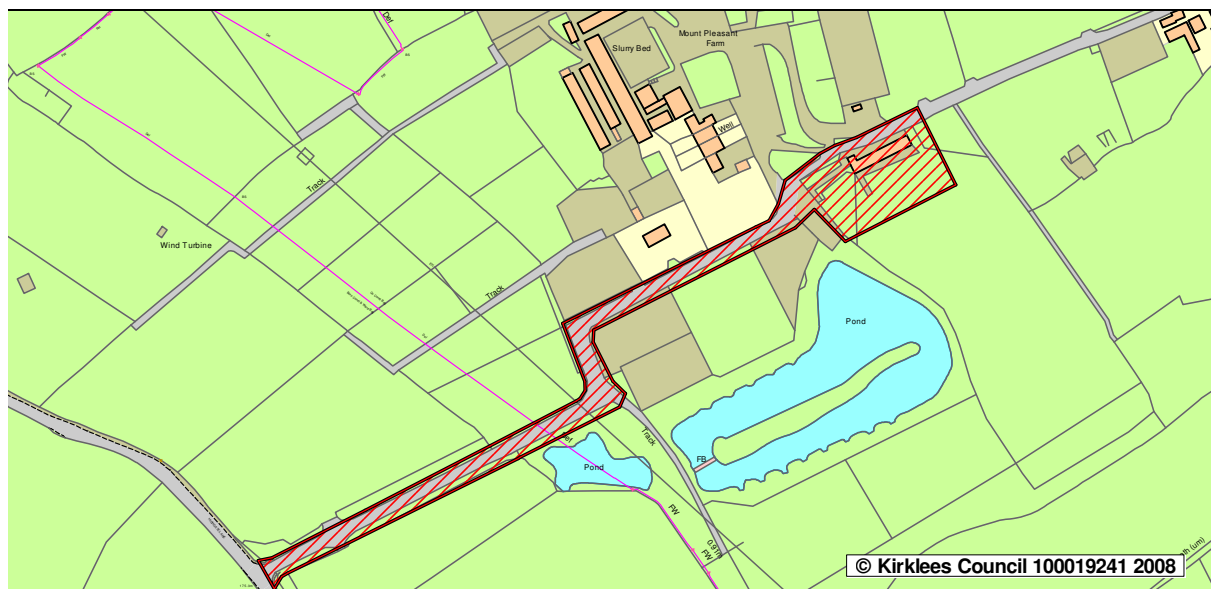
EXTENSION EXPIRY DATE

14-Feb-2019

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield, Dalton

Mirfield town Council, Kirkburton Parish Council (access only). Councillors notified.

Yes

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 The application is brought to Committee as a significant number of representations have been received.
- 1.2 The application relates to Mount Pleasant Farm, Jackroyd Lane, Upper Hopton. The original farm has long since been divided into two parts and the true farming use has ceased with a number of other uses having taken over, including a livery business (Hopton Horse Centre), fishing lake, golf driving range and a caravan park.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is relatively level, in an elevated location above Upper Hopton with access taken from both Highgate Lane to the west and Jackroyd Lane to the east. There are two dwellings forming the original part of Mount Pleasant Farm and a third within a converted building which is nearing completion.
- 2.2 Adjacent to the access to the site from Highgate Lane is a manege and small grazing paddocks; and to the south of these is a large fishing lake. Adjacent to the access from Jackroyd Lane is the golf driving range with the associated building which forms the subject of this application.
- 2.3 The eastern boundary of the wider site borders onto residential properties within the settlement of Upper Hopton.
- 2.4 The site is located within the Green Belt on the UDP and Publication Draft Local Plan.

3.0 PROPOSAL:

- 3.1 The proposal is for the Change of Use and alterations to convert a golf driving range to dog day care facility. The building would be subdivided into 10 kennels with a maximum of up to 30 dogs at any one time on the site. The existing lobby and ball storage room would be converted into an office, reception and a dog grooming room.

3.2 According to the submitted supporting information, the facility would allow dog owners to leave their animals in a safe environment where there is constant supervision. An outdoor exercise area also forms part of the proposals.

3.3 The existing parking area would be retained and provides parking for up to 14 cars, whilst the proposed hours of opening would be 7:30 am until 7pm Monday to Friday and 7:30am till 12pm (noon) Saturdays with no opening on Sundays or Bank Holidays.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 **94/90300** Formation of golf driving range and tee-off points, caravan park, heritage farm and associated parking/outline for heritage farm buildings and toilet/shower block for caravan park - Approved

96/92380 Erection of 4 floodlights to golf driving range building - Refused.

92/02405 Use of part of farm yard for agricultural and excavation business - Refused.

93/02334 Deemed application (via enforcement appeal) for the making of a material change of use to a mixed use of land for the purpose of agriculture and for agricultural and excavation business together with storage of heavy goods vehicles, plant and machinery - Withdrawn.

2017/91890 Change of use from driving range to agricultural barn, erection of extensions and alterations - Invalid.

2015/91253 Certificate of lawfulness for existing golf driving range - Granted.

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

5.1 Through the course of the application, discussions have taken place with the applicant's agent in order to obtain the following information:

10/09/18 - Amended plan submitted showing parking area and supporting statement submitted.

4/10/18 - Structural report and calculations submitted.

5/10/18 - Amended plan submitted showing outdoor exercise area.

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 48 of the National

Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2 **D2** - General Development Policy

BE1- Quality of Design

BE2 - Design Principles

EP4 – Noise and New Development

B4 - Change of use of business premises

T10 - New development and access to highways

Kirklees Publication Draft Local Plan.

6.3 **PLP 10** - Supporting the Rural Economy

PLP 24 - Design

PLP 30 - Biodiversity and Geodiversity

PLP 57 - The extension, alteration or replacement of existing buildings

PLP 60 - The re-use and conversion of buildings

National Planning Policy Framework:

6.4 **Chapter 6** - Building a strong competitive economy

Chapter 12 - Achieving well designed places

Chapter 13 - Protecting Green Belt Land

Chapter 15 - Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by site notice and neighbour letters. The initial publicity period ended 17/08/18.

The Amended plans and additional information was re-publicised and the final publicity period expired 11/01/19.

14 objections were received in response to the initial site publicity and an additional 11 in respect of the amended plans.

Issues raised are summarised as follows:

- No clarification over what dog day care facility is.
- Concerned about noise from barking dogs during exercise and pick up.
- Will the building be insulated to protect against noise?
- Will there be overnight boarding.
- Disturbance caused to tranquil fishing lake.
- How will waste be dealt with?
- Inappropriate development in the Green Belt.
- No mention of opening hours.
- Jackroyd Lane is a poor access.
- Unsuitable location for dog kennels.
- Disturbance from additional traffic.
- Poor water supply to the site.
- No mains sewers.
- No details of planting provided.

7.2 **Kirkburton Parish Council:** No comments received.

Mirfield Town Council: No comments received.

Ward Members: No objections received.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

The Coal Authority. No objection subject to the imposition of a condition or conditions requiring an intrusive site investigation and remedial work if required.

8.2 **Non-Statutory:**

KC Environmental Services: Recommend the following conditions:

- Reporting of unexpected contamination,
- Noise report to be submitted before development commences.
- Hours of use to be 07:30 to 19:00 Monday to Sundays.

Following receipt of additional information, KC Environmental Services were re-consulted and confirmed that there was no change to their original comments.

KC Highways DM: No objection in principle. The proposed use is likely to generate less traffic than a golf driving range would be expected to do. Conditions would be required to prevent access from Jackroyd Lane for the development and the submission of a scheme detailing how this would be achieved.

Following submission of additional information, KC Highways DM confirmed that there was no change to their original comments.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated as Green Belt on the Unitary Development Plan (UDP) and is proposed to be retained as such within the Publication Draft Local Plan (PDLP).
- 10.2 Consequently, as indicated in the National Planning Policy Framework (NPPF) any development should maintain the openness of the Green Belt or, if not, the applicant must demonstrate that 'very special circumstances apply' to outweigh the harm caused.
- 10.3 Paragraph 146 of the NPPF sets out certain forms of development which should be considered as not inappropriate and this can include the re-use of buildings provided the buildings are of permanent and substantial construction.
- 10.4 In addition to the above, Policy PLP 60 of the PDLP suggests that the conversion or re-use of buildings would normally be acceptable where;
- a. The building to be re-used is of permanent and substantial construction.
 - b. The resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings.
- 10.5 With regard to the permanence of the building, a structural survey has been submitted which indicates that the building is capable of conversion and alteration to the proposed use as a dog day care facility. In terms of the introduction of incongruous features which may impact on the openness of the Green Belt, the proposals are to use the existing car park which serves the golf driving range, and minimal treatment of the outside areas is proposed. The main feature of this would be the proposed outdoor play area which would have an all-weather surface.
- 10.6 Chapter 3 of the NPPF is relevant as is Policy PLP 10 of the PDLP; both of these policies suggest that Local Planning Authorities should support the rural economy by supporting the needs of small and medium sized enterprises.

- 10.7 Given the above, it is considered that the proposed re-use of the building in the Green Belt for a dog day care facility is acceptable in principle subject to more detailed assessment of the above mentioned criteria.

Design issues

- 10.8 In general the proposals are for the re-use of the existing building and no extensions are proposed; there are however a number of external alterations proposed to the building.
- 10.9 The south elevation of the building is currently open and faces onto the driving range; this would be enclosed and timber clad to match the existing building and there would be a window serving each of the 10 kennels. There would also be a fire exit inserted on the east elevation of the building at the end of the internal corridor. Within the wider site the amended plans propose an all-weather play area for the dogs, this would measure 22m x 16m. There would be soft landscaping to the western boundary to screen the area from the vehicular access and the parking area. This play area is likely to have some additional impact on the openness of the Green Belt, however this area already forms part of the golf driving range; it is also something that is considered a necessary part of the proposals so that the dogs can be exercised near to the building.
- 10.10 On balance these proposals are considered acceptable in terms of the design and any additional impact on the openness of the Green Belt.

Residential Amenity

- 10.11 The nearest unconnected residential property, no. 2 Jackroyd Lane, is within the site known as Mount Pleasant Farm and would be approximately 50m away from the play area associated with the day care centre. Other dwellings on Jackroyd Lane would be between 150 and 160 m from the building.
- 10.12 Given that the proposals are for up to 30 dogs at any one time there is the potential for some disturbance to the occupiers of these dwellings by way of noise and from dogs barking and from traffic movements associated with the development. KC Environmental Services have been consulted and have not objected to the original or the amended plans subject to the imposition of a condition requiring a noise report to be submitted before development commences. It was discussed with The Environmental Services officer if a noise report should be submitted prior to determination, however the officer considered that a condition would be appropriate in this case. The condition should be worded so that the noise report is submitted prior to the commencement of any construction work, to ensure that any mitigation measures are incorporated in the building at the appropriate time. The noise report should assess noise emissions from the proposed development and details of background levels. This should also include a written scheme showing how the adjacent occupants would be protected from noise.

- 10.13 In terms of traffic movements, these are likely to be at opening and closing times but quieter during the remaining part of the day. KC Highways DM have commented that the change to a dog day care centre is unlikely to lead to an intensification of use of the access over the duration of the day. It is also important to consider that the current use as golf driving range appears, from the information submitted in support of application 2015/91253, to have hours of opening from 9am till 9pm.
- 10.14 The Environmental Health (EH) officer has also considered the proposed hours of use of the site with regard to the both the original and amended submitted details and has raised no objection to the proposals subject to a condition regarding the hours of opening. The EH officer has recommended the hours be restricted to 07:30 till 19:00 Monday to Sunday however the applicant has applied for opening hours of 7:30 till 19:00 Monday to Friday, 7:30 till 12:00 midday Saturday and no opening on Sundays and Bank holidays. It is noted that there has been a significant number of representations received with concerns raised about noise both from the dogs and traffic disturbance. Concerns have also been raised about the effect on the tranquillity of the adjacent fishing lake.
- 10.15 Whilst any decision notice shall include a condition requiring a noise report to be submitted, it is important to note that it is not the intention of the noise report mitigation measures to eliminate all noise and disturbance from a development but to ensure it is kept to an acceptable level. As this development is also within the Green Belt and considering the other surrounding uses, including the fishing, it is reasonable to restrict, by condition, the hours of opening to those requested by the applicant. A condition is also recommended to be included with any approval to the effect that the kennels are not be for overnight use.

Landscape issues

- 10.16 The proposals are to retain the existing planting to the entrance to the building and provide an additional landscaping area between the proposed all weather play area and the car park. This would be appropriate and assist in preventing any disturbance of dogs using this area from traffic movements within the car park. It may be that some form of close boarded fencing is required along this boundary to help with noise reduction but this would form part of the mitigation measures which would be required as part of the noise report detailed above.
- 10.17 No details of the type of planting along this boundary are provided therefore additional planting information is required for this area which can be dealt with by condition.

Highway issues

- 10.18 The site already has a parking area and reasonable access from both Highgate Lane and Jackroyd Lane. The plans show there would be 14 parking spaces directly adjacent to the entrance to the building.

10.19 KC Highways DM have been consulted and have made the following comments:

- The proposed number of parking places is sufficient for the number of kennels and for staff parking.
- The original application for the golf driving range restricted the access from Jackroyd Lane. This should again be repeated by condition and details submitted showing how traffic would be controlled.
- The proposed waste storage and collection area is suitable and access for service vehicles adequate. This should also be the subject of a condition.

Drainage issues

10.20 There are no alterations to the building which would affect the existing drainage arrangements for the building. With regard to foul drainage, there are no staff facilities proposed in this building however there are facilities on the wider site owned by the applicant.

Representations

10.21 As noted above there has been a total of 25 objections received.

The issues raised are addressed as follows:

- No clarification over what dog day care facility is.
Response: *There is a detailed supporting statement which is available on the Council website explaining how the facility will operate. This has also been briefly covered in the report.*
- Concerned about noise from barking dogs during exercise and pick up.
Response: *This has been addressed in the body of the report.*
- Will the building be insulated to protect against noise?
Response: *The noise report which will be required by condition will determine the appropriate measures to be taken to mitigate against noise.*
- Will there be overnight boarding?
Response: *The applicant has confirmed that overnight boarding would not take place. A condition is recommended restricting the hours of use of the site.*
- Disturbance caused to tranquil fishing lake.
Response: *A noise report will be required to be submitted to show how the development would prevent noise disturbance to surrounding residential properties. This should also help to prevent any noise disturbance to the users of the fishing lake. It is important to point out however that it is not the intention of noise reports to eliminate noise completely but to ensure it is kept at an acceptable level.*
- How will waste be dealt with?
Response: *This is dealt with in the report - additional information is required.*
- Inappropriate development in the Green Belt.
Response: *The principle of the development is considered to be acceptable as set out above.*
- No mention of opening hours.
Response: *These details have been submitted and assessed in the report.*

- Jackroyd Lane is a poor access.
Response: *Access will be restricted to Highgate Lane.*
- Unsuitable location for dog kennels.
Response: *This has been assessed in the report.*
- Disturbance from additional traffic.
Response: *This has been assessed in the body of the report.*
- Poor water supply to the site.
Response: *The water supply to the site would be a private matter.*
- No mains sewers.
Response: *The applicant owns other facilities in the wider site.*
- No details of planting provided.
Response: *This assessed in the report and a condition shall be included with any permission.*

Planning obligations

10.22 The site is below the threshold for any financial contributions.

Other Matters

Coal Mining Legacy

10.23 The site is within a High Risk coal mining area, and a Coal Mining Risk Assessment has been submitted. The Coal Authority has requested conditions are imposed requiring an intrusive survey and remediation work if required. As the proposals include alterations which will require some ground works these conditions are considered reasonable.

Unexpected Contamination

10.24 Due to the former use of the site as a farm, there is the risk of some ground contamination. Environmental Health have therefore asked for a condition to be included regarding the reporting of any unexpected contamination.

Waste disposal

10.25 As there are other public uses of the site and a nearby fishing lake it is important that the waste is disposed of correctly. The supporting information states that the applicant has identified “a number of environmentally friendly, safe solutions” to the disposal of waste. The information goes on to state that the waste will be disposed of correctly following current environmental guidance. However this does not provide the detail necessary and as such a condition should be included, should permission be granted, to require additional information regarding the disposal of waste.

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.

The proposals would provide a re-use for a building in the Green Belt for which there has been an identified demand. Subject to appropriate conditions any harm otherwise caused by the development can be made acceptable by the required mitigation measures and hours of opening.

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. Timescale for implementing permission
2. Development to be carried out in complete accordance with the plans and specifications
3. Noise report to be submitted before commencement of any construction work.
4. Hours of opening restricted to 07:30 till 19:00 Monday to Friday, 07:30 till 12:00 midday Saturday with no opening on Sundays and Bank Holidays.
5. The kennels shall not be used for overnight stays.
6. Intrusive site investigation and mitigation measures to be carried out before commencement of construction work.
7. Reporting of unexpected contamination.
8. No access to be taken from Jackroyd Lane.
9. Traffic statement to show how access to the development would be controlled.
10. Parking to be provided in accordance with submitted details.
11. Details of waste disposal method
12. Waste storage and collection area to be provided in accordance with submitted details
13. Landscaping details to be submitted.

Background Papers:

Application and history files.

94/90300 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=94%2F90300>

96/92380 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=96%2F92380>

2015/91253 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F91253>

2017/91890 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F91890>

2018/92175 <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F92175>

Certificate of Ownership – Certificate A signed:

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/93781 Change of use of existing post office into living accommodation and erection of new Post Office/General Store (modified proposal 2014/90895) with raised garden area and drive to rear Hightown Post Office, 483, Halifax Road, Hightown, Liversedge, WF15 8HU

APPLICANT

Richard Walker,
Hightown Post Office
Store

DATE VALID

29-Nov-2018

TARGET DATE

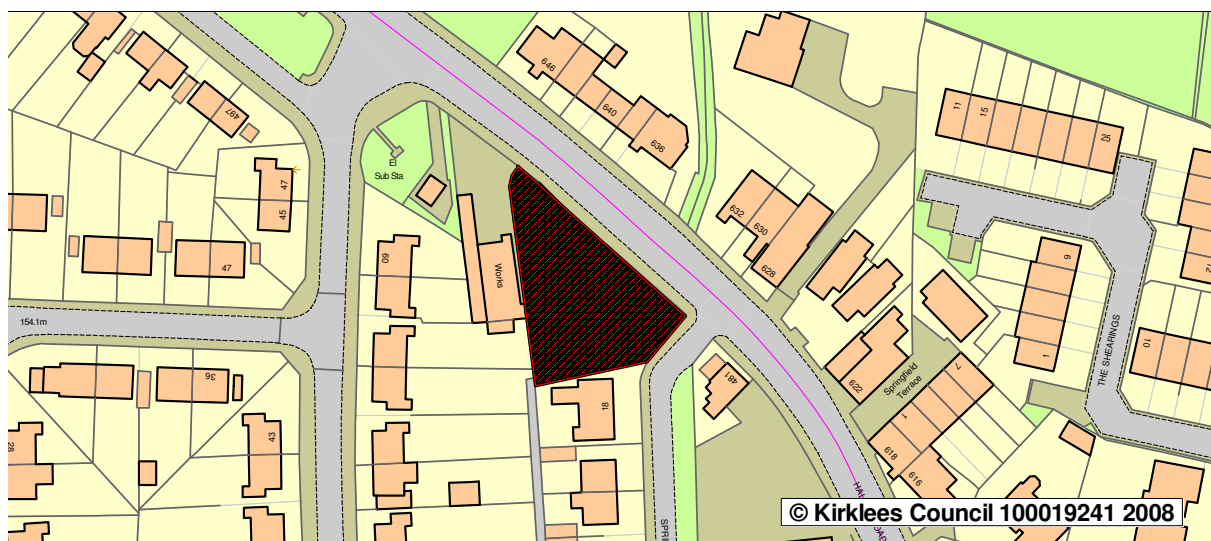
24-Jan-2019

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: Liversedge & Gomersal

Yes

Ward Members consulted

RECOMMENDATION: Delegate refusal of the application for the reasons outlined below, the issuing of the decision notice and enforcement notice requiring the removal of the development to the Head of Strategic Investment in order to:

- Await expiration of site publicity (1 March 2019)

1. The building, by reason of its height and roof design would form an incongruous feature within the street scene which would be damaging to the character of the area. This would be harmful in terms of visual amenity and therefore fail to comply with Policies D2 and BE1 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Publication Local Plan and government guidance contained within the National Planning Policy Framework.

2. The proposed driveway and parking area to the rear of the building, by reason of the limited space and its encroachment onto part of Public Right of Way SPE/94/60, would not achieve adequate access or usable parking spaces and is therefore considered to be detrimental to highway safety. The proposal therefore fails to comply with Policies D2, BE1 and T10 of the Kirklees Unitary Development Plan, Policy PLP22 of the Kirklees Draft Publication Local Plan and government guidance contained with the National Planning Policy Framework.

3. The building, by reason of its height to the rear, would result in an overbearing and oppressive impact on the occupiers of 483 Halifax Road. This would be detrimental to residential amenity and fail to comply with Policies D2 and BE1 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Publication Local Plan and government guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination given the level of representation received both in support and objecting to the proposals.

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

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is a grassed area of land which appears to be part of the garden associated with 483 Halifax Road. This existing building contains a post office/store within the single storey building which runs adjacent to the highway and a two storey dwelling which is sited at 90 degrees to the post office.
- 2.2 The surrounding area is predominantly residential though there are open fields allocated as Urban Green Space located to the north. A public right of way PROW (Spen/94/60) runs to the south of the site, outside of the application boundary and to the rear of the dwellings on Springfield Drive.

3.0 PROPOSAL:

- 3.1 The applicant has been granted planning permission the erection of a building to facilitate a new general store together with the change of use of the majority of an existing post office/store into habitable accommodation at 483 Halifax Road, Hightown.
- 3.2 The current application is seeking consent to change the roof type from the approved hipped roof to a gable, increase the width of the building from 19m to 20.05m, and increase the eaves height from 3m to 3.25m and the overall height from 5m to 7.35m. The facing materials would also be altered on the side and rear from the approved stone to blockwork and render. The plans also now include a raised garden area and retaining wall to the rear with a drive to the rear of the new building.
- 3.3 The applicant's agent has stated that the alterations have been carried out contrary to the approved permission in order meet building regulations requirements for a building of this nature (i.e. to facilitate the damp proof course for the disabled level threshold and in order to meet criteria on ventilation in a store) and to gain height within the roof void to provide for storage.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2005/92191 – Erection of single storey extension, approved
- 2007/93998 – Erection of ground floor extension, approved
- 2014/90895 – Change of use of existing post office into living accommodation and erection of new general storey – granted with a section 106 agreement

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

- 5.1 Officers raised concerns with the information initially submitted in terms of the accuracy of the plans. Following a site visit with the Enforcement Officer to measure the building on site, amended plans have been supplied by the agent.

5.2 During the course of this application, the applicant has also started building a retaining wall and altering the level of part of the garden. Such works constitute an engineering operation which requires planning permission in its own right. However, the applicant was offered the opportunity to include these detail in the current application and neighbours were offered 10 days to comment on the changes to the proposal. The changes provided also included a driveway and off road parking spaces for five vehicles to the rear of the building.

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 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **T10** – Highway Safety
- **S1** – Town Centre/Local shopping centres

Publication Draft Local Plan:

6.3

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP13** – Town Centre Uses
- **PLP21** - Access
- **PLP 22** – Parking
- **PLP 24** - Design

National Planning Guidance:

6.4

- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The plans were advertised by site notice and neighbour notification letters which expired initially on 05/01/2019. After a number of corrections to the plans and receipt of an additional plan showing the raised garden area and driveway, a further round of publicity was carried out for 14 days.

7.2 Seventeen representations have been received objecting to the scheme, which expressed the following views:-

- The building is an eyesore
- No parking has been provided for vehicles
- The loss of the bushes
- The size and height of the building are far too large and out of character with the area
- The building interferes with access and visibility for road users entering and leaving Springfield Drive
- The builders have not been wearing high vis, the cement mixer has been blocking the pavement and the workmen have been working at height with no safety equipment
- The building is overbearing on Springfield Drive
- The use of illuminated signage for the shop would be out of place in the area
- The larger development is not a slip up but a deliberate choice of the applicant contrary to the permission granted
- Why were the neighbouring properties opposite not notified of the original application
- The applicant and the agent are making a mockery of the Planning Department
- The applicant has ignored the Council's request to stop works until the lack of planning has been resolved

7.3 Twenty-nine representations have also been received in support of the scheme which expressed the following views:-

- Provision of better facilities including disabled access and wider range of products
- The building is in keeping with the area
- The new shop would not change the existing parking provision
- The store and its owners are an asset to the area
- Encouraging small businesses to expand
- Creation of jobs
- Shutting the shop would be inappropriate

7.4 Cllr Holmes has also expressed her concerns regarding the scale of the building and requested that the application is determined by the Heavy Woollen Planning Sub Committee should officers be minded to approve the scheme.

7.5 Given the additional plan indicating the parking provision and driveway to the rear would affect the Public Right of Way SPE/94/60, a press notice has been published which will expire 01/03/2019.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory: K.C. Highways DM** – There are a number of issues with the application including the new driveway being formed on the PROW SPE/94/60, the parking shown to the rear would not allow 5 vehicles to park, the bin store as shown is not sufficient for retail purposes, insufficient parking provision for staff, poor visibility for the drive onto Springfield Drive.

8.2 **Non-statutory: NONE**

9.0 MAIN ISSUES

- Principle of development
- Impact on Town and Local Centres
- Visual Amenity
- Residential Amenity
- Highway issues including Public Rights of Way
- Conditions
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).

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

Impact on Town and Local Centres

10.3 A post office/general store is a retail unit (A1) within the Use Classes Order and as a retail unit; these should be located within town or local centres. The application site is outside of a defined local centre with the closest being Roberttown, Littleton or Scholes, all of which are a considerable distance away.

10.4 The existing post office/store has been in place for a considerable period of time and is a well-established part of the local community. It is therefore considered that as there is already a retail unit in this location then the principle of a replacement unit is acceptable and would have a very limited impact upon the neighbouring local centres.

10.5 Whilst a replacement retail unit may be acceptable and indeed has recently been granted planning consent under application ref: 2014/90895, consideration needs to be given again to the existing post office and what will happen to it. The application proposes to change the use of the off licence/shop element of this into habitable accommodation to be associated with the existing dwelling and retain only the post office counter.

- 10.6 However, if the current application is approved, there is currently no mechanism to ensure that the existing shop closes before the new store opens or that this existing store closes at all. The previously agreed Section 106 agreement relating to application ref 2014/90895 is now void as the plans to which it related have not been followed. Should this current amended scheme be agreed, the applicant would need to enter into a new S106 Legal Agreement to ensure that the existing retail shop is to be converted into habitable accommodation and not retained as a retail unit. This would ensure that the development would comply with current town centre policies.

Visual Amenity

- 10.7 The design of the previously approved building would have been very similar to the existing post office. The plans agreed included a long, rectangular building with a hipped roof. This would have mirrored the design and appearance of the existing building and would have been constructed using stone which would have been sympathetic in appearance to the surrounding properties. It was considered therefore that the new shop building would not have appeared out of character with the surrounding area.
- 10.8 However, the applicant has begun and indeed substantially completed on site a much larger building with an inconsistent eaves height including sections which would have been the same height as a two storey property. The alteration of the roof form to a pitched roof substantially increases the bulk and massing of the structure and the position within the street scene is particularly prominent.
- 10.9 Given the increased bulk and massing together with the new design of the roof form and the irregular height of the building, the proposal is considered to result in the formation of an incongruous feature which has a negative impact on the closely associated 483 Halifax Road and the neighbouring properties on both Halifax Road and Springfield Drive.
- 10.10 The facing materials of the building are also no longer in line with the previous approval, with the use of render to the side and rear although this alteration is minor and the use of render is evident elsewhere in the vicinity. As such, the use of render can be considered to be acceptable, on balance.

Residential Amenity

- 10.11 Whilst there are a number of residential properties within the locality, none would be directly affected by this proposal. There would be a distance of approximately 25m between the front elevation of the building and the dwellings on the opposite side of Halifax Road and a distance of 15m from the rear to the side gable of 18 Springfield Drive. Because of the relationship between this property and the new building, there would be no significant detrimental impact to this dwelling as a result of the proposal.
- 10.12 Although the building is higher than the originally approved single storey structure, it is still some distance from the nearest neighbouring properties and as such would result in no significant harm to the amenities of the occupiers of the neighbouring properties on the opposite side of Halifax Road and on the opposite corner with Springfield Drive.

10.13 Notwithstanding the above, the increased height of the building would have an overbearing and oppressive impact on the first floor window of 483 Halifax Road. Although this dwelling is currently occupied by the developer, the impact upon the main house is still a consideration and as such, the larger building is considered to be harmful in terms of residential amenity.

Highway issues

10.14 There are a number of highway safety concerns relating to the development and these are addressed as follows:

10.15 At least two of the parking bays demonstrated do not have a 6.0m clearance to allow for access and egress, and it seems unlikely a driver would be able to enter and exit the site in a forward gear. Swept path analysis demonstrating the bays and turning area are fit for purpose have not been provided and the driveway would need to be 4.5m in width to allow drivers to pass without obstruction. The driveway as indicated on the site plan is insufficient given the width of 3.5m and visibility splays from the proposed new access onto Springfield Drive have not been provided.

10.16 In addition, the bin storage and collection point as indicated on the proposed site plan is not sufficient in terms of size for a retail unit.

10.17 The proposed driveway encroaches onto part of Public Right of Way SPE/94/60; the footpath has a minimum width of 1.8m and, according to historical records, could be up to 6.1m in width. The additional site plan submitted with parking spaces indicated details the footpath with a width of approximately 1.0m which does not reflect the actual width of the PROW. Given the encroachment onto part of Public Right of Way SPE/94/60 this would be unlikely to achieve adequate access or usable parking spaces within the rear area as shown on the submitted plan and is therefore considered to be detrimental to highway safety.

10.18 Although it is appreciated that the original planning permission did grant a replacement store with no parking provision shown, the current scheme under consideration with its greater size and indicated staffing levels would likely require an off street parking provision which cannot be achieved within the site. Therefore given the relationship and width of the existing footpath to the access of the proposed parking area it is considered that the proposal is not acceptable in terms of highway safety.

10.19 Given the significant concerns in terms of highway safety, the proposal would not accord with Policy T10 of the UDP or Policies PLP 21 and PLP 22 of the PDLP.

Representations

10.20 Seventeen representations have been received objecting to the scheme, which expressed the following views:-

- The building is an eyesore
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area*
- No parking has been provided for vehicles
Response: *This is a material consideration as it relates to highway safety*
- The loss of the bushes
Response: *This is not considered to be of significant detrimental impact to visual amenity.*
- The size and height of the building are far too large and out of character with the area
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area,*
- The building interferes with access and visibility for road users entering and leaving Springfield Drive
Response: *This is a material consideration as it relates to highway safety*
- The builders have not been wearing high vis, the cement mixer has been blocking the pavement and the workmen have been working at height with no safety equipment
Response: *This is not a material consideration as safety at work is the remit of the Health & Safety Executive,*
- The building is overbearing on Springfield Drive
Response: *This is a material consideration as it relates to visual amenity. The height has increased particularly on the rear corner which is on to Springfield Drive. The resultant structure is much larger than originally approved and would be out of character with the area*
- The use of illuminated signage for the shop would be out of place in the area
Response: *This is not a material consideration for this application as it is the subject of a separate application, 2018/93566*
- The larger development is not a slip up but a deliberate choice of the applicant contrary to the permission granted
Response: *This is not a material consideration as the government requires the Local Planning Authority to consider retrospective applications as if they had not been built*
- Why were the neighbouring properties opposite not notified of the original application?
Response: *This is noted. At the time of the previous application, a site notice was posted in the vicinity of the site and neighbour notification letters sent to those properties adjacent to the site. In relation to the current application, the neighbours opposite and adjacent the site were notified by neighbour notification letter, and a site notice was posted in the vicinity of the site.*
- The applicant and the agent are making a mockery of the Planning Department
Response: *This is not a material consideration*
- The applicant has ignored the Council's request to stop works until the lack of planning has been resolved
Response: *This is not a material consideration. The applicant and agent have both been made aware that any further work carried out is at their own risk.*

10.21 Twenty-nine representations have also been received in support of the scheme which expressed the following views:-

- Provision of better facilities including disabled access and wider range of products
Response: *This is not a material consideration*
- The building is in keeping with the area
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area,*
- The new shop would not change the existing parking provision
Response: *This is a material consideration as it relates to highway safety and has been addressed within the Highway section of this report*
- The store and its owners are an asset to the area
Response: *This is not a material consideration*
- Encouraging small businesses to expand
Response: *This is a material consideration and is a factor in the decision making process. The economic benefits of encouraging businesses to grow are not in dispute. However, the benefits in terms of the business are not considered in this instance to outweigh the harm caused in terms of visual amenity, residential amenity or highway safety.*
- Creation of jobs
Response: *This is a material consideration and is a factor in the decision making process. The formation of jobs is an important issue within the district and is normally something the Local Planning Authority wish to support. However, the benefits in terms of the potential for jobs is not considered in this instance to outweigh the harm caused in terms of visual amenity, residential amenity or highway safety.*
- Shutting the shop would be inappropriate
Response: *This is not a material consideration.*

Other Matters

Enforcement

10.22 Partial demolition to allow the applicant to revert to the previously approved plans would not be reasonable in this instance. The gable end of the building onto Springfield Drive would need to be removed along with 1.05m of the width, a section of the rear elevation, the eaves would need to be reduced on all elevations from 3.25m to 3m and the roof removed in its entirety. Should members be minded to vote in line with the officer recommendation, the subsequent enforcement notice would need to be issued for full demolition.

10.23 Members also need to be aware that if the building were to be demolished the applicant would still be able to construct the originally approved replacement shop under application ref: 2014/90895.

10.24 There are no other matters for consideration.

11.0 CONCLUSION

- 11.1 This application for a modified proposal for change of use of existing post office into living accommodation and erection of new post office/general store at Hightown Post Office 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 additional height and massing of the building result in a feature within the street scene which is incongruous and out of keeping with the character of the area. The proposal therefore fails to comply with Policies D2 and BE1 of the UDP.
- 11.3 The parking provision shown on plan to the rear of the building indicates five parking spaces. However, these spaces would not have a 6.0m clearance to allow for access and egress for all of the spaces, and it appears to be unlikely that a driver would be able to enter and exit the site in a forward gear. Furthermore, the width of the new driveway is insufficient at 3.5m and the plans do not demonstrate adequate visibility onto Springfield Drive. The proposal therefore does not show sufficient parking or safe access to and from the site and is considered to be detrimental to highway safety. The proposal therefore fails to comply with Policies D2, BE1 and T10 of the Kirklees Unitary Development Plan, Policy PLP22 of the Kirklees Draft Publication Local Plan and government guidance contained within the National Planning Policy Framework.
- 11.4 The new building has a detrimental impact on a first floor window of 483 Halifax Road which will result in an overbearing and oppressive impact which is contrary to Policies D2 and BE1.
- 11.5 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.
- 11.6 It is recommended that the application be refused for the reasons set out at the beginning of this report.

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f90895>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93781>

Certificate of Ownership –Certificate A signed:

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Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/92718 Alterations to convert one dwelling into two dwellings 33-35, Windy Bank Lane, Hightown, Liversedge, WF15 8HA

APPLICANT

M Ackroyd

DATE VALID

20-Aug-2018

TARGET DATE

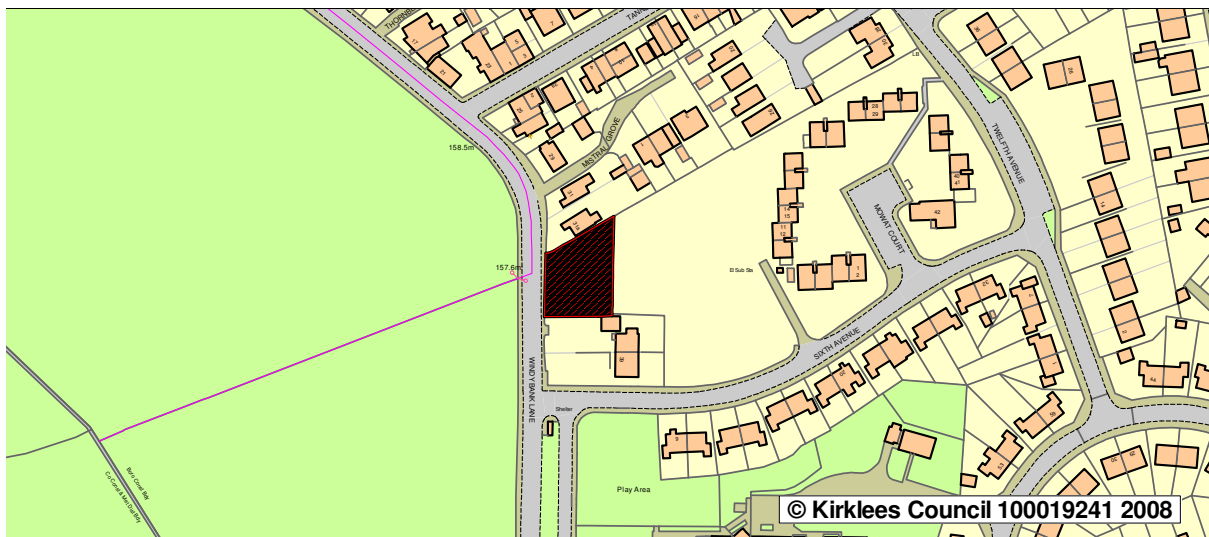
15-Oct-2018

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: Liversedge and Gomersal

No

Ward Members consulted

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application is brought to Heavy Woollen Sub Committee at the request of Councillor David Hall for the following reason:

“Firstly on Highways and parking grounds, and secondly on the reduction in residential amenity.”

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

2.0 SITE AND SURROUNDINGS:

2.1 The application site includes numbers 33 and 35 Windy Bank Lane. The building was formerly a pair of semi-detached properties but converted to a single residential unit. The dwelling is stone fronted with brick to the sides. There are small extensions to the rear.

2.2 There is driveway access to either side of the building offering off street parking.

2.3 The site is bound by residential properties to the north and south to the east by an open area of land and Windy Bank Lane to the west beyond which is open agricultural land. The site is located on the periphery of the existing urban area with open aspects to the frontage. The school is in close proximity to the site being located to the east.

3.0 PROPOSAL:

3.1 Alterations to convert one dwelling to two dwellings.

3.2 The application is for the subdivision of the existing building to a pair of semi-detached properties. The works included are predominantly internal but the porch to number 35 would be removed to facilitate space for parking of vehicles to the site frontage.

3.3 An area of hardstanding is formed to the front of the dwelling to allow parking for two vehicles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application 2018/91352 – Erection of detached dwelling adjacent to number 35 Windy Bank - Approved

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

5.1 Further clarification was sought with regards to the loss of the porch to ensure adequate accommodation for off street parking could be demonstrated.

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 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

- **D2** – Unallocated Land
- **BE1** – Design Principles
- **BE2** – Quality of Design
- **BE12** – Space about dwellings
- **T10** – Highway Safety
- **T19** – Parking standards
- **H1** – Housing needs

6.3 Kirklees Publication Draft Local Plan:

- **PLP 1** – Achieving Sustainable Development
- **PLP 2** – Place Shaping
- **PLP21** – Highways Safety
- **PLP22** – Parking
- **PLP 24** - Design

National Planning Guidance:

6.4

- **Chapter 2** – Achieving sustainable development
- **Chapter 5** - Delivering a sufficient supply of homes
- **Chapter 12** – Achieving well-designed places

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application received one letter of objection the matters raised are summarised below:

- Parking straight onto the highway (reverse on/off)
- Limited parking
- Loss of parking
- Loss of tree
- Incorrect answer in respect of the existing dwelling (not a flat or maisonette)
- Increase in parking on the highway
- Reference to 2108/91352 (since approved)
- Misleading application (subdivision of building)

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways DM: No objections

9.0 **MAIN ISSUES**

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

10.0 **APPRAISAL**

Principle of development

10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.

- 10.2 Policies BE1 and BE2 of the UDP, in addition to Policy PLP24 of the Publication Draft Local Plan, are considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 12 of the NPPF emphasises the importance of good design.
- 10.3 Furthermore, Chapter 11 of the NPPF promotes the effective use of land in meeting the need for homes whilst safeguarding and improving the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land. This is caveated to ensure that the development continues to contribute to the area's prevailing character and setting (including residential gardens). Development should be well designed, attractive and secure healthy places (para 122 (e) of the NPPF)). The subdivision of the existing building would make a very modest contribution to the supply of housing where there currently is insufficient supply.
- 10.4 In principle, it is considered that the provision of an additional residential unit in a sustainable location would assist with the provision of housing within the district and therefore be in compliance with Policy H1 of the UDP.

Urban Design issues

- 10.5 Any development should sit comfortably within its surroundings and respect the prevailing pattern of existing responding to local character and design standards. Chapter 12 of the NPPF emphasises the importance of good design. Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Decisions should ensure that developments are visually attractive, sympathetic to local character and history and establish a strong sense of place (paragraph 127).
- 10.6 Policies BE1 and BE2 of the UDP reiterate considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have.
- 10.7 The works involved to facilitate the subdivision back to a pair of semi-detached dwellings are minor. The existing porch to number 35 is removed to allow space for the parking of two vehicles to the site frontage. The proposed development would bring the building back into its original use. The layout is considered to be in keeping with the character of the area.
- 10.8 The main impacts of the development relate to the introduction of parking spaces to the site frontage. The front wall and garden area would be removed and this changes the appearance of the site frontage and consequentially the street scene. Furthermore account should be taken of the development approved adjacent which also shows parking to the site frontage. As a result the area to the site frontage would become predominantly hard landscaped.
- 10.9 Windy Bank Lane is a mixture of different age and styles of residential buildings many with side driveways. There are a number of properties which have relatively large areas of hardstanding to the site frontage and between properties. Whilst the existing garden contributes positively to the street scene and locality it is considered that the hardstanding areas would not, on balance, detract from the character of the area.

- 10.10 It is considered that the development would meet the aims of Chapter 12 of the NPPF and also be in accordance with Policies BE1, BE2 and D2 of the Kirklees UDP and Publication Draft Local Plan Policies PLP2 and PLP24 of the Publication draft Local Plan.

Residential Amenity

- 10.11 The subdivision of the dwelling back to 2 properties utilising existing openings and does not introduce any new relationships to nearby land or buildings. In addition, adequate amenity space would be provided to serve each dwelling, similar to that which historically existed. As such there will not be any detrimental impact in terms of loss of privacy or amenity for existing or future occupiers.

Housing issues

- 10.12 Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”. The subdivision of the existing building results in an additional dwelling that would contribute to housing delivery where a five year supply cannot currently be demonstrated.

- 10.13 The development would contribute to the aims of Policy H1 of the UDP and Chapter 5 of the NPPF in that it would provide additional housing in a sustainable location.

Highway issues

- 10.14 The application details include adequate off street parking for each dwelling. Whilst these are reliant on reversing onto or off the highway, KC Highways DM raise no objections on balance. As such the development is in accordance with Policies T10 and T19 in addition to Publication Draft Local Plan Policies PLP21, PLP22 and PLP24 conditions are required.

Representations

10.15

- Parking straight onto the highway (reverse on/off)
Response: KC Highways DM have been consulted and concluded that the proposals are acceptable and would not result any material detriment to highway safety.

- Limited parking
Response: The application reinstates a pair of semi-detached dwellings. Due to permission being granted for an additional dwelling adjacent to the pair parking is accommodated to the site frontage. Highways have been consulted and concluded that the proposals are acceptable providing adequate parking provision for the dwellings. The proposals would not result any material detriment to highway safety.
- Loss of parking
Response: The application reinstates a pair of semi-detached dwellings. Due to permission being granted for an additional dwelling adjacent to the pair, parking is accommodated to the site frontage. As such, whilst the development to the side does reduce parking this is compensated by the introduction of parking to the site frontage. KC Highways DM have been consulted and concluded that the proposals are acceptable providing adequate parking for the dwellings. The proposals would not result in any material detriment to highway safety.
- Loss of tree
Response: The development does not result in the loss of any trees worthy of protection. Some shrubbery may be lost as a result of the development but this is not justification for refusing the application.
- Incorrect answer in respect of the existing dwelling (not a flat or maisonette)
Response: Officers have assessed the application based on the merits of the application proposals and concluded that these can be supported.
- Increase in parking on the highway
Response: The application reinstates a pair of semi-detached dwellings. It is considered that traffic movements and demand for parking associated with the development would not result in any detriment to highway safety.
- Reference to 2108/91352 (since approved)
Response: An outline application to erect a dwelling adjacent to this site has been approved. This has been assessed on its merits.
- Misleading application (subdivision of building)
Response: This application is for reinstatement of the existing building and has been assessed on that basis. The application for an additional dwelling has been referred to in the report and taken into account as part of considerations.

Other Matters

10.16 Air Quality:

The application proposals have been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size is less than that of prescribed values set out in this document, which is why it is regarded as minor development. The development is also in an area of poor air quality and proposes to introduce relevant receptors to elevated pollutant levels. As a consequence the development should reduce pollution. Conditions are recommended in respect of air quality assessment and sustainable transport as outlined below:

Sustainable Transport:

In order to mitigate impact on air quality and in accordance with Publication Draft Local Plan Policy PLP24 and the West Yorkshire Low Emissions Strategy development proposals such as this should aim to include sustainable transport methods. As such, this development should encourage the use of ultra-low emission vehicles such as electric vehicles. A condition is recommended in relation to the provision of facilities for charging plug-in electric vehicles.

11.0 CONCLUSION

11.1 The proposal is considered to comply with current planning policies and it is the opinion of Officers that there would be no significant adverse impact in terms of visual or residential amenity. Furthermore there would be no issues with regard to highway or pedestrian safety. For the reasons detailed above, it is considered by Officers that, subject to the imposition of appropriate conditions, the proposal is acceptable.

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

1. Time limit for implementation – 3 years
2. Plans to be approved
3. Remove PD rights

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/92718>

Certificate of Ownership – Notice served on/ or Certificate A signed:

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/93126 Erection of rear extension with store below and rear dormer window 16, Thomas Street, Heckmondwike, WF16 0NW

APPLICANT

Q Hussian

DATE VALID

25-Sep-2018

TARGET DATE

20-Nov-2018

EXTENSION EXPIRY DATE

11-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

N

Ward Members consulted

RECOMMENDATION:

REFUSE

1. The proposed rear extension, by reason of its projection, would result in overshadowing and have an overbearing impact on the occupiers of 22 Thomas Street and the amenity space of the adjoining property. To permit such an extension would be contrary to Policies D2 and BE14 of the Kirklees Unitary Development Plan, Policy PLP 24 of the Kirklees Publication Draft Local Plan and Chapter 12 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 Cllr David Sheard for the following reason: *“I have visited the applicant and on balance believe circumstances justify an exception in this case. The main reason being that the applicant is a carer for his wife who has physical and non-physical medical needs that her doctors have said will only get worse, which is where the downstairs extension whilst marginal (though needed) now, will become more needed in the near future. On the ground, the terrace is really two joined terraces one of two houses and one of three with a large number of steps to the back door, but they have exceptionally long gardens. I don't feel that the extra metre would be detrimental to the neighbours to such an extent to justify refusal. I am therefore requesting that this application be referred to the planning committee on the basis that it is needed to make caring for his wife at home possible with as much dignity as can be afforded.”*
- 1.2 The Chair of the Sub-Committee has confirmed that Councillor David Sheard'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 16 Thomas Street is a stone built mid terraced property. The front door of the property opens onto the back of the pavement and there is long paved yard area to the rear.

2.2 The property backs onto Walkley Lane. There are business units to the south east, Moorbank Mills on the opposite side of Thomas Street along with the entrance to Brunswick Place and similar terraces each side of the site.

3.0 PROPOSAL:

3.1 The applicant is seeking permission for the erection of a rear extension with a lower ground floor and a rear dormer.

3.2 The rear extension is proposed to project 4m from the original rear wall of the dwelling and would extend across the full width of the property. The proposal includes accommodation on the lower level and the ground floor of the property with steps up to the ground floor entrance and down to the lower entrance. The roof over the extension is proposed to be of a lean to design.

3.3 The walls of the extension are proposed to be constructed using reconstituted stone and concrete tiles for the roof covering.

3.4 The dormer would be centrally sited within the rear roof plane and would have a width of 3.4m with an eaves height of 1.7m and an overall height of 2.4m. The roof over the dormer would be pitched and the dormer would be clad with vertically hung tiles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None

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

5.1 Given the height and projection of 4m, the proposed extension will result in overshadowing and an overbearing impact on the adjoining properties. In particular, the adjoining 22 Thomas Street is a back to back property and the overbearing impact would be on their principle window. There are considered to be no mitigating factors on site to justify the harm. On this basis, the applicant was requested to submit amended plans showing a reduction in the projection of the proposed extension to 3m. No amended plans were forthcoming, however the applicant's agent has submitted a letter from the GP in support of the proposal on medical grounds.

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 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

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

Publication Draft Local Plan:

6.3

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 22** – Parking
- **PLP 24** - Design

National Planning Guidance:

6.4

- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice and neighbour notification letters. No representations were received in relation to site publicity.

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
- Conditions
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of Policy D2 (specific policy for development on unallocated land).
- 10.2 These issues along with other policy considerations will be addressed below.

Visual Amenity

- 10.3 Thomas Street is characterised by a mix of residential and commercial properties with varying sizes of building and age. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 The scheme under consideration consists of two elements which shall be addressed below.
- 10.5 *Single storey rear extension:* The scale of the rear extension can be considered to be acceptable relative to the size of the host property and its associated curtilage. The materials proposed include the use of reconstituted stone which would be similar in appearance to the original dwelling. Notwithstanding this, any discrepancy in the finish would be limited to the rear of the dwelling and would have limited visual impact. The detailing can also be considered to be appropriate for a development this type. As such, the rear extension can be considered to be acceptable in terms of visual amenity.
- 10.6 *Rear dormer:* The design of the proposed dormer is considered likely to form an appropriate relationship with the host property. It is also quite likely to constitute permitted development. Taking into consideration the provisions of Schedule 2, Class B of The Town and Country Planning (General Permitted Development) Order 2015, the development would not exceed the highest part of the roof; is not to the principal elevation; the cubic content of the resulting roof space would not exceed 40 cubic metres; it does not include a veranda, balcony or raised platform; the plans indicate that the development would not involve the installation, alteration or replacement of a chimney, flue or soil and vent pipe. The site is not within a Conservation Area.
- 10.7 Having taken the above into account, the proposed extensions would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with the aims of Policies D2, BE1, BE13 and BE14 of the UDP, Policy PLP24 of the PDLP and the aims of Chapter 12 of the NPPF.

Residential Amenity

- 10.8 *Impact on 22 Thomas Street:* The extension to the rear of the host property would be positioned to the south east of the adjoining property and would have the potential to cause some overshadowing in the middle of the morning. There would also be some overbearing impact given the exaggerated height

of the extension and the 4m projection which does not accord with the aims of Policy BE14 of the UDP. The neighbouring property is a back to back dwelling, the main habitable room of which is located towards the common boundary with the proposed extension. It is considered therefore that the harm caused as a result of this overbearing and an oppressive impact on the amenity of the occupiers of No.22 Thomas Street would be significant.

- 10.9 The proposed dormer would be located up within the roof plane and as such would be unlikely to have any significant impact upon the amenity of the occupiers of the adjoining 22 Thomas Street.
- 10.10 *Impact on 18 Thomas Street:* The extension to the rear of the host property would be positioned to the north west of No.18 and would not therefore result in any overshadowing given the orientation of the extension relative to the neighbouring property. However, the exaggerated height of the extension and the 4m projection, which is not in line with the aims of Policy BE14, would have the potential to form an overbearing and oppressive impact given the proximity to the common boundary. However, it was noted on the site visit that the neighbour's rear door is towards the common boundary with the extension which would go some way to mitigating the harm in terms of the amenities of the occupiers of the adjoining 18 Thomas Street.
- 10.11 The dormer would be located up within the roof plane and as such would be unlikely to have any significant impact upon the amenities of the occupiers of the adjoining 18 Thomas Street.
- 10.12 Having considered the above factors, the proposals are considered to result in an unacceptable over bearing and oppressive impact together with overshadowing of the principle habitable room window of the adjoining 22 Thomas Street. The proposals therefore fails to comply with the aims of Policies D2, BE1 and BE14 of the UDP as well as PLP24 of the PDLP.

Highway issues

- 10.13 The proposals will result in some intensification of the residential use. However whilst there is no off road parking provision on site at present and the proposals do not include the provision of a such a facility, there is on street parking available on Thomas Street. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with policies D2, T10 and T19 of the UDP and Policy PLP22 of the PDLP.

Representations

- 10.14 None received

Other Matters

- 10.15 *Personal Circumstances:* The applicant is seeking consent for part of the rear extension to provide down stairs toileting/bathing facilities and has provided a letter from the GP which cites their justification for the request. This letter has been reviewed and is not considered to be sufficient justification on disability grounds given the nature of the resident's ailment. The Council's Accessible Homes Team have been informally consulted and they have confirmed that there is no current referral to their service and that they are not aware of the

applicant's situation. However they have commented to the effect that the internal layout of the proposal would not result in a satisfactory arrangement for their purposes.

10.16 There are no other matters for consideration.

11.0 CONCLUSION

11.1 This application to erect an extension to the rear and dormer within the rear roof plane of 16 Thomas Street has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

11.2 The 4m projection and height of the proposed rear extension would cause overshadowing in the morning and have an overbearing impact on the principle habitable room window of the adjoining 22 Thomas Street and on part of the amenity space of the adjoining property. There are no mitigating factors on or relating to the site which would outweigh this harm.

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

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

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93126>

Certificate of Ownership –Certificate A signed:

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