

Public Document Pack



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

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Wednesday 27 February 2019

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 7 March 2019**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber at Huddersfield Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Planning Sub-Committee (Huddersfield Area) members are:-

Member

Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bernard McGuin
Councillor Gemma Wilson

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

Substitutes Panel

Conservative

B Armer
V Lees-Hamilton
M Thompson

Green

K Allison
A Cooper

Independent

C Greaves

Labour

E Firth
S Hall
N Mather
H Richards
R Walker

Liberal Democrat

C Iredale
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 8

To approve the Minutes of the meeting of the Committee held on 24 January 2019.

3: Interests and Lobbying

9 - 10

The Councillors will be asked to say if there are any items on the Agenda about which they might have been lobbied. The Councillors will 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: 2018/93228

Erection of single storey side and rear extension - 10 Quarry Court, Longwood, Huddersfield.

(Estimated time of arrival at site – 10:45 am)

Contact Officer: Callum Harrison, Planning Services

Wards

Affected: Golcar

8: Site Visit - Application No: 2018/93326

Demolition of existing dwelling and erection of 5 detached dwellings with garages - Corby, Birkby Road, Birkby, Huddersfield.

(Estimated time of arrival at site – 11:05 am)

Contact Officer: Nick Hirst, Planning Services

Wards

Affected: Lindley

9: Site Visit - Application No: 2018/94133

Erection of two storey side, single storey rear extensions and front porch - 8 The Crest, Bradley, Huddersfield

(Estimated time of arrival at site – 11:30 am)

Contact Officer: Callum Harrison, Planning Services

Wards

Affected: Ashbrow

10: Local Planning Authority Appeals 11 - 18

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

Contact Officer: Mathias Franklin – Development Management Group Leader

Wards

Affected: Ashbrow; Colne Valley

11: Review of Planning Appeal Decisions 19 - 26

The Sub-Committee will receive a report which gives a breakdown of the planning appeals submitted between January 2018 and December 2018, in relation to applications in electoral wards within the Huddersfield Sub-Committee area.

Contact Officer: Mathias Franklin – Development Management Group Leader

Wards

Affected: All Wards

Planning Applications 27 - 30

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 register no later than 5.00pm (for phone requests) or 11.59pm (for email requests) by no later than Monday 4 March 2019.

To pre-register, please contact richard.dunne@kirklees.gov.uk or phone Richard Dunne on 01484 221000 (Extension 74995).

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: Planning Application - Application No: 2018/93228 31 - 46

Erection of single storey side and rear extension - 10 Quarry Court, Longwood, Huddersfield.

Contact Officer: Callum Harrison, Planning Services

Wards

Affected: Golcar

13: Planning Application - Application No: 2018/93326 47 - 64

Demolition of existing dwelling and erection of 5 detached dwellings with garages - Corby, Birkby Road, Birkby, Huddersfield.

Contact Officer: Nick Hirst, Planning Services

Wards

Affected: Lindley

14: Planning Application - Application No: 2018/93073 65 - 78

Erection of three storey side and single storey rear extension and erection of dormers - 215 Birkby Road, Birkby, Huddersfield.

Contact Officer: Sam Jackman, Planning Services

Wards

Affected: Lindley

15: Planning Application - Application No: 2018/94133 79 - 88

Erection of two storey side, single storey rear extensions and front porch - 8 The Crest, Bradley, Huddersfield.

Contact Officer: Callum Harrison, Planning Services

Wards

Affected: Ashbrow

16: Planning Application - Application No: 2018/90501 89 - 104

Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans) - Stanley Mills, Britannia Road, Milnsbridge, Huddersfield.

Contact Officer: Adam Walker

Wards

Affected: Golcar

17: Planning Application - Application No: 2013/93879

105 -
108

Clarification and revisions to provision of affordable housing secured by Section 106 Agreement relative to previous grant of permission for erection of 27 dwellings on land adjacent Bird Riding, 109 Upperthong Lane, Upperthong, Holmfirth.

Contact Officer: James Hinchliffe

Wards

Affected: Holme Valley South

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: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 24th January 2019

Present: Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Nell Griffiths
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bernard McGuin
Councillor Steve Hall
Councillor John Lawson

1 Membership of the Committee

Councillor Steve Hall substituted for Councillor James Homewood.

Councillor John Lawson substituted for Councillor Gemma Wilson.

2 Minutes of previous meeting

Subject to the changes below the Minutes of the meeting held on 13 December 2018 were approved as a correct record.

In relation to item 17 the following amendments were agreed:

1. That the title of the report be changed to read "Council stance on the definitive map modification order submitted to DEFRA. Public rights of way and their status at Huddersfield 231, Nether Moor Farm, Huddersfield."
2. That the surname of one of the representations received by the Committee be corrected to read Angela Bradley.

3 Interests and Lobbying

Cllrs McGuin, Lawson and S Hall declared that they had been lobbied on application 2018/93226.

Cllrs Griffiths, Uppal, Ullah and Sokhal declared that they had been lobbied on application 2018/93212.

Councillor Sokhal declared that he had been lobbied on application 2018/93073.

Councillor Bellamy declared an 'other interest' in application 2018/93127 on the grounds that she was a member of Holme Valley Parish Council

Planning Sub-Committee (Huddersfield Area) - 24 January 2019

Councillor Bellamy declared that she had been lobbied on applications 2018/92924 and 2018/92935.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

The Committee received a question from Councillor Bernard McGuin on behalf of a member of public regarding why there was no record of a vote in the minutes of the Huddersfield Planning Sub Committee meeting on 12 October 2017 in respect of item 17 - Pre-Application enquiry for the erection of café/restaurant and associated facilities at Castle Hill Side, Almondbury, Huddersfield

The Kirklees Development Management Group Leader responded on behalf of the Committee to the question

7 Site Visit - Application No: 2018/93073

Site visit undertaken.

8 Site Visit - Application No: 2018/93228

Site visit undertaken.

9 Local Planning Authority Appeals

That the report be noted.

10 Planning Application - Application No: 2018/92934

The Committee gave consideration to Planning Application 2018/92934 Outline application for erection of residential development former Gees Garage, New Hey Road, Outlane, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Jeremy Child (Agent).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment to:

1. Complete the list of conditions including those contained within the considered report including:
 1. The 4 Standard conditions for outline permissions.
 2. Affordable Housing with reserved matters.
 3. Noise attenuation with reserved matters.
 4. Ecology with reserved matters.
 5. Public open space with reserved matters.
 6. Construction management plan.
 7. Electric charging points.
 8. Suite of contaminated land conditions.

Planning Sub-Committee (Huddersfield Area) - 24 January 2019

9. Details of any earthworks to be provided along with land levels at reserved matters.
 10. Crime Impact Assessment with reserved matters.
 11. Detailed drainage design.
2. Secure a S106 agreement covering the following matters:
 1. Ensure that infrastructure and planning obligation requirements relating to planning applications 2018/92934 and 2018/92935 are considered and delivered cumulatively in order to accord with policy PLP5 of the Kirklees Publication Draft Local Plan.

Planning obligations to include:

- Education contribution
 - Affordable housing (20% of the total number of units)
 - Public Open Space (including provision for a Local Area of Play)
3. That, pursuant to (2) above, in the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits being secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.
 4. That the reserve matters application is considered by the Committee.

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

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes)

11 **Planning Application - Application No: 2018/92935**

The Committee gave consideration to Planning Application 2018/92935 Outline application for erection of residential development land adj, former Gees Garage, New Hey Road, Outlane, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Jeremy Child (Agent)

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment to :

1. Complete the list of conditions including those contained within the considered report including:
 1. The 4 standard conditions for outline permissions.
 2. Affordable Housing with reserved matters
 3. Noise attenuation with reserved matters.

Planning Sub-Committee (Huddersfield Area) - 24 January 2019

4. Ecology with reserved matters.
 5. Public open space with reserved matters.
 6. Construction management plan.
 7. Electric charging points.
 8. Contaminated land conditions.
 9. Details of any earthworks to be provided along with land levels at reserved matters.
 10. Crime Impact Assessment with reserved matters
 11. Detailed drainage design.
2. Secure a S106 agreement covering the following matters:
1. Ensure that infrastructure and planning obligation requirements relating to planning applications 2018/92934 and 2018/92935 are considered and delivered cumulatively in order to accord with policy PLP5 of the Kirklees Publication Draft Local Plan.

Planning obligations to include:

- Education contribution
- Affordable housing (20% of the total number of units)
- Public Open Space (including provision for a Local Area of Play)

3. That, pursuant to (2) above, in the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits being secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

4. That the reserve matters application is considered by the Committee.

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

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes)

12 **Planning Application - Application No: 2018/93212**

The Committee gave consideration to Planning Application 2018/93212 Erection of 3 detached dwellings and garage ancillary to 33, Woodside Lane 33, Woodside Lane, Fixby, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Susan Crowley (objector) and Jeremy Child (Agent).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment to complete the list of conditions including those contained within the considered report and update list including:

1. Standard time limit for commencement of the development.
2. Development in accordance with approved plans.
3. Approval of samples of materials.
4. Remove permitted development rights for extensions on plot 3.
5. Details of internal adoptable estate road.
6. Surfacing of parking areas.
7. Reporting of unexpected contamination.
8. Electric vehicle charging points.
9. Biodiversity mitigation.
10. Soakaway drainage design (or alternative surface water drainage scheme if soakaways found to be unsuitable)
11. Construction management plan.
12. Condition survey of Woodside Lane pre and post development and scheme of repairs carried out as necessary.
13. No gates to be formed across the access to allow for vehicle turning plus signage to indicate availability of turning space.
14. Lighting design strategy
15. EDS
16. CEMP
17. No roof lights to garage

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

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes) list.

13 Planning Application - Application No: 2018/93073

The Sub Committee gave consideration to Planning Application 2018/93073
Erection of three storey side and single storey rear extension and erection of dormers 215, Birkby Road, Birkby, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Michael Chow (Agent) and Navinder Uppal (applicant)

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Councillor Richard Eastwood (Local Ward Member)

RESOLVED –

That consideration of the application be deferred to allow the applicants and officers an opportunity to discuss amendments to the scale and design of the development.

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

Planning Sub-Committee (Huddersfield Area) - 24 January 2019

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes)

14 **Planning Application - Application No: 2018/93226**

The Sub Committee gave consideration to Planning Application 2018/93226
Erection of two storey extension Brigsteer, 402, Birkby Road, Birkby, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Sheila Harrison, Carole Harden, Jennifer Hughes, Robert Taylor-Hughes and Christopher Harden (objectors) Becky Black, Ian Black, Shazad Akhtar, Becky Black on behalf of Misbah Bibi (in support) and Jeremy Child (Agent).

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Councillor Richard Eastwood (Local Ward Member)

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment to complete the list of conditions including those contained within the considered report including:

1. Development to be commenced within 3 years.
2. Development to be implemented in full accordance with plans and specifications.
3. Materials to match.
4. Construction management plan.
5. Removal of permitted development rights for extensions and outbuildings.

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

For: Councillors S Hall, Lyons, Sarwar, Sims, Sokhal, and Ullah (6 votes)

Against: Councillors Bellamy and Lawson (2 votes)

Abstained: Councillors McGuin, Griffiths and Uppal

15 **Planning Application - Application No: 2018/93228**

The Sub Committee gave consideration to Planning Application Planning Application 2018/93228 Erection of single storey side and rear extension 10, Quarry Court, Longwood, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Susy Hellawell, Michael Hellawell, Chris Lawton, Nikki Lawton (objectors) and Matthew Jack (Agent).

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Councillor Hilary Richards (Local Ward Member)

RESOLVED –

Planning Sub-Committee (Huddersfield Area) - 24 January 2019

That consideration of the application be deferred to allow the applicants and officers an opportunity to discuss amendments to the design of the development.

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

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, Sarwar, Sims, Sokhal, Uppal and Ullah (10 votes)

Against : Councillor McGuin, (1 vote)

16 Planning Application - Application No: 2018/94098

The Sub Committee gave consideration to Planning Application 2018/94098 Discharge condition 3 (method statement) on previous permission for Listed Building Consent to remove fire-damaged debris from interior of mill building and weaving shed Newsome Mills, Ruth Street, Newsome, Huddersfield.

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to discharge the condition 3 of previous permission 2017/93009.

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

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes)

17 Planning Application - Application No: 2018/93127

The Sub Committee gave consideration to Planning Application 2018/93127 Demolition of existing dwelling and erection of replacement dwelling 54, Brockholes Lane, Brockholes, Holmfirth.

RESOLVED –

Planning Application 2018/93127 Demolition of existing dwelling and erection of replacement dwelling 54, Brockholes Lane, Brockholes, Holmfirth.

For: Councillors Bellamy, Griffiths, S Hall, Lawson, Lyons, McGuin, Sarwar, Sims, Sokhal, Uppal and Ullah (11 votes)

Against : (0 votes)

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

LOBBYING

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

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 (HUDDERSFIELD)

Date: 7 MARCH 2019

Title of report: LOCAL PLANNING AUTHORITY APPEALS

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

Electoral wards affected: Ashbrow; Colne Valley;

Ward councillors consulted: No

Public or private:

1. Summary

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

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

- 2.1 2017/62/94157/W - Erection of one detached dwelling at Ballantrae, 322, Cowcliffe Hill Road, Fixby, Huddersfield, HD2 2HN. (Officer) (Dismissed)
- 2.2 2018/60/91854/W - Outline application for erection of detached dwelling at Land adj, 12/12a, Round Ings Road, Outlane, Huddersfield, HD3 3FQ. (Officer) (Dismissed)

3. Implications for the Council

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

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

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

6. Officer recommendations and reasons

To note

- 7. Cabinet portfolio holder recommendation**
Not applicable
- 8. Contact officer**
Mathias Franklin – Development Management Group Leader (01484 221000) mathias.franklin@kirklees.gov.uk
- 9. Background Papers and History of Decisions**
Not applicable



Appeal Decision

Site visit made on 29 January 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2019

Appeal Ref: APP/Z4718/W/18/3210215

Ballantrae, 322 Cowcliffe Hill Road, Fixby, Huddersfield HD2 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Hall against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/94157/W, dated 5 December 2017, was refused by notice dated 15 March 2018.
 - The development proposed is the erection of detached dwelling.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The site forms part of the side garden of 322 Cowcliffe Hill Road which is a large detached two storey dwelling which is set back from the road. The existing dwelling is set within a spacious landscaped plot, with ground levels rising from the road to the rear. This broadly accords with the handful of other dwellings found along this part of the road. Due to the golf course opposite together with mature landscaping and the low density form of development, the area has a verdant and open character. Lightridge Road, to the rear, has dwellings on both sides of the road, which gives it a more built up character.
4. Changes made by the appellants to their scheme following an earlier appeal decision¹ on the site include a reduction in the proposed dwelling's width and height. The proposal also includes the demolition of No 322's garage, changes to the plot size, and a split level design in response to the site's ground levels.
5. The loss of the garage in tandem with the proposed dwelling's width would leave a good-sized space between No 322 and the proposal. Even so, the proposed dwelling would result in a substantial reduction in the size of the existing plot. While the existing plot maybe one of the largest in the area, the proposed plot would be narrower than nearby neighbouring plots. Despite design changes, the proposed dwelling would occupy most of plot, be near to the side boundaries, and of a scale, especially at the front, that would be large

¹ Appeal Decision Ref: APP/Z4718/W/16/3156441

in comparison to the dwelling at No 322 and others on the road. While there is no overriding architectural style locally, the three storey design would accentuate the width of the proposed dwelling in relation to its plot. The proposed split level internal design would respond to the site's ground levels, and as a result the scale of the proposal is more in keeping with the area to the rear. That said, this would not overcome my concerns about the dwelling's scale at the front even though the dwelling would be set back. Despite the site's position, the proposed use of local materials and the changes made, the proposed dwelling would appear cramped and would be out of keeping with the spacious and verdant character of the surrounding area.

6. The appeal scheme has been designed with its own garden, but I conclude that the proposal would result in significant harm to the character and appearance of the area. Hence, the proposal would be contrary to Policies D2 (ii and vi), BE1 (i and ii) and BE2 (i) of the Kirklees Unitary Development Plan, paragraph 127 of the National Planning Policy Framework (the Framework), and emerging Policy PLP24 (a) of the Kirklees Publication Draft Local Plan, which broadly accords with the Framework. This policy, however, carries little weight currently due to its stage of preparation and as I do not know the extent of any unresolved objections. Jointly these policies, among other things, seek visually attractive development that does not prejudice visual amenity, and which creates or retains a sense of local identity having regard to surrounding development's design, scale, layout, building height or mass.

Planning Balance

7. The Council accept that they are currently unable to demonstrate a five year supply of deliverable housing sites as required by Framework paragraph 73. As such, the tilted balance set out in Framework paragraph 11 d) is engaged. The policies most important for determining the application are thus out-of-date, albeit they broadly accord with the Framework's aim to create high quality buildings and places.
8. A modest contribution would be made to the supply and mix of dwellings in an accessible location in Kirklees as a result of the proposal. There would be modest economic benefits from the dwelling's construction and due to future occupants spending in the local economy. The dwelling could be constructed to be a highly energy efficient development. Some existing landscaping would be retained, while the appeal scheme does not present any highway safety or wildlife issues. The proposal would also not affect neighbours living conditions. These matters are limited social, economic and environmental benefits.

Conclusion

9. I consider that the adverse impacts of granting planning permission due to the harm that would result to the character and appearance of the area would significantly and demonstrably outweigh these limited benefits, when assessed against the policies in this Framework taken as a whole.
10. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 5 February 2019

by **D Guiver LLB (Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2019

Appeal Ref: APP/Z4718/W/18/3215402

Land off Round Ings Road, Outlane

- 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 R Barber against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/91854/W, dated 6 June 2018, was refused by notice dated 27 July 2018.
 - The development proposed is described as outline application for single dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made for outline planning permission with all matters reserved and I have considered this appeal accordingly.
3. The Council relies in part on a Policy from the emerging Kirklees Local Plan (the Emerging Plan). Paragraph 48 of the National Planning Policy Framework 2018 (the Framework) advises that weight may be given to relevant policies in emerging plans according to the stage of preparation, the extent of unresolved objections and consistency with the Framework. The Emerging Plan has been examined in public and found to be sound and is due to be adopted in February 2019. The Emerging Plan is therefore a material consideration to which I have attached significant weight.

Main Issues

4. The main issues are:
 - a) whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and Development Plan Policy;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings; and
 - d) if found to be 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

5. 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. There are exceptions to this general restriction and paragraph 145(e) advises that the construction of new buildings comprising limited infilling in villages should not be considered inappropriate development.
6. The proposal is made in outline for the erection of a single detached dwelling with all matters reserved. The appeal site comprises a small parcel of unimproved and overgrown land fronting Round Ings Lane and bounded by a low stone wall to the front. The site is located in a small cluster of buildings outside the built form of any village and sits between a building containing a pair of dwellings at 12 and 12A Round Ings Road and a small plot of land containing a shed set back some distance from the frontage. To the rear the land is open and to the front is a dense belt of trees and the main carriageway of Round Ings Road that crosses the M62 by a road bridge.
7. The small stretch of road in front of the site serves as access to a short terrace of six or so cottages, a recent new build and the neighbouring dwellings at Nos. 12 and 12A, all of which front the street and give the area its character. To the south of the neighbouring plot there are a few larger buildings containing dwellings. Other than the terrace, dwellings are widely separated and few in number without any continuous built frontage. The main built form of the nearest village at Outlane is some distance away on the far side of the motorway. The site is outside the village and is clearly part of the open countryside.
8. Given the location and the wide separation of buildings, I conclude that the appeal site cannot be classed as limited infilling in villages for the purposes of paragraph 145(e) of the Framework. Accordingly, the proposed scheme would be inappropriate development and thus harmful to the Green Belt. Pursuant to paragraph 144 of the Framework, I attach substantial weight to this harm.

Openness

9. Openness and permanence are the essential characteristics of the Green Belt. While the proposal itself is for a relatively small plot of land, the scheme would permanently enclose part of the site and result in a significant loss of openness within the land surrounding the neighbouring building at Nos. 12 and 12A. While the scheme is at outline stage, with no details of the location or scale and design of the dwelling, any built development here and associated domestic paraphernalia would reduce openness.
10. Therefore, the proposed development would not be consistent with the fundamental aim in paragraph 133 of the Framework of keeping land permanently open and would not accord with Saved Policy D13 of the Kirklees Unitary Development Plan (the UDP) which seeks to ensure that development in the Green Belt is limited to infill within existing settlements in a continuously built-up frontage or where the site is largely surrounded by development.

Living Conditions of the Occupiers of Neighbouring Dwellings

11. The neighbouring building at Nos. 12 and 12A appears to be a converted Sunday School and is a gable-ended structure with a simple dual-pitch roof. The gables

face the street and the rear of the plot and the building is parallel with and close to the site boundary. The whole structure is slightly downhill from the appeal site. The south-facing flank elevation has one door and three ground-floor windows overlooking the site and a single roof-light in the roof pitch. The properties have small gardens to the front and rear of the building.

12. While the final scale, design and site layout of the proposed dwelling are reserved matters, the relative narrowness of the appeal site and the slope of the road mean that any building is likely to overshadow either the flank elevation or the gardens at Nos. 12 and 12A. As I looked towards Nos. 12 and 12A from the road in front of the appeal site at the time of my site visit the sun was shining directly onto the flank elevation and any overshadowing would be likely to cut natural light into the flank elevation windows, especially during months with shorter days when the sun is lower in the sky.
13. If the proposed dwelling was built further back in the appeal site the overshadowing would be of the rear garden to the neighbouring property and the garden at the appeal site would be hard up against the windows to habitable rooms at Nos. 12 and 12A. In the absence of any site layout proposal I take a precautionary approach and cannot be satisfied that any development would not have a significant detrimental impact on the living conditions of the occupiers of Nos. 12 and 12A.
14. Therefore, while scale and site layout are reserved matters the proposal would not accord with Saved Policies BE12 and D13 of the UDP or Policy PLP24 of the Emerging Plan which seek to ensure that developments do not cause a detriment to adjoining occupiers, and ensure physical separation from adjacent property and land.

Other Considerations

15. The appellant has referred me to planning permission¹ for a dwelling approximately 15 metres from the appeal site on Round Ings Lane. In granting that permission the Council determined that the earlier site was within the village of Outlane and that the site met the requirements of Policy D13 of the UDP in relation to size and built-up frontage. The Council accept that the appeal site is within the village and can be considered small scale, but that it is not part of a continuous built-up frontage or surrounded by development. I have reached a different conclusion on whether the appeal site is within the village but, notwithstanding, the site does not meet the remaining Policy criteria and therefore the earlier grant and the appeal before me are not directly comparable.
16. The appellant's evidence is limited to addressing the Council's reasons for refusal but does not offer any other supporting evidence to support the proposal. I therefore conclude that there are no other considerations to be considered in the overall planning balance.

Conclusion

17. I have found that the proposal would be inappropriate development in the Green Belt and that it would lead to a significant loss of openness. This harm to the Green Belt attracts substantial weight. In addition, the proposal would be likely to have a harmful impact on the living conditions of the occupiers of neighbouring dwellings. The other considerations do not clearly outweigh the identified harm,

¹ 2015/92205 and 2016/92830 (reserved matters)

and the very special circumstances necessary to justify the development do not therefore exist.

18. For the reasons given above, and taking account all material considerations, I therefore conclude that the appeal should be dismissed.

D. Guiver

INSPECTOR



Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)

Date: 7th March 2019

Title of report: A Review of Planning Appeal Decisions – (January 2018 – December 2018).

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for “call in” by Scrutiny ?	No
Date signed off by <u>Director</u> & name	19 th February 2019, Naz Parkar
Is it signed off by the Director of Resources?	No financial implications
Is it signed off by the Acting Assistant Director - Legal & Governance?	No legal implications
Cabinet member portfolio	Economy (Councillor McBride)

Electoral [wards](#) affected: All

Ward councillors consulted: No

Public or private: PUBLIC

1. Purpose of report

1.1 For information purposes

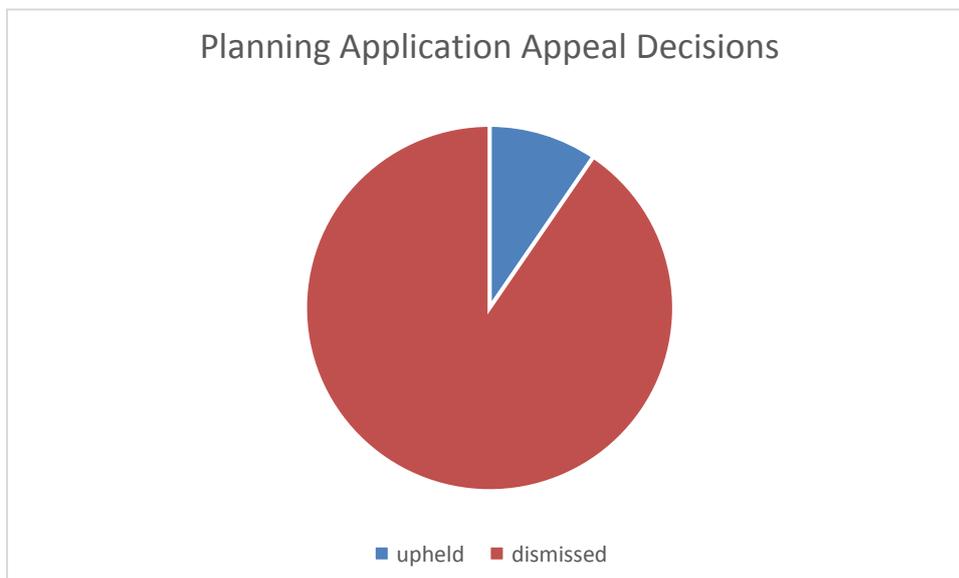
2. Key points

Planning Appeals

2.1 Between January 2018 and December 2018, there were 42 planning appeals submitted relating to planning applications in electoral wards within the Huddersfield Sub-Committee area of the district. Of these, 90% were dismissed. Appendix 1 provides a list of relevant appeals and the level of the decision.

2.2 Figure 1 below shows a breakdown of planning application appeals, whether dismissed or upheld.

Figure 1: Breakdown of planning application appeal decisions



Trees appeals

2.3 1 tree work appeal was submitted and subsequently withdrawn.

Application for award of costs.

2.4 Applications for an award of costs were lodged by appellants in respect of two appeals. Both applications were refused.

Delegated and Committee Decisions

2.5 Of the 42 planning application appeals, 34 decisions were determined under delegated powers. Of these, 32 were dismissed (94%). 8 planning applications were determined by Planning Committee. Of the decisions made by planning committee, 75% were dismissed. Of those dismissed, all of the appeals were in accordance with officer recommendation to committee. Of the

2 appeals that were upheld, both were contrary to the officer recommendation to committee. Appendix 1 provides a list of relevant appeals.

- 2.6 Paragraph 40 of the Ministry for Housing, Communities and Local Government document 'Improving planning performance' states that where there is a 'split decision' on an appeal, the appeal will be treated as if the Local Planning Authority's decision has not been overturned.
- 2.7 For clarity, application ref. 2017/92195 which was part upheld and part dismissed is therefore counted in these statistics as a dismissed appeal.

Council's appeal performance in relation to Central Government Standards: Criteria for designation (revised 2018)

- 2.8 The Government measures the performance of local authorities in deciding applications for planning permission, pursuant to section 62B of the Town and Country Planning Act 1990. This includes assessing local planning authorities' performance on the 'quality' of their decisions on applications for major and non-major development. This is measured by the proportion of decisions on applications that are subsequently overturned at appeal. If an authority is 'designated' as underperforming, applicants have the option of submitting their applications directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination.
- 2.9 The criteria for designation, as revised in November 2018, sets out the threshold for designation on applications for both major and non-major development above which the local planning authority is eligible for designation. This is 10% of an authority's total number of decisions on applications made during [a specific 2 year period] being overturned at appeal.
- 2.10 To note, the latest published performance tables from the MHCLG (August 2018) provides Experimental Statistics to enable local authorities to validate the information held. Using these tables, for the 24 months to the end of June 2017, a total of 2.4% of decisions on Major applications were overturned at appeal. This equates to 4 appeals overturned from the 181 applications Kirklees determined in the same period. The corresponding information for non-major decisions was a total of 0.6% decisions overturned at appeal. This related to 26 decisions being overturned at appeal as a percentage of the 4,347 applications determined in the same period. From the information held by MHCLG, Kirklees would not fall within the criteria for designation.

3. Implications for the Council
Not applicable

4. Consultees and their opinions
Not applicable

5. **Next steps**
Not applicable
6. **Officer recommendations and reasons**
To note
7. **Cabinet portfolio holder recommendation**
Not applicable
8. **Contact officer and relevant papers**
Mathias Franklin – Head of Development Management
9. **Director responsible**
Karl Battersby – Strategic Director for Economy and Infrastructure.

Appendix 1 – List of planning application appeals including tree works decided between January and December 2018 (Huddersfield Area)

1. 2016/93315 Land at, Ridings Lane, Golcar, Huddersfield - Erection of detached dwelling – Officer Decision – Appeal dismissed.
2. 2016/93871 Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield, HD5 8TA – Erection of detached dwelling (within the curtilage of a listed building) – Committee Decision (in accordance with officer recommendation) – Appeal dismissed
3. 2017/90078 adj, 1, Yew Green Avenue, Lockwood, Huddersfield, HD4 5EW - Erection of attached dwelling – Officer Decision – Appeal Dismissed.
4. 2016/91200 23, Spa Wood Top, Whitehead Lane, Lockwood, Huddersfield, HD4 6AY - Erection of single storey rear extension, dormer window to rear and porch to front, formation of retaining wall and associated works – Committee Decision (in contrary with officer recommendation) – Appeal dismissed.
5. 2017/90292 2, Oldfield Road, Honley, Holmfirth, HD9 6NN - Erection of two storey rear extension with Juliet balcony – Officer Decision – Appeal Dismissed.
6. 2017/91833 193, Radcliffe Road, Wellhouse, Huddersfield, HD7 4EZ - Erection of rear dormer windows – Officer Decision – Appeal dismissed.
7. 2017/91834 191, Radcliffe Road, Wellhouse, Huddersfield, HD7 4EZ - Erection of rear dormer windows – Officer Decision – Appeal Dismissed.
8. 2017/91966 land opp, 12, Clough Head Farm, Slaithwaite Gate, Bolster Moor, Huddersfield, HD7 4NW - Alterations and extension to agricultural building to form dwelling – Officer Decision – Appeal Dismissed.
9. 2017/92057 36, May Street, Crosland Moor, Huddersfield, HD4 5DG - Alterations to convert basement to apartment – Officer Decision – Appeal Dismissed.
10. 2017/92406 1, Cawthorne Avenue, Fartown, Huddersfield, HD2 2QJ – Erection of boundary wall – Officer Decision – Appeal Dismissed.
11. 2017/92385 61, Swan Lane, Lockwood, Huddersfield, HD1 3UB - Erection of single storey extension to shop – Officer Decision – Appeal Dismissed.
12. 2017/92739 44, High Street, Paddock, Huddersfield, HD1 4SJ - Erection of two storey extension with first floor balcony – Officer Decision – Appeal Dismissed.
13. 2017/93051 34, Marsden Lane, Marsden, Huddersfield, HD7 6AF - Erection of balcony enclosure to form conservatory – Officer Decision – Appeal Dismissed.

14. 2017/93147 adj, 31, Quarry Court, Longwood, Huddersfield, HD3 4UQ - Outline application for erection of one dwelling – Officer Decision – Appeal Dismissed.
15. 2017/93308 Birdsall And Armstrong, 80, Fitzwilliam Street, Huddersfield, HD1 5BB - Alterations to convert freemasons hall to 16 student apartments (Listed Building within a Conservation Area) – Officer Decision – Appeal Dismissed.
16. 2017/93297 New Closes Farm Cottage, Wickins Lane, Holmfirth, HD9 3RB - Listed Building Consent for demolition of dog pens, erection of single storey rear extension, demolition of barn and erection of barn using existing materials – Non determined – Appeal Dismissed.
17. 2017/93293 New Closes Farm Cottage, Wickins Lane, Holmfirth, HD9 3RB - Erection of single storey rear extension (Listed Building) – Non determined – Appeal Dismissed.
18. 2017/93326 Land off Woodhead Road, Brockholes, Holmfirth - Outline application for erection of residential development (62 dwellings) and formation of new access to Woodhead Road – Committee Decision (in accordance with officer recommendation). Appeal dismissed.
19. 2017/93341 Adj, 10, Cherry Tree Walk, Scholes, Holmfirth, HD9 1XG - Erection of extensions and alterations to existing detached garage to form dwelling with associated access, parking and curtilage areas – Committee Decision (in accordance with officer recommendation) – Appeal Dismissed.
20. 2017/93405 33, Wilshaw Road, Meltham, Holmfirth, HD9 4DZ - Demolition of garage and erection of two storey and single storey rear extension – Officer Decision – Appeal Dismissed.
21. 2017/93721 New Close Barn, Wickens Lane, Holmfirth, HD9 3RB - Demolition of existing agricultural building and erection of two storey agricultural building (within the curtilage of a Listed Building) – Officer decision- Non determined – Appeal Dismissed.
22. 2017/93708 220, Birkby Hall Road, Birkby, Huddersfield, HD2 2BP - Erection of extensions and porch and alterations – Officer Decision – Appeal Dismissed.
23. 2017/93793 12, George Street, Crosland Moor, Huddersfield, HD4 5AR - Erection of front porch – Officer Decision – Appeal Dismissed.
24. 2017/93833 8 The Barn, Copley House Barn, Deer Hill End Road, Meltham, Holmfirth, HD9 5PU - Erection of single storey front extension – Officer Decision – Appeal Dismissed.

25. 2017/93853 20, Wellhouse Lane, Kirkheaton, Huddersfield, HD5 0RB - Erection of mixed use agricultural and educational building – Committee Decision (in accordance with officer recommendation). Appeal dismissed.
26. 2017/93861 Land off, Vicarage Road, Longwood, Huddersfield - Discharge condition 10 (surface water) on previous permission 94/93648 for formation of roads, footpath, sewers and ground works for phase II of residential development – Non determined – Appeal Dismissed.
27. 2017/93944 4, Springwood Hall Gardens, Springwood, Huddersfield, HD1 4HA – Formation of new boundary wall – Officer Decision – Appeal Dismissed.
28. 2017/93972 Upper Millshaw Hall Farm, Mill Shaw Lane, Hepworth, Holmfirth, HD9 7TG - Demolition of farmhouse and hall, erection of two dwellings, link extension to farmhouse and two garages (modified proposal) – Officer Decision – Appeal Dismissed.
29. 2017/94157 Ballantrae, 322, Cowcliffe Hill Road, Fixby, Huddersfield, HD2 2HN – Erection of one detached dwelling – Officer Decision – Appeal Dismissed.
30. 2017/94267 Adj 468b, Manchester Road, Crosland Moor, Huddersfield, HD4 5BW - Advertisement Consent for erection of 2 illuminated LED advertising display sign – Officer Decision – Appeal Dismissed.
31. 2018/90274 5, Reinwood Avenue, Quarmby, Huddersfield, HD3 4DP - Erection of single and two storey rear extension (modified proposal) – Officer Decision – Appeal Dismissed.
32. 2018/90717 126, Coniston Avenue, Dalton, Huddersfield, HD5 9PU - Erection of single and two storey extension – Officer Decision – Appeal Dismissed.
33. 2018/91263 52, Broad Oak, Linthwaite, Huddersfield, HD7 5TE - Erection of single storey front extension – Officer Decision – Appeal Dismissed.
34. 2018/91763 8 & 10, High Street, Scapegoat Hill, Huddersfield, HD7 4NJ – Erection of single storey rear extensions – Officer Decision – Appeal Dismissed.
35. 2018/91854 Land adj, 12/12a, Round Ings Road, Outlane, Huddersfield, HD3 3FQ - Outline application for erection of detached dwelling – Officer Decision – Appeal Dismissed.
36. 2017/90962 170-172, Longwood Gate, Longwood, Huddersfield, HD3 4XF - Demolition of double garage and erection of detached dwelling – Officer Decision – Appeal Dismissed.

37. 2017/91555 35, Upper Mount Street, Lockwood, Huddersfield, HD1 3RX - Formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area – Committee Decision (In accordance with officer recommendation) – Appeal Dismissed.
38. 2017/90516 Land adjacent to 38, Broad Lane, Upperthong, Holmfirth, HD9 3XE - Reserved matters pursuant to outline permission 2015/91726 for erection of 10 dwellings. Committee Decision (Contrary to officer recommendation) – Appeal Upheld.
39. 2017/92941 19, Yew Green Avenue, Lockwood, Huddersfield, HD4 5EW - Erection of first floor extension over existing porch to front – Officer Decision – Appeal Upheld.
40. 2017/91676 Haggwood Quarry, Woodhead Road, Holmfirth, HD9 6PW - Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works – Committee Decision (Contrary to officer recommendation) - Appeal Upheld.
41. 2018/92104 Cold Hill Farm, Cold Hill Lane, Berry Brow, Huddersfield, HD4 6TU – Installation of windows. Officer Decision - Appeal Upheld.
42. 2017/92195 688, Bradford Road, Fixby, Huddersfield, HD2 2JY - Erection of porch to existing dwelling and erection of detached garage with annexe accommodation over to create dwelling forming annex accommodation associated with 688 Bradford Road, Fixby, Huddersfield HD2 2JY – Officer Decision – Appeal part upheld, part dismissed.

Appeals lodged but subsequently withdrawn

2016/92181 Land off, Woodhead Road, Honley, Holmfirth, HD9 6PR - Outline application for erection of residential development (116 dwellings) and formation of new access to Woodhead Road. Committee Decision (in accordance with the officer recommendation) - Appeal Withdrawn.

2017/93947 Burn Croft, Burn Road, Birchencliffe, Huddersfield, HD2 2EG - Works to TPO(s) 06/16. Officer Decision - Appeal Withdrawn.

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, its published modifications and Inspector's final report dated 30 January 2019 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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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Mar-2019

Subject: Planning Application 2018/93228 Erection of single storey side and rear extension 10, Quarry Court, Longwood, Huddersfield, HD3 4UQ

APPLICANT

G Perfitt

DATE VALID

02-Oct-2018

TARGET DATE

27-Nov-2018

EXTENSION EXPIRY DATE

12-Mar-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: Golcar

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 The application was deferred from the 24th January 2019 Planning Sub Committee at the request of members in order to provide the applicant the opportunity to amend the scheme to address concerns raised.
- 1.2 Originally the application was brought to Planning Committee at the request of Cllr Richards who has provided the following reason:
The developers of this site made maximum use of almost every inch of land when the houses were built. Allowing any extension to houses on this road. These are already substantial homes so extensions would create a feeling of overdevelopment and overcrowding.
- 1.3 The Chair agreed to this application being brought to Sub-Committee for determination confirming Cllr Richards' reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 No. 10 Quarry Court at Longwood is a substantial two storey detached dwelling faced with natural stone walls and a concrete tiled roof. The property, granted permission in 1991 was built in conjunction with No.8 & No.12 Quarry Court. Quarry Court can be considered a densely populated cul-de-sac. The dwelling is situated within a modest curtilage with an attached single garage and driveway to the front, and a good sized garden to the rear of approximately 160m². It is important to note that the dwelling is set upon a bank which falls from north east to the south west. The surrounding area is predominantly residential and the site is unallocated within the Unitary Development Plan. The site is also unallocated on the Publication Draft Local Plan Policies Map.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the erection of a single storey side and rear 'wrap-around' extension set on the south east elevation to the side and part south-west elevation to the rear for the purpose of extending the kitchen/dining area. Included in the application is the installation of a raised patio area with a height of 0.5m set underneath and around the extension.

- 3.2 The extension, as now amended, will continue the existing building line of the garage along the side of the property having a projection of 2.8m from the south east side of the dwelling. The extension would run the full length of the dwelling and will project a further 1.5m out of the rear elevation. The extension would have a width is 5.85m with the maximum height of 4.35m and with an eaves height of 2.6m. There will be no windows or openings in the walls of either side elevations. A number of rooflights are proposed (4 in total).
- 3.3 Materials would match the host dwelling in its entirety with natural stone for the walls, concrete tiles for the roof and brown upvc for the windows and doors.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Host Property

89/00640 - Erection of 3 no dwellings (Granted Conditionally)

91/03601 – Erection of three detached dwellings with garages (Conditional Full Permission)

4.2 Elsewhere

Adj to 31 Quarry Court, 2017/93147 – Outline application for erection of one dwelling was refused on the grounds of detrimental impact on urban green space. This was subsequently dismissed at appeal.

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

- 5.1 Initially the application sought a two storey side extension with a projection of 3.5m. This was deemed contrary to BE14 of the UDP and PLP24 of the PDLP in regards to residential amenity, particularly due to the close proximity to the principal elevation of no.12. Subsequently the scheme was amended to a single storey extension with a smaller projection.
- 5.2 The first set of amended plans saw the two storey side extension with a reduced projection of 70mm to 2.8m. This was still deemed contrary to BE14 and PLP24. The agent was contacted again, and recommended to amend the plans to be single storey.
- 5.3 A third set of amended plans was received. These included a reduced projection of the first floor to 2m with the wrap-around feature being introduced. It was deemed this reduction was acceptable to an extent where it would be re-advertised and considered. Subsequently Cllr Richards requested the application be determined by sub-committee in accordance with council's delegation agreement.
- 5.4 The committee request was relayed to the agent for the application, and subsequently new plans were submitted for the single storey plans to which this application applies. These were re advertised.
- 5.5 The red line boundary of the application was slightly amended to take account of an ongoing land ownership dispute with regard to the original development of the dwelling and its neighbouring properties.

- 5.6 An amendment was sought by Officers to see the rear aspect of the extension realigned to the south west to follow the line of the rear elevation of the property. The agent declined and wished the decision to be made based on the plans as currently submitted and as described above.
- 5.7 Following committee on 24/01/19, officer's sought amendments to create a 'squared off' rear elevation. Amendments were also sought to ensure the roof lights on the side elevation were obscured. All of these amendments were address by the agent and submitted on plans received 05/02/18.
- 5.8 A construction statement was requested also, to which the agent provided a construction brief/summary. This was deemed satisfactory and reasonable by officers in order to allow committee to make a decision and then apply a pre-commencement condition for a full construction statement.

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 (2019). 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 (2019), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 and considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The Inspector's Report of 30/01/2019 concluded that the draft Local Plan provides an appropriate basis for the planning of Kirklees, provided that modifications are made to it. Given the conclusions of the Local Plan Inspector, adoption of the draft Local Plan is to be considered by Council on 27/02/2019. If Council resolve to adopt the Local Plan at that meeting, the Local Plan would carry full weight as the statutory development plan (effective immediately), and the UDP policies listed below would need to be disregarded.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 **D2** – Unallocated land
BE1 – Design principles
BE2 – Quality of design
BE13 – Extensions to dwellings (design principles)
BE14 – Extensions to dwellings (scale)

Supplementary Planning Guidance / Documents:

- 6.4 **PLP1** – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP24 – Design

National Planning Guidance:

- 6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published February 2019, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 12: Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was first advertised by site notice on 16/10/18 and neighbour letters for the initial proposed scheme on 08/10/18. The application has subsequently been advertised by letters to neighbours and registered interested parties: Firstly on the 23/10/18 for the 3rd set of plans, on the 06/12/18 for a 7 Day advertisement for the fourth and final set of plans and again on the 07/12/18 with an amended description and an extended 14 day window. The fifth set of plans, to which are being assessed by committee after the previous deferral were advertised on the 06/02/19, initially for a 7 Day Period. The construction summary was not received until 11/02/19 and therefore the advertisement period was extended until 19/02/19.
- 7.2 Objections to the first (two storey) proposal:
5 Representations were received, of which all were against the development. The following comments were raised:

Impacts on residential amenity

- Overbearingness to the principle elevation of no.12. BE12 not adhered too.
- Blocking up of path down the south east side elevation means access down the north east side elevation only option to access the rear. This would have a detrimental impact on no.8.

Impacts on visual amenity

- Development would ruin the street scene.
- Design too commanding and in turn would overdevelop the plot.
- Contrary to PLP24 as not respecting the form and layout of the neighbouring plots.

Impacts on non-material planning considerations

- Stability of construction to new development and existing buildings.
- Concerns of access to the building site if approved.
- Loss of view over Valley.
- Bought with no NHBC certificate.

- 7.3 Only 1 representation was received for the third (two storey) proposal, however the publicity period had not ended before the scheme was re-advertised as single storey. This representation raised the following comments:
- Extension would cause stability issues when being constructed.
 - The fence between nos.10 &12 is not the actual boundary.
 - Overbearing to the principal elevation of no.12.
 - Detrimental impact on residential amenity of no.10 and the wider street scene as not in keeping with area.
- 7.4 6 representations has been received for the fourth (single storey) set of plans for this application. The following comments were raised.
- The location and site plan are not accurate, No.10 is set further back than shown and no.s 8, 10 & 12 are a lot closer together than shown. OS Maps are wrong hence this error. Also chimney breasts have been excluded from the side elevations.
 - Great loss of privacy to no.8 in terms of view over garden and in to conservatory due to the height increase and angle of rear extension.
 - The plot would appear cramped.
 - Does not respect design features of existing and adjacent properties and changes the view line out of the rear elevation as seen in BE13 of the Unitary Development Plan.
 - Overbearing on the principle elevation of no.12 due to size and windows proposed.
 - The application is contrary to BE14 of the Unitary Development Plan as it extends beyond the rear by more than 3m and therefore would have a detrimental effect on the visual amenity of adjoining dwellings.
 - The raised patio would greatly impact the privacy of no.8.
 - Excavation for the construction of the development would compromise the foundations no.10 and garage of no.8.
 - Due to the pipe below no.10, excavation could alter the water flow and compromise the retaining wall at the edge of the plot.
 - The side extension would build over an existing manhole and subsequently effect the drains around the site.
 - Would need to access land of no.12 to build the propose extension if approved.
 - A Construction Method Statement should be submitted via a condition if the application is approved.
- 7.5 The amended scheme submitted after the January Planning Sub Committee has been re-advertised and 5 representation have been received. They raised the following matters:
- Overdevelopment of the plot/out of scale with existing neighbouring development
 - Affect underground springs below.
 - Detrimental on appearance of the street scene.
 - The proposed development cannot be constructed without using of neighbours land.
 - A construction method statement should be submitted pre determination.
 - A detailed construction method statement should be conditioned for pre commencement in approved. Some of the issues raised to be included within this are:
 - Access the site by the builders
 - Method of construction

- Provision of easy access to sewage pipes which will lay under the extension
- Excavation and initiation of the Party Wall Act
- Possible piling for the foundations, which will certainly affect the garage and dwelling of neighbouring dwelling
- Construction of steel girder supports, when load bearing walls are demolished.

- Damage to foundations of existing development.
- Terracing effect on extension to neighbouring garage.
- Effect drains in the area.
- Restrict PD rights on property if approved. To further extend or insert windows in side facing elevations or increase the size of the patio.
- Discrepancies between plans, as to the size of the raised patio area and its proximity to 3rd party property
- Patio would need a balustrade to prevent persons falling from this into the existing garden. This would further exacerbate hard landscape within the plot.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** None

8.2 **Non-statutory:**

- **Building Control:** Consulted at the request of Cllr Richards to consider the impact of the development on the foundations of no.12. Building Control stated:

‘The responsibility would be with the owner of 10 Quarry Court to liaise with the owners of 12 Quarry Court under The Party Wall etc. Act 1996 (which is not within the remit of the Building Regulations or Planning Control) regarding any work which could have an adverse effect on their building’.

9.0 MAIN ISSUES

- Principle of development
- Background
- Design
- Residential amenity
- Highway Safety
- 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]”. All these considerations are addressed later in this assessment.

- 10.2 Furthermore the site is without notation on the Publication Draft Local Plan. Policy PLP1 states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The assessment below takes into account the aims of PLP1.

Background

- 10.3 The application property was constructed under application 91/03601 and it is noted that there is a long legal dispute for residents in the development in relationship to site boundaries showing differently on Ordnance Survey maps to that on the ground or on the approved plans of the dwellings. These are private legal matters and the planning merits of the application will be assessed below. It is noted that the application red line boundary has been amended through the course of the application to a position agreed between the interested parties in respect to this matter.

Design

- 10.4 The NPPF provides guidance in respect of design in chapter 12 (Achieving well designed places) with 124 providing an overarching consideration of design stating:

'124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'

- 10.5 Kirklees UDP Policies D2, BE1, BE2, BE13 and BE14 and Policy PLP24 of the PDLP are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.
- 10.6 It is consider that the proposed extension as amended has been designed to be in keeping with the existing development. The use of materials which match the host dwelling in its entirety, respects the design of no.10 and the wider area on Quarry Court. The continuations of the existing garage roofline and width mitigates the impact of the design on the street scene and ensure it appears visually acceptable. The extension will bring the side elevation of no.10, 2.8m closer to the principal elevation of no.12 for an elongated section in front of no.12. However the lean to roof, the single storey scale, the matching materials and the fact there are no habitable rooms in the principal elevation of no.12 means that the design relationship with the two properties is considered to be acceptable. The site visits conducted to the dwelling confirmed that the original plans for the dwelling are correct in that there are no habitable rooms at no.12 facing towards the development. Two of the first floor windows appear to be obscurely glazed whilst the third serves a staircase. There is only one ground floor which is of a narrow form and serves a utility room. This is also stated by the agent in a supporting statement which has never been disputed by the residents of no.12.

- 10.7 To the rear, the extension would project further than the existing rear elevation by 1.5 metres with a 'squared off' design to address concerns raised at the January Planning Sub Committee with regards to the proposed angled design and would have a gable roof. It is noted that this would introduce a new architectural feature of the rear of the property. However the location of the host dwelling means the rear elevation would not be fully visible meaning there would be limited impact on the visual amenity of the wider area. With regards to the raised patio it is not considered that this would introduce a detrimental feature in design terms. The overall scale of this feature is not excessive when considered against existing topography or the size of the rear garden area.
- 10.8 It is noted that at the sub-committee on the 24/01/19 that some committee members were concerned about the level of development on the plot. To alleviate their concerns, should the application be supported it is proposed that Permitted Development Rights for extensions, alterations to the roof, porches and outbuilding/enclosures are removed so as to avoid an overdevelopment of the site and in the interests of visual amenity.
- 10.9 Subject to the use of matching materials, the proposal is considered to have an acceptable impact in terms of visual amenity and would accord with the referred to policies.

Residential Amenity Issues

- 10.10 The National Planning Policy Framework seeks a good standard of amenity for all existing and future occupiers of land and buildings though Chapter 12. Policy PLP24 of the Publication Draft Local Plan states that proposals should promote good design by ensuring 'extensions...minimise impact on residential amenity of future and neighbouring occupiers. Policies D2 and BE14 of the UDP express similar aims. The impact on each of the surrounding properties is considered in turn.

No.12 Quarry Court

- 10.11 No.12 is the closest property to the proposed development located to the south east and shares the boundary adjacent to the proposed extension. Architecturally no.12 has an active frontage facing the proposed extension, however after reviewing the planning permission for no.12 (91/03601) it is noted that all windows in the facing elevation are non-habitable.
- 10.12 The proposal would increase the amount of built form adjacent the shared boundary with no.12, however it is noted that host property is set a lower level and the use of a pitched roof of the same scale as the existing garage is considered to provide sufficient mitigation to prevent any detrimental overbearing impact from occurring. The proposed extension is also located to the north of no.12 and this combined with the pitched roof sloping away from the shared boundary, and given that it is set at a lower level than no.12, would prevent any detrimental overshadowing from occurring.

- 10.13 With respect to overlooking it is noted that 3 roof lights are also proposed on the side facing no.12. However these roof lights are high level preventing any view out of them. After the January sub-committee meeting and taking note of members concerns, these roof lights have been obscurely glazed which would ensure that there is no detrimental impact from these windows. However in order to prevent any potential for further overlooking permitted development rights for any new windows will be withdrawn and the retention of obscure glazing in the rooflights controlled by condition.
- 10.14 The works to form a raised patio area on the rear of no.10 are not considered to lead to a detrimental impact on no.12 as any views are restricted by the garage of no.12.
- 10.15 Subject to removing permitted development rights for additional windows and obscurely glazing the proposed roof lights, the proposal is considered to have an acceptable impact in terms of residential amenity in regards to no.12 Quarry Court.

No.8 Quarry Court

- 10.16 No.8 is located to the north west of the application site and shares a boundary with no.10. The proposed projecting rear extension would be a minimum of approximately 9 metres from no.10.
- 10.17 Following comments raised at January sub-committee meeting, the rear element of the extension has been squared off so it is set at the parallel to, and in keeping with, the existing build line. This alteration has also ensured there will be no longer be any windows or opening facing towards no.8.
- 10.18 Due to the changes in levels between no's 8 and 10, the proposed floor level of the extension will be approximately 1m above the garden level of the host dwelling and between 1m and 1.5m above the floor level of no.8. However the rear extension will be approximately 9 metres away and is now set at a parallel angle to no.8. This separation distance between the two properties combined with the newly proposed orientation of the rear element of the extension would any detrimental impact occurring in regards to overbearingness, overshadowing and privacy of no.8.
- 10.19 Turning to the raised patio area it is noted that this would also be located away from the shared boundary of no.8 by approximately 7 metres. Increasing the height of the existing patio area is not considered to be significantly detrimental to the amenity of no.8 given the separation distance between the properties. As there is already a 2m boundary in place there are no further conditions that could be implemented to mitigate this issue any further.
- 10.20 When considering the latest set of amendments received on 05/02/19, the proposal is considered to have an acceptable impact in terms of residential amenity in regards to no.8 Quarry Court.

Other Properties

- 10.21 It is noted that 6b Quarry Court is located to the rear (south) of the application site however this property is set at a significantly lower level than host dwelling and therefore the proposal is not considered to have a detrimental impact on the amenity of no.6b

Highway issues

- 10.22 As the proposal does not seek to add a feature that will intensify trips to and from the site, it can be stated there are no highway safety issues.

Other Matters

Construction

- 10.23 Concerns have been raised in respect to how the development will be constructed and the applicant has provided a construction brief/summary. This details different construction options but demonstrate that the development would be constructed with access from within the applicant's ownership which is considered to be acceptable. Give that it is currently only a brief/summary, it is considered appropriate to condition a more detailed plan once a contractor has been appointed to ensure that the development is constructed in accordance with an acceptable method of access.

Representations

- 10.24 In total, 5 representations were received for the first two sets of plans (both two storey side extensions, all of which were against. The following comments were raised:

Impacts on residential amenity

- Overbearingness to the principal elevation of no.12. BE12 not adhered too.

Response: This opinion was agreed with by the Case Officer and amendments were sought. The two storey element has been removed. In addition it is noted that the facing windows in no.12 are all non-habitable.

- Blocking up of path down the south east side elevation means access down the north east side elevation only option to access the rear. This would have a detrimental impact on no.8.

Response: This issue has been mitigated in the amended plans.

Impacts on visual amenity

- Development would ruin street scene.
- Design too commanding and in turn would overdevelop the plot.
- Contrary to PLP24 as not respecting the form and layout of the neighbouring plots.

Response: As set out above, there has been a detailed assessment of the impact of the design of the proposal on the character of the local area. The currently proposed, amended scheme is significantly smaller in scale than previously proposed scheme and as set out above is considered to be acceptable. The proposed extension would have limited views from the street scene.

Impacts on non-material planning considerations

- Stability of construction to new development and existing buildings.
- Concerns of access to the building site if approved.
- Loss of view over Valley.
- Bought with no NHBC certificate.

Response: The matters above are non-material planning matters which will be can be dealt with through building control or separate legal matters between the interested parties.

10.25 Only 1 representation was received for the third (two storey) proposal, however advertisement expiry had not ended before the scheme was re-advertised as single storey. This representation raised the following comments:

- Extension would cause stability issues when being constructed.

Response: A matter which would be investigated by building control when building regulations are sought.

- The fence between nos.10 & 12 is not the actual boundary.

Response: This matter was investigated with the plans 91/03601, and has subsequently been address above in 10.3 Background.

- Overbearing to the principal elevation of no.12.

Response: As the amended scheme was still two storey, these objections were still agreed with by the case officer and again further amendments were sought.

- Detrimental impact on residential amenity no.10 and the wider street scene as not in keeping with area.

Response: As set out above, there has been a detailed assessment of the impact of the design of the proposal on the character of the local area. The currently proposed, amended scheme is significantly smaller in scale than previously proposed schemes and as set out above is considered to be acceptable.

10.26 6 representations were received for the fourth (single storey) of plans for this application. This was the scheme considered by Members at the 24th January sub-committee. The following comments were raised.

Impacts on residential amenity

- The location and site plan are not accurate, No.10 set further back than shown and nos 8, 10 & 12 are a lot closer together than shown. OS Maps are wrong hence this error. Also chimney breasts have been excluded from the side elevations.

Response: This statement correlates with the application 91/03601 which was the permission for the construction of no.s 8, 10 and 12. The red line boundary has now been altered with an amended plan submitted on 7 January 2019 to support the comments made. A decision on the application will not be made until a period of 21 days has lapsed since the submission of this amended plan.

Impacts on residential amenity in regards to 8 Quarry Court

- Great loss of privacy to no.8 in terms of view over garden and in to conservatory due to the height increase and angle of rear extension.

- The raised patio would greatly impact the privacy of no.8.

Response: As set out above, there was a detailed assessment of the impact of the proposal towards no.8 Quarry Court. Whilst the rear extension will have an impact on no.8, it was considered, on balance, acceptable but this element of the proposal has since been amended.

Impacts on residential amenity in regards to 12 Quarry Court

- Overbearing on the principal elevation of no.12 due to the scale and windows proposed.

Response: As set out above, there has been a detailed assessment of the impact of proposal on no.12 in terms of residential amenity. The proposed, amended scheme at that stage was significantly smaller in scale than previously proposed schemes and was considered to be acceptable.

Impacts on visual amenity

- The plot would appear cramped.
- Does not respect design features of existing and adjacent properties and changes the view line out of the rear elevation as seen in BE13 of the Unitary Development Plan.
- The application is contrary to BE14 of the Unitary Development Plan as it extends beyond the rear by more than 3m and therefore would have a detrimental effect on the visual amenity of adjoining dwellings.

Response: That amended scheme was significantly smaller in scale than previously proposed schemes and was considered to be acceptable. The scheme has since been amended.

Non-material planning considerations

- Excavation for constructed would compromise the foundations no.10, garage of no.8.
- Due to the pipe below no.10, excavation could alter the water flow and compromise the retaining wall at the edge of the plot.
- The side extension would build over an existing manhole and subsequently effect the drains around the site.
- Would need to access land of no.12 to build the propose extension if approved.

Response: The matters above are non-material planning matters which will be can be dealt with through building control or separate legal matters between the interested parties.

Other matters

- A Construction Method Statement should be submitted via a condition if the application is approved.

Response: All development will cause some disruption. In light of Concerns have been raised in respect to how the development will be constructed and the applicant has provided a construction brief/summary. Give that it is currently only a brief/summary, it is considered appropriate to condition a more detailed plan once a contractor has been appointed to ensure that the development is constructed in accordance with an acceptable method of access. This is in light of comments raised at sub-committee.

10.27 5 representations has been received for the fifth, post sub-committee set of plans for this application. The following comments were raised:

- Overdevelopment of the plot/out of scale with existing neighbouring development
- Detrimental on appearance of the street scene.

Response: Addressed within Visual Amenity assessment

- Damage to foundations of existing development.
- Effect drains in the area.
- Affect underground springs below.

Response: Not a material planning consideration; will be assessed through the application to building control for building regulations. Building Control were consulted and their response can be seen above.

- Terracing effect on extension to neighbouring garage.

Response: Noted, assessed within Visual and Residential Amenity above.

- Restrict PD rights on property if approved including further extensions to patio and side facing windows.
Response: If granted it is proposed to remove permitted development rights for extensions, raised platforms, outbuildings and additional windows.

- A construction statement should be submitted pre determination.
- A construction statement should be conditioned for pre commencement in approved.
- The proposed development cannot be constructed without using of neighbours land.

response: Addressed above where relevant in assessment, and will be tackled by condition where appropriate. This cannot control those matters that fall outside the scope of planning legislation however. It should be noted that the granting of planning permission, including the 6-tests for the imposition of planning conditions, can only take into account those matters which have relevance to planning and which do not duplicate the effect of other controls – in this case including Building Regulations, The Party Wall Act and Health and Safety legislation set out in The Construction (Design and Management) Regulations 2015. In these circumstances it would not be necessary, reasonable or relevant to planning to seek to control such matters through planning control. A construction method statement would seek to mitigate the impact of construction work on the amenities of surrounding residents by requiring details such as working hours, storage of materials and contractor parking. It would not require details such as “Excavation and initiation of the Party Wall Act”, “Possible piling for the foundations”, or “Construction of steel girder supports, when load bearing walls are demolished”.

The grant of a planning permission would not override requirements for the owner/developer to comply with other legislation.

- Discrepancies in the plans relating to the size of the patio and whether a balustrade would be required.

Response: The agent will be asked to confirm that the plans indicating the raised patio only extends as far as the new rear extension, as shown on drawing nos. 103D, is correct. This is also shown on drawing nos 104B and clarification of this will be sought for drawing 101D.

11.0 CONCLUSION

- 11.1 In Conclusion, the proposal is recommended for approval but would be maximum development appropriate on a plot this size. As such it is deemed necessary to remove permitted development rights for further extensions and outbuildings.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

- 1. Development within 3 years**
- 2. In accordance with the approved plans**
- 3. Matching materials**
- 4. Obscure glazing to roof lights.**
- 5. Withdraw permitted development rights for extensions, alterations to the roof, porches, raised platforms, outbuildings and additional windows.**
- 6. Pre-commencement condition for a construction management/method statement**
- 8. Garage cannot be converted (condition on original development)**

Background Papers:

Application and history files.

Website link to be inserted here <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93228>

Certificate of Ownership –Certificate A signed:

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Mar-2019

Subject: Planning Application 2018/93326 Demolition of existing dwelling and erection of 5 detached dwellings with garages Corby, Birkby Road, Birkby, Huddersfield, HD2 2DR

APPLICANT

Armitage Developments
UK Ltd

DATE VALID

09-Oct-2018

TARGET DATE

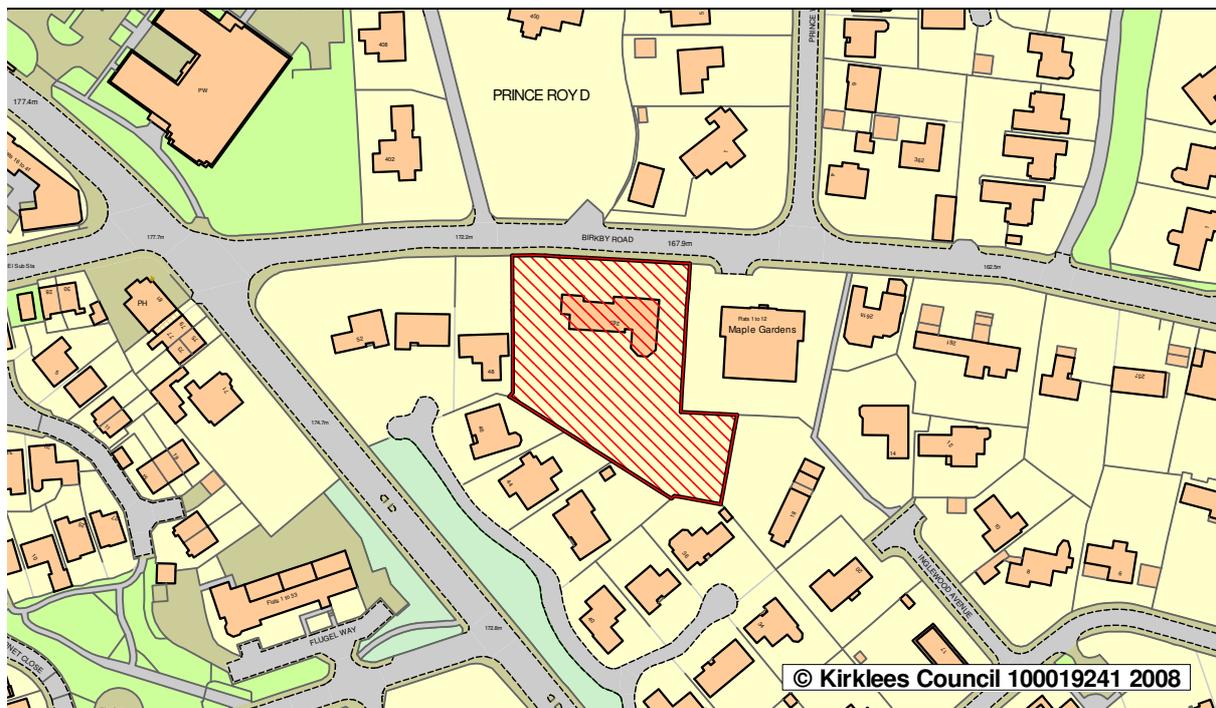
04-Dec-2018

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: Lindley

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 seeks the demolition of one dwelling and the erection of five detached dwellings, with garages.
- 1.2 The application is brought to the Huddersfield Planning Sub-Committee at the request of Cllrs Burke and Eastwood who oppose the amended planning application and consider that it still constitutes over development of the site, despite being reduced in scale.
- 1.3 The Chair of the Sub-Committee has confirmed the Ward Councillors reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS

- 2.1 Corby is large a detached two storey dwelling faced in stone with red tile roofing. The dwelling fronts onto Birkby Road, with a high stone wall and iron gate along the frontage. The house has a generous garden that includes several protected and non-protected trees, although many have been felled recently.
- 2.2 This section of Birkby Road is predominantly characterised by large detached dwellings. To the east of the site is a three storey apartment building. To the south and west of the site are dwellings served off Inglewood Avenue. This are also typically large detached dwellings.

3.0 PROPOSAL

- 3.1 The existing dwelling is to be demolished. Five detached, two-storey five-bed dwellings are to be erected. Each has an attached garage, with the exception of unit 3 which has a detached garage.

- 3.2 The dwellings are to be faced in natural stone with blue slate roofing. Each plot is individually designed, although they share a number of common features.
- 3.3 Plots 1 and 2 would front onto Birkby Road. A private drive is to run between them to serve plots 3, 4 and 5. All plots, bar plot 1, are to be accessed from the private drive. Each plot has a minimum of 3 off-road parking spaces, with one visitor parking space provided off the access drive. On-site turning is provided for plot 1, which connects straight to Birkby Road.
- 3.4 External works include soft landscaping to the site's boundary alongside 1.8m timber boundary fencing. Plots 3 and 4 are to have a 1.0m stone front boundary wall. The site's front stone boundary wall is to be lowered to 1.0m where required to enable sightlines, where else it will retained as existing.

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site

88/00472: Outline application for 1 no. dwelling – Refused

89/05986: Outline application for erection of residential development – Refused

90/01022: Outline application for residential development – Refused

99/93513: Erection of swimming pool extension – Conditional Full Permission (Implemented)

2016/94066: Work to TPO(s) 46/90 – Granted

4.2 Surrounding area

263, Birkby Road

2004/91796: Demolition of dwelling and erection of 12 no. apartment – Conditional Full Permission

2005/92990: Demolition of dwelling and erection of 12 no. apartment (revised scheme) – Conditional Full Permission

18, Inglewood Avenue

2003/95139: Erection of extension to existing detached garage to form double garage – Conditional Full Permission

2009/91245: Erection of single storey extension to side – Permitted Development

44, Inglewood Avenue

2009/91420: Erection of rear sun lounge and first floor extension over garage (Within a Conservation Area) – Refused (Appeal upheld)

2014/90101: Erection of ground and first floor extensions (within a Conservation Area) – Conditional Full Permission

2014/90107: Works to TPO(s) 17/85 within a Conservation Area – Granted

46, Inglewood Avenue

2002/92514: Erection of two storey extension (within a Conservation Area) – Conditional Full Permission

48, Inglewood Avenue

2015/93269: Erection of single storey extensions to rear, first floor extensions to front and side, conversion of existing garage and new attached garage to front (within a Conservation Area) – Conditional Full Permission

2018/92244: Erection of single storey rear extension, two storey front and side extensions and car port (within a Conservation Area) – Conditional Full Permission

4.3 Planning enforcement

None on site and none within the area considered relevant to this specific application.

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

5.1 The application initially sought six dwellings. This raised concerns with officers regarding overdevelopment, impact on the visual character of the area and the residential amenity of future occupiers and neighbours. Other concerns included the proposed boundary treatment, impact on protected trees and ecology.

5.2 The above concerns were expressed to the applicant. This led to a reduction to five plots, reducing the scale of the dwellings, repositioning and the submission of further ecological and arboricultural details which were considered to overcome officer concerns.

5.3 The site has a culvert. The initial method to address this was considered unacceptable by the LLFA. This led to further discussions an amended scheme being provided. Because the surface water is to discharge into the culvert, which is proposed to be improved, there would be an increase in flood risk further along the culvert, albeit minor. This is still being considered, with an update to be provided within the Committee Update.

6.0 **PLANNING POLICY**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent

inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2019). 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 (2019), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 are considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The Inspector's Report of 30/01/2019 concluded that the draft Local Plan provides an appropriate basis for the planning of Kirklees, provided that modifications are made to it. Given the conclusions of the Local Plan Inspector, adoption of the draft Local Plan is to be considered by Council on 27/02/2019. If Council resolve to adopt the Local Plan at that meeting, the Local Plan would carry full weight as the statutory development plan (effective immediately), and the UDP policies listed below would need to be disregarded.

6.3 The site is Unallocated on the PDLP Proposals Map.

6.4 The site is adjacent to the Edgerton Conservation Area.

6.5 Kirklees Publication Draft Local Plan

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place sharpening
- **PLP3** – Location of new development
- **PLP7** – Efficient and effective use of land and buildings
- **PLP11** – Housing mix and affordable housing
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP28** - Drainage
- **PLP30** – Biodiversity and geodiversity
- **PLP33** – Trees
- **PLP35** – Historic environment
- **PLP51** – Protection and improvement of local air quality

6.6 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **D2** – Unallocated land
- **NE9** – Retention of mature trees
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE11** – Building materials
- **BE12** – Space about buildings
- **T10** – Highways accessibility considerations in new development
- **H1** – Housing (Strategy)

6.7 National Planning Guidance

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision making
- **Chapter 5** – Delivering a sufficient supply of houses
- **Chapter 11** – Making effective 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

6.8 Supplementary Planning Guidance / Other Documents

- DCLG: Technical housing standards – Nationally Described Space Standard
- Kirklees Local Plan Supplementary Planning Document Consultation Draft: Highway Design Guide

7.0 **PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised via site notice, press notice and through neighbour letters to addresses bordering the site. This is in line with the Councils adopted Statement of Community Involvement. The end date for the initial publicity was the 16.11.2018. The application was subject to a second round of publicity, following the amendments detailed within paragraph 5.2. The period of publicity expired 22nd of February, 2019.

7.2 32 representations have been received. The following is a summary of the comments made;

- 6 houses is too many and will result in overdevelopment that harms the area's visual amenity, road safety issues, local ecology and flooding.
- The dwellings are too large, being in essence three storeys.
- The site is too small for five units and will be out of keeping with the surrounding building plots.
- Note that the LLFA objects to the development and that they recommend it is improved in 3rd party land.
- Reducing the development to five units does not overcome previous concerns. Five units is still an overdevelopment.
- The proposal (amended) harms the amenity of neighbouring residents through overbearing and overlooking.
- The proposal (amended) detracts from the visual amenity of the area.
- Planning applications on site have been refused in the past. One was refused as it represented back land development and would harm the amenity of neighbours.
- Another was refused due to the culvert on site and flooding concerns.
- The developer felled trees before seeking planning permission. These benefitted from an area TPO. This has harmed local ecology.
- While there is a housing shortage, the approval of five units will not change that.
- The proposal will result in an unacceptable increase in traffic in the area. A past application was refused as suitable sightlines could not be achieved.

- Any new planting should benefit from a TPO.
- The development should be considered in the context of Halifax Road improvements. More traffic will cause more noise and pollutant.
- The council should not consider an application just in the name of greed.
- The proposal will cause odour pollution.
- 1.8m high timber fencing does not provide sufficient privacy. Hedging would be more welcomed.
- One was refused as it represented back land development and would harm the amenity of neighbours.
- The proposal will lead to parking on Birkby Road, which has numerous drives / roads connecting in close proximity. The garages are too small.
- There are insufficient services, inc. doctors and schools, in the area.
- The existing house is fine and does not need to be demolished. It complements the Edgerton Conservation Area.
- Loss of trees and green space in the wider area.
- The proposal would harm the Edgerton Conservation Area.
- There is a covenant on the land preventing additional dwellings.
- The survey was done at the wrong time of year.
- The proposal will lower local house prices and affect their views. Construction will cause noise and dirt pollution.

Local member interest

- 7.3 Cllrs Burke and Eastwood expressed concern early within the process and wished to be kept informed. They were appraised of the amendments, however the members did not consider them to overcome their concerns of overdevelopment of the site.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways: No objection subject to condition.

8.2 Non-statutory

K.C. Conservation and Design: No objection.

K.C. Ecology: No objection subject to condition.

K.C. Lead Local Flood Authority: Have provided feedback on the surface water drainage and guidance for the applicant. Have expressed concerns due to flood risk, but on balance do not object to the proposal.

K.C. Trees: No objection subject to condition.

9.0 MAIN ISSUES

- Principle of development
- Urban Design
- Residential Amenity
- Highway
- Other
- Representations

10.0 APPRAISAL

Principle of development

Sustainable Development

- 10.1 Sustainable Development NPPF Paragraph 11 and PLP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Land allocation

- 10.2 The site is without notation on the PDLP Policies Map or the UDP Proposals Map. PLP2 of the PDLP states that;

All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

Residential development

- 10.3 Policy H1 of the UDP, PLP11 of the PDLP and Chapter 5 of the NPPF establish a general principle in favour of residential development. Furthermore, the council is unable to demonstrate a five-year housing land supply. Therefore, additional weight is afforded to the provision of housing at a time of general shortage, which provides an environmental, social and economic role.
- 10.4 PLP7 establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site could accommodate twelve dwellings. Five are sought, which represents a clear shortfall. However, PLP7 states this target should be 'where appropriate'. The area is characterised by large detached dwellings, set in moderate sized gardens. Therefore a higher number of smaller plots would not respect the local character. It is also noted that the site is domestic garden; the redevelopment represents a net gain of four plots. Therefore, in principle, the quantum of development is considered acceptable although a more detailed assessment of the proposal's design is undertaken below.

Urban Design

- 10.5 First considering layout, the proposal seeks large dwellings with relatively generous curtilages. This is in keeping with the established urban grain of the area, although it is noted that the plot sizes are below that of those adjacent on Inglewood Avenue. Concerns have been expressed in representations that the site represents an overdevelopment. As noted above however, by PDLP standards this is not the case, although local character is important. The NPPF addresses this by stating;

Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

- 10.6 On adoption of the local plan the council will be able to demonstrate a five year housing supply. However this will not be the case in perpetuity and requires approx. 1/3 of new units to be sourced on unallocated land (windfall sites). As such, without appropriate densities, the LPA can anticipate a shortage of land. This is considered to be supported by Paragraph 127(c), which states;

Planning policies and decisions should ensure that developments: are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- 10.7 Accordingly, while it is acknowledged that the proposal represents a moderately higher density than the surrounding area, that sought is not considered materially out of keeping with the area to cause harm, with the layout overall considered to correspond well with that of adjacent streets.

- 10.8 Turning to the specific design of each of the proposed dwellings, each are broadly unique with shared architectural features and appearances resulting in an acceptable and interesting mixture of dwellings which suitably harmonises with each other. Dwellings are visually two storeys, with some rooms in roof spaces served by roof lights. Primary openings are predominantly arranged front / rear, with fenestration being traditionally designed. The design of the dwellings are considered to correspond well with Inglewood Avenue and Birkby Road, which likewise host large dwellings of varied designs that form a coherent whole.

- 10.9 Some initial concerns were held over the development being close to Birkby Road, which is defined by its verdant character and dwellings being set back in their plots. This did lead to amendments, specifically to plot 2 and its garage. Following discussions the garage's projection and height were reduced and further details on the front boundary were provided that limit its prominence. These amendments, plus that its set back 8m from the site boundary, lead to the conclusion that it would not harm the character of Birkby Road. Plot 1, while in line with the garage, has a more traditional design which with its separation distance is also not deemed harmful.

- 10.10 Facing materials are to be natural stone with blue slate roofing. These are welcomed and considered acceptable within the area, although samples are to be condition ensure suitable end products.
- 10.11 Full details on boundary treatments have been provided. This includes the stone wall to the front being retained, bar where it must be lowered to achieve sightlines. Within the site boundaries will predominantly be 1.8m closed boarded timber fences, which is welcomed. Limited details on landscaping have been provided at this time. To ensure suitable landscaping is undertaken, with appropriate maintenance arrangements, if minded to approve officers propose a condition for a Landscaping Scheme.
- 10.12 The site is on the edge of the Edgerton Conservation Area, with the site's west and south boundary to the properties on Inglewood forming the Conservation Area's edge. While not within the Conservation Area, close by development can affect their settings. Nonetheless, consultation has been undertaken with K.C. Conservation and Design, who do not consider the proposal harmful to the Conservation Area's setting, having a neutral impact. Officers share this assessment.
- 10.13 Officers consider the proposed development's design acceptable and, subject to the listed conditions, deem the proposal to comply with the aims and objectives of D2, BE1, BE2 and BE11 of the UDP, PLP24 and PLP35 of the PDLP and Chapters 11, 12 and 16 of the NPPF.

Residential Amenity

- 10.14 The area is residential in nature, with 3rd party dwellings in each direction of the application site. Consideration is required as to whether the proposal would cause undue harm to the amenity of occupiers of 3rd party dwellings.
- 10.15 The dwellings to the north, across Birkby Road, are a suitable separation distance to not raise concerns.
- 10.16 To the south of the site are the rear elevations of nos. 36, 42, 44 and 46 Inglewood Avenue. These dwellings currently face into the large garden space of Corby, which previously hosted mature trees prior to their felling and would be considered a pleasant view, which would be impacted upon via the development. However there is no right to a view in planning. Consideration must be given to whether the development would harm occupier's amenity through overbearing, overshadowing or overlooking.
- 10.17 The closest of the aforementioned dwellings and the new units is no.46 and plot 3, although these dwellings are noted to be at a slight angle to one another and therefore not directly facing. The closest distance between no.46 and plot 3 is 17.75m although this is between no.46's two storey rear and plot 3's single storey rear. While this is below the desired distance of 21m from BE12, because of the level differences between the sites, with plot 3's ground floor is circa 1.5m lower than no.46's, the impact is considered mitigated. BE12 does allow shortfall where ground levels permit it, which is deemed the case. At first floor level the distance increases to a minimum separation of 20m, although this is a small area and quickly increases to being in excess of 21m due to the angle between dwellings. Again giving weight to the level differences and the layout of the dwellings, on balance the proposal is not considered to cause harmful overbearing or overlooking upon no.46. As the site is due north overshadowing is not a concern.

- 10.18 No.44 to Plot 4 and 42 to Plot 5 have similar arrangements to that considered above, however with separation distances typically in excess of 25m and with the existing dwellings on higher ground levels. The relationship between these dwellings is considered acceptable.
- 10.19 To the west is no.48 Inglewood Avenue. Plot 2 would be located to the side and rear of no.48. Plot 2's two storey section would project 7.2m beyond no. 48's rear, however due to the separation, angle of layout and level differences it would not be prominently visible to cause overbearing. While the single storey front section would be visible, being single storey and on a lower level it too is not considered detrimental to no.48's residents through overbearing. Being to the north-east overshadowing is not a concern. While plot 2 has no primary habitable room windows facing towards no.48's land, all windows that do are to be obscure glazed via condition.
- 10.20 To the south-east is no.18 Inglewood Avenue. While plot 5 sits on a slightly higher land level, given the separation distance of 27m officers are satisfied that the proposed development would not cause harmful overbearing, overshadowing or overlooking of no.18's dwellinghouse. Plot 5 would be sited at its closest 5.5m from the shared boundary, and therefore close to the garden space of no.18, although because of the boundary's layout this increases to 10.0m. A 1.8m boundary fence is to be installed, with the boundary currently hosting tall and thick mature vegetation which would be an effective screen to prevent overlooking or overbearing. While subject to death or removal, given the amount of vegetation this is not anticipated. Therefore, on balance, officers do not consider the relationship between plot 5 and no.18's garden to be materially harmful.
- 10.21 To the east of the site are Flats 1 to 12 of Maple Gardens. The application site is on a notably higher ground level, however the two closest plots, 1 and 5, each have side elevation facing the flat complex. The side elevations do not host primary habitable room windows. Plot 1 has a separation distance of 19.0m (with intervening TPO'd trees) while plot 5 18.75m. Despite the land levels, officers are satisfied there would be no harmful overbearing, overshadowing or overlooking upon the residents of Maple Gardens.
- 10.22 Consideration must also be given to the amenity of future occupiers. Each dwelling is a suitable size, based off the number of bedrooms sought, with garden spaces being commensurate to the dwellings they serve. All habitable rooms would be served by windows that would provide an acceptable outlook and level of natural light.
- 10.23 Concluding on the above, officers are satisfied that, subject to conditions, the proposed development would not cause material harm to the amenity of neighbouring residents. Furthermore future occupiers would have an acceptable standard of amenity. The proposed development is deemed to comply with the aims and objectives of D2 and BE12 of the UDP, PLP24 of the PDLP and Chapter 12 of the NPPF.

Highway

- 10.24 First considering the impact on the local network, there was no trip generation information supplied with the application, however using an acceptable trip rate of 0.8 two way trips per dwelling, this would generate an average of 5 trips in the peak hours. This is not expected to have a severe impact on the operation of the local highway network.
- 10.25 Two new accesses to the site are to be formed onto Birkby Road (via S184 Agreement). The first, to replace the dwelling's existing access, is to be a private road serving units 2 – 5. The second is to serve plot 1 only and be a private driveway; the driveway has on-site turning, allowing plot 1's vehicles to leave in a forward gear. Each access has acceptable sightlines, which can be secured and protected via condition.
- 10.26 Vehicle parking is policy compliant for all dwellings, with each unit having three on-site parking spaces. One visitor parking space is indicated within the site, which is acceptable. This parking provision is securable via condition. Swept path analysis has been provided internally on the private road serving plots 2 – 5, confirming acceptable access for refuge and emergency service vehicles, although a waste collection point is shown to the site's front allowing refuge services to not need to access the site. Its provision is to be secured via condition.
- 10.27 Given the busy nature of Birkby Road, officers would seek a construction management plan via condition to ensure appropriate arrangements are in place during the construction period.
- 10.28 The application has been reviewed by Planning and Highways Development Management officers, who conclude subject to conditions the proposal would not harm the safe and efficient operation of the Highway, in accordance with T10 and PLP21.

Other

Trees

- 10.29 Several un-protected young trees are to be removed on site, which is not opposed by officers of K.C. Trees.
- 10.30 There is a grouping of TPO'd Trees along the east boundary of the site. These are to be preserved, with minor pruning works, and not removed via the proposal. An Arboricultural Method Statement has been submitted with the application that has been reviewed by K.C. Trees. K.C. Trees support the details submitted and, subject to a condition ensuring works are done in accordance with the Arboricultural Method Statement, do not object to the proposal. The development is deemed to comply with NE9 and PLP33.

Permitted Development

- 10.31 The application has been assessed on the details submitted. Post development the dwellings would benefit from Permitted Development rights. This is a cause for concern, due to possible overdevelopment and harm to visual and residential amenity. Therefore it is proposed to removal all permitted development rights for extensions and outbuildings.

Drainage

- 10.32 Waste drainage is to be via sewer, which is acceptable.
- 10.33 Surface water is to be discharged into a culvert crossing the site which is considered acceptable in principle. The culvert, which is currently in a poor state of repair, is to be rerouted and improved through the site which is welcomed. However, as the site's surface water will be going into the culvert there would be an increase in water into the culvert, which will continue to flow into neighbouring land. The culvert in neighbouring land is presumed to be in a similar poor state of repair to the existing culvert on site.
- 10.34 There are recorded flood events on the application site and neighbouring land, sourced from a chamber on the application site. As such, any increase of water through the culvert will result in an increase flood risk in extreme weather events.
- 10.35 Upon inspection of the chamber in the adjacent property, it was noticed that the inlet into this chamber was much smaller than expected. This would cause a restriction in more intense flows and lead to the culvert backing up. Considering the location of the flooding surcharge point, the LLFA assume the system below, up to the chamber with the restricted inlet, is the cause of the issue. As the riparian owner of this section of the watercourse, it is the resident's responsibility to maintain the culvert. Details of works that have taken place in the adjacent land is currently unknown. Any works that have been undertaken on this section of the culvert has gone unbeknown to the council and therefore unauthorised.
- 10.36 While there would be an increase in water into the culvert, it is to be limited to 3litres a second. The culvert is anticipated to currently accommodate 400 litres a second, which is considered to be a very limited increase. On balance, considering the improvement works proposed to the culvert and the minor flow rate of 3litres a second, on balance officers and the LLFA do not object to the proposed arrangement.
- 10.37 The impact this may cause is being considered at this time alongside the Lead Local Flood Authority who have expressed objections to any increase in flood risk (regardless of how minimal), along with the wider planning balance, with a final assessment to be provided within the committee update.
- 10.38 Notwithstanding this, it would be welcomed if the applicant and neighbouring land owners could discuss an alternative and improvement of the culvert within 3rd party land ownership. This is currently being explored.

Ecology

- 10.39 The site is within a bat alert area and the nature of development has the potential to impact on any local protected species. Accordingly, the application was supported by an Ecological Appraisal. The appraisal summarised that the site had 'moderate' roosting potential.
- 10.40 The Ecological Appraisal has been reviewed by K.C Ecology, who concur with its findings and recommend conditions for further investigation works be imposed. They also support the proposed enhancement strategies, however note they will need updating within the further investigation works' report. Accordingly, subject to conditions, officers are satisfied that the proposed development would not harm local ecology and would provide a net benefit, in accordance with PLP30 and Chapter 15 of the NPPF.

Air Quality

- 10.41 In accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within PLP24 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm.
- 10.42 Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.

Representations

- Six houses is too many and will result in overdevelopment that harms the area's visual amenity, road safety issues, local ecology and flooding.
- Reducing the development to five units does not overcome previous concerns. Five units is still an overdevelopment.
- The site is too small for five units and will be out of keeping with the surrounding building plots.

Response: Officers shared the opinion that six units was an overdevelopment. The number of units was reduced to five and their scale lowered. On balance, for the reasons given in paragraphs 10.5 – 10.7, the amended proposal is not considered to represent an overdevelopment.

- The dwellings are too large, being in essence three storeys.
- The proposal (amended) detracts from the visual amenity of the area.

Response: The dwellings are two storeys, with rooms in the roof space served by Rooflights. There are no second floor dormers. Officers consider the visual impact to be acceptable on the planning balance.

- Note that the LLFA objects to the development and that they recommend it is improved in 3rd party land.

Response: The LLFA did express initial objection to the proposal and advised that the applicant explore improvements on 3rd party land. While this recommendation remains, following further discussions and negotiations the LLFA on balance no longer object to the proposal, giving weight to the site wide improvements and the limited increase of 3litres a second.

- The proposal (amended) harms the amenity of neighbouring residents through overbearing and overlooking.
- 1.8m high timber fencing does not provide sufficient privacy. Hedging would be more welcomed.

Response: An assessment of the proposal's impact on neighbouring residents has been undertaken within sections 10.14 – 10.23. It was concluded that, on balance and subject to conditions, the proposal would not cause material harm to the amenity of neighbouring residents.

- Planning applications on site have been refused in the past. One was refused as it represented back land development and would harm the amenity of neighbours.
- Another was refused due to the culvert on site and flooding concerns.
- One was refused as it represented back land development and would harm the amenity of neighbours.
- The proposal will result in an unacceptable increase in traffic in the area. A past application was refused as suitable sightlines could not be achieved.

Response: Each application is assessed on its own merits. The referred to applications are historic and carry limited weight. The issues raised have been addressed within the above report, with this proposal being materially different.

- The developer felled trees before seeking planning permission. These benefitted from an area TPO. This has harmed local ecology.

Response: The felled trees were determined not to benefit from a TPO by K.C. Trees officers.

- While there is a housing shortage, the approval of five units will not change that.

Response: This is noted, however the proposal is not relying on the provision of housing at a time of shortage to establish the principle of development.

- The development should be considered in the context of Halifax Road improvements. More traffic will cause more noise and pollutant.
- The proposal will lead to parking on Birkby Road, which has numerous drives / roads connecting in close proximity. The garages are too small.

Response: The Halifax Road improvements are noted, and while close by will not be prejudiced or impacted upon via the proposed development. The works are to enhance capacity and efficiency on the Highway Network and will not conflict with the development. Each dwelling has three parking spaces, which is considered acceptable for their scale and should not lead to parking on Birky Road. This is giving weight to the garage sizes.

- The proposal will cause odour pollution.

Response: As residential development, this is not anticipated by officers.

- There are insufficient services, inc. doctors and schools, in the area.

Response: As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices/health centres based on an increase in registrations. Notwithstanding the above, given the small scale of the scheme it is not considered reasonable in this instance to require a contribution towards health infrastructure.

- Loss of trees and green space in the wider area.
- Any new planting should benefit from a TPO.

Response: While the loss of the garden is noted, it is not public green space. A landscape strategy is to be sought via condition. While officers could not impose TPOs on new Trees, newly planted vegetation would benefit from five years of protection via the condition.

- The existing house is fine and does not need to be demolished. It complements the Edgerton Conservation Area.
- The proposal would harm the Edgerton Conservation Area.

Response: While it is noted that the existing house does not 'need' to be demolished, this is not a material planning consideration. Its removal, and the proposed development, are not considered to prejudice the special character and interest of the wider Edgerton Conservation Area, which they are adjacent to.

- The tree survey was done at the wrong time of year.

Response: The Survey has been reviewed by K.C. Trees who find the methodology and findings acceptable.

- The council should not consider an application just in the name of greed.
- There is a covenant on the land preventing additional dwellings.
- The proposal will lower local house prices and affect their views. Construction will cause noise and dirt pollution.

Response: The above are not material planning considerations, being private matters for the developer. Construction noise and dirt would principally be an issue for Pollution and Noise, although the Construction Management Plan will part address this.

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 The site is unallocated land and partly brownfield land. As the proposal seeks to increase the density of residential development, at a time of shortage, the principle of development is considered acceptable.
- 11.3 While a higher density than the surrounding development, this is on balance not considered unreasonable and would not materially harm either the visual amenity of the area or the amenity of neighbouring residents. The access and Highway arrangements would not prejudice the safe and efficient operation of the Highway, with a good internal layout for vehicles. The protected trees on site are to be retained and ecological and air quality enhancements are to be achieved. Final discussions are taking place regarding Drainage and are to be reported within the update.
- 11.4 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
2. In accordance with plans
3. Materials
4. Charging points
5. Landscape details
6. Footway reinstated before use
7. Sightlines to be provided and protected
8. Construction management plan
9. Ecological Impact Assessment
10. Development in accordance with Arboricultural Method Statement
11. Material
12. Landscaping
13. Windows to be obscured
14. Drainage done in accordance with plans
15. Remove Permitted Development rights

Background Papers

Application and history files

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/93326>

Certificate of Ownership

Certificate B signed. Notification served on; Mr D. Taylor.

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Mar-2019

Subject: Planning Application 2018/93073 Erection of three storey side and single storey rear extension and erection of dormers 215, Birkby Road, Birkby, Huddersfield, HD2 2DA

APPLICANT

N Uppal

DATE VALID

20-Sep-2018

TARGET DATE

15-Nov-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: LINDLEY

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 in this report.

1.0 INTRODUCTION:

The application was originally brought to Planning Committee at the request of Cllr Burke who has provided the following reason:

As the plot is more than large enough to accommodate the proposal, I do not consider that it will have a negative impact on the visual amenity of the local street scene.

- 1.1 The Chair of the Sub-Committee confirmed that Cllr Burke's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.
- 1.2 Members visited the site and considered the application at the Sub-Committee meeting on 24th January 2019. Members resolved to defer the application and requested officers to negotiate an amended scheme with the applicants.

2.0 SITE AND SURROUNDINGS:

- 2.1 215 Birkby Road, Birkby is a two storey detached dwelling built of brick and a concrete tiled roof, located to the south of Birkby Road, on the inside of a long sweeping bend, close to the junction with Reap Hirst Road. The property and the adjacent property No. 217, were both built in the 1960's, in the grounds of 'Inglewood', a large Victorian Villa, where both properties are set back from the road with a low wall running along the front of the property. The property benefits from a drive along the west facing elevation, leading to a detached double garage with storage above in the south west corner of the garden. Within the rear amenity space in the south east corner are mature trees protected by a Tree Preservation Order. The property is a modest size, sat within relatively large gardens giving an open aspect characteristic to the area.

3.0 PROPOSAL:

- 3.1 The application, as now amended, seeks permission for the erection of a single storey front, two storey side and single storey rear extension to the existing property to form a 5 bedroom dwelling across 3 floors with a large storage area with en-suite and bedroom no. 5 located in the attic. At ground floor the accommodation would comprise of two lounges, dining kitchen area, study, laundry room, utility and WC.
- 3.2 The two-storey side extension would project from the gable by 5.8m by 11.7m including 4.05m projection from the rear elevation at ground floor, at first floor this would be reduced to the depth of the property with an additional 1.5m, a total length of 9.0m and would be 5.25m high to the eaves with the a gabled roof running at right-angles to the host property.
- 3.3 The proposed single-storey rear extension would have a projection of 4.05m by 9.6m the full width of the rear elevation linked into the proposed side extension, and with a monopitch roof.
- 3.4 The proposed single storey front extension would enlarge the proposed study, projecting 1.75m in line with the existing WC by 2.95m to the gable of the host property.
- 3.5 Finally within the roof space on the front elevation, there would be three equally spaced dormers, measuring 2.7m across, these would be set back from the gutter by approx. 0.45m with a dual pitched roof and would be set below the ridge by approx. 1m.
- 3.6 The proposed extension would be built from brick, with a concrete tiled roof. The front and rear ground floor elevations incorporate a number of larger glazed openings.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2016/93212 – Erection of two storey extension to side and single storey to front and rear. Conditional Full Permission

[http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2016/93212&file_referen
ce=605692](http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2016/93212&file_reference=605692)

2016/91082 – Erection of fencing on existing wall and vehicular and footway gates. Conditional Full Permission

2015/93128 - Erection of boundary wall and gates and formation of extension to dropped kerb. Refused

2015/91463 – Erection of garage extension, new boundary wall and gates and extension to dropped kerb. Withdrawn

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Originally discussions took place with the applicant and agent to request the scheme be amended to reduce the scale of extensions to follow the footprint of the previously approved scheme and change the roof to follow through over the extension rather than at right-angles. The request for amendments also included the removal of the rear first floor extension.
- 5.2 The application was first amended by reducing the rear first floor extension to 2m and removing 1 dormer on the side elevation.
- 5.3 The roof was initially changed to run through from the host property over the extension, however the applicant met with neighbours who, it was stated, preferred the original scheme. Therefore the application was reverted back to the originally submitted option with regard the roof of the side extension being at right angles to the main roof. This was the scheme presented to Sub-Committee on 24th January.
- 5.4 The application was considered by members at Sub-Committee on 24th January where members resolved to defer the application to enable potential amendments to the submitted scheme to be explored. Since that time officers have negotiated with the applicants and agent to secured further amendments to the scale and appearance of the proposed extensions. These have resulted in the following changes to the scheme:
- The large tapering overhang canopy, with a total additional projection of 1.2m along the front elevation of the side elevation has been omitted.
 - the roof pitch of the existing property has been re-surveyed and corrected to 37 degree roof pitch. This has resulted in the re-siting of the dormers in the existing dwelling and a reduction in the eaves and ridge height of the projecting element of the side extension beyond the rear elevation of the existing house.
 - reduction in width of side extension by 0.5m
 - addition of 3rd dormer in the front elevation of the extended property
 - reduction in the width of the extension projecting at first floor beyond the original dwelling. This has resulted in the original form of the dwelling to be read across the side extension.
 - the external walls would all be brick faced, omitting previously proposed panels of render and timber cladding.
 - forecourt slightly enlarged to allow at least 3 vehicles to park within the boundary.

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 (2019). 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 (2019), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

- 6.2 The Inspector's Report of 30/01/2019 concluded that the draft Local Plan provides an appropriate basis for the planning of Kirklees, provided that modifications are made to it. Given the conclusions of the Local Plan Inspector, adoption of the draft Local Plan is to be considered by Council on 27/02/2019. If Council resolve to adopt the Local Plan at that meeting, the Local Plan would carry full weight as the statutory development plan (effective immediately), and the UDP policies listed below would need to be disregarded.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

The site is located on unallocated land on the UDP.

6.3

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **BE15** - Dormers
- **T10** – Highway safety
- **NE9** – Retention of mature trees.

Kirklees Publication Draft Local Plan:

The site is located on unallocated land on the draft Local Plan.

- 6.4 **PLP1:** Presumption in favour of sustainable development
PLP2: Place shaping
PLP 24: Design
PLP 33: Trees.

National Planning Policy Framework:

6.5

- Section 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The proposal was advertised by a site notice and neighbour notification letters. The publicity period expired 01-11-2018. In addition, the agent has submitted amended drawings where neighbours have been given the opportunity to comment which expired on the 03-01-2019. On receipt of further amended plans on 8th February a third round of publicity was undertaken by neighbour notification letter. The period of publicity expires on 26th February.

7.2 Representations in opposition were made by a total of 4 local residents and another third party to the original plans.

7.3 A summary of the concerns and comments made to the original plans are given below:

Grounds of objection and concerns

- overlooking,
- loss of natural light
- Overbearing & intrusive element.
- No boundary screening
- Large areas of cladding
- Increase in traffic due to the extended family
- Scale of the extension is out of proportions and not sympathetic to the area.
- 3 –storey extension will appear taller given the difference in levels
- changes the visual character of the development and that of the neighbourhood. The size and mass of the extended property will dominate the locality and be out of proportion to other properties.

Following amended plans 2 letters were received and the comments are summarised below:

- No objections to the revised plan provided that any windows above ground level are frosted.
- Access would be dangerous.

Following receipt of amended plans Ward Councillors were notified and comments received from Councillors Burke and Eastwood as follows:

“We are writing to support the planning application proposal for an extension at 215, Birkby Road, Huddersfield, HD2 2DA (planning reference number: 2018/93073).

This is a modified scheme and we are satisfied that the applicant and architect have listened to the advice of planning officers and have proposed an amended scheme which is reduced in scale and is more in keeping with the surrounding area.

We are satisfied that the modified scheme is acceptable from a Highways perspective and that the applicant has provided a Road Safety Audit. We are also satisfied that there are adaptations to address privacy concerns and we recognise that the extensions will not encroach on adjacent trees and result in TPO trees being removed. We believe that the modified scheme will not have a negative impact on the neighbours.

We support the officer’s recommendation for approval at a future planning committee.”

Two representations have been made in respect of the latest amended plans summarised below (site publicity expired 26th February).

- The house is similar design wise to those in the area. The only outstanding issue for the writer concerns exiting and entering the drives from Birkby Road.
- The size and scale is out of keeping with the area
- The development does not adequately respect the character of the existing dwelling or its surroundings
- The development will still cause undue harm to existing occupiers.
- Insufficient evidence provided as part of the revised plans to suggest the tree can be adequately protected.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** none necessary

8.2 **Non-statutory:**

K.C Trees – No objections subject to condition

9.0 MAIN ISSUES

- Principle of development
- Design
- Residential amenity
- Highway Safety
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 The site is unallocated on the Kirklees Unitary Development Plan (UDP) proposals map and as such Policy D2 applies and does indicate that permission will normally be granted provided it would not have any prejudicial impact upon, for example, visual and / or residential amenity or result in the overdevelopment of a site.

10.2 The site is also without notation on the Kirklees Local Plan. Policy PLP1 states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. PLP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

In this case the principle of development, to extend the dwelling, is acceptable and shall be assessed against other material planning considerations below.

- 10.3 Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity), BE13 (extensions should respect the design features of the existing building), BE14 (extensions should not have an adverse impact on adjacent properties or land), and NE9 (mature trees should normally be retained).
- 10.4 PLP24 (a and c) of the Publication Draft Local Plan state: "Proposals should promote good design by ensuring that . . . the form and scale, layout and details of all development respects and enhances the character of the townscape...[and] extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers". Policy PLP33 (Trees) states that proposals should normally retain any "valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location, or contribute to the environment."

Design

- 10.5 The proposed development, as amended, seeks to substantially extend an existing dwelling to provide accommodation over three floors, as set out earlier in the report. This includes extending a total of 5.8m from the existing gable which would bring the dwelling approximately 3.5m from the boundary with Birkby Road at its closest point. This is 0.5m less than the previous proposal and has also removed the overhanging canopy and changed the roof form. The revised scheme still proposes extension to the front, side, rear and roof of the property resulting in a dwelling that would be significantly larger to that presently on site. However, the cumulative impact of the amendments made to the scheme are now considered, on balance, to be such that they would respect the character of the host building and townscape of this section of Birkby Road.
- 10.6 The revisions to the scheme previously considered by members have significantly altered the design and appearance of the side extension. As well as a reduction in footprint the roofline now follows the linear form of the host building and includes a slight reduction in the width of the projecting element to the rear. This sets it off the side wall of the extension such that the gabled roof form of the original property follows through the full width of the extension. In addition following the correction of the roof pitch, this projecting element is now set down from the ridge of the existing roof. The correction to roof pitch also results in the dormer windows being smaller elements in a larger roof – despite the addition of a third window. These amendments help to reduce the apparent mass of the extensions to the extent that the original property still has dominance on the site. This is a finely balanced conclusion and has taken into account the alternative extant permission to extend the property under application no. 2016/93212 which proposed the same form of side extension and palette of external facing materials.
- 10.7 The proposed side, west, extension would be particularly prominent in the streetscape due to sweeping nature of Birkby Road. The scheme previously presented to Members would have extended 16.8m in length when viewed from Birkby Road, the existing dwelling has a depth of approximately 7.75 metres. The revised scheme, including the changes to roof form, has reduced this to 11.70m at ground floor and 7.75-9.25m at first floor and omitted the canopy feature. At present the dwelling presents a blank west side elevation. Whilst

the amended scheme still proposes a number of openings in this elevation these are either secondary, obscure glazed or non-habitable which reduces their perceived impact. In addition the proposal to add a large panel of white render as a feature of this elevation has been omitted. This further reduces the visual prominence of the extension.

- 10.8 215 Birkby Road is presently a modest size property within relatively large grounds characteristic to the surrounding properties and area. The revised proposals to extend it would significantly enlarge the property but the design as amended is such that, on balance, it would now comply with Policies D2(vi & vii), BE1(ii) and BE2(i) BE13i & iii) of the Unitary Development Plan and PLP24 (a & c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy framework.
- 10.9 The host property, is built from brick with timber boarding detail below the first floor and ground floor windows to the left hand side of the porch and a concrete pantile roof. The proposed materials would be concrete tiles and brick throughout to match the host property which would be acceptable. The amended scheme has now deleted proposals to include large sections of timber cladding and white render. These materials in the proposed proportions were considered to give a stark appearance to the building out of character with the property and drawing further attention to the mass of the previously proposed side extension.
- 10.10 The three front dormers proposed now comply with Policy BE15 of the UDP in that they are set back from the gutter and ridge of the roof at a sufficient distance and they cover less than 50% of the total roof slope as extended. These no longer dominate the roof, although it is acknowledged they add mass to the overall scheme.
- 10.11 It should be noted that the treatment to the site frontage, including fence and gates referred to in the Design & Access Statement, were approved under application 2016/91082. The works include widening the site entrance and the erection of gates and fencing. The only alteration to this now proposed is to enlarge the forecourt to allow additional parking within the site. Subject to the surfacing being permeable materials, so as to avoid flood risk, there is no objection to this alteration.

Residential Amenity

- 10.12 The two-storey side extension would be over 12m from the nearest point on the curtilage of the residential property at the rear (in this case, 4 Brendon Drive) and 40m from the facing front elevation of no. 324 Birkby Road with "Four Gables" still further away to the side. It is considered that the side extension would not give rise to any significant overlooking of neighbours to the front and side, given the distance from neighbours.
- 10.13 The single-storey extension would be approximately 10.5m from the southern boundary of the site and it is considered that owing to its separation distance and small size it would not affect the amenities of no. 4 Brendon Drive.

- 10.14 The properties along Brendon Drive to the rear of the site are at a lower ground level than the application property. This has been taken into account in the design of the side extension where the windows in the attic facing south towards these dwellings are shown to be obscurely glazed with no windows in the first floor rear elevation. This could be controlled by condition in the interests of residential amenity and therefore it is considered that there would be no undue overlooking of the properties to the rear.
- 10.15 The adjacent neighbours at No 217 Birkby Road are located on the opposite side to the proposed two storey extension and there are no windows proposed that would adversely affect the privacy of this property.
- 10.16 Notwithstanding the scheme has been designed to avoid undue overlooking of neighbouring properties, the scale of the development was previously considered to result in an overbearing impact to no. 4 Brendon Drive to the south of the site. This formed the second reason for refusal in the report to members. This property is being at a lower ground level than the application site. The proposed separation distance between the extension and this dwelling is limited but has increased from 20.2m to 21.3m as a result of the amended plans. The perceived height of this element has also been reduced as a consequence of the correction of the roof pitch. Although this again is a finely balanced conclusion, it is considered these changes would result in a scheme that would provide a good standard of amenity for existing occupiers of this dwelling, in accordance with Policies D2 and BE14 of the UDP, PLP24 (b) of the PDLP and para 127 of the NPPF.
- 10.17 With regard overshadowing, the property is located to the north of properties along Brendon Drive and the protected trees located between the neighbours and proposal, which will already cast a shadow. It is considered the extension would not create undue overshadowing of the neighbours.

Highway issues

- 10.18 The proposed development does not involve any new or amended means of access to the highway. Existing parking and manoeuvring arrangements within the site would be unaffected save for an increase in the forecourt area. The detached garage would be retained and there would be space enough within the site to park at least four vehicles.
- 10.19 The works to the site entrance and boundary treatment have an extant permission under application 2016/91082 and are considered to be an improvement to the access situation. There are no objections to the proposals subject to a footnote regarding the required works to the highway.
- 10.20 In conclusion, the proposed development, if implemented in accordance with the submitted plans, would not create or materially add to highway safety problems, and would accord with the aims of Policies T10, T19, PLP21 and PLP22.

Representations

- 10.21 The concerns expressed to the original details are summarised below with officer responses:

- Overlooking,
Response: The windows shown at first floor level are set a distance of over 22 metres to the rear elevation with 4 Brendon Drive. This distance is considered sufficient to avoid loss of privacy to the occupants and is in accordance with Policy BE12 of the Unitary Development Plan and Policy PLP24 of the PDLP.
- Loss of natural light
Response: The proposed extension is north of the neighbours most effected by the proposal and due to the scale and height some natural daylight may be reduced by the extension
- Overbearing & intrusive element.
Response: Officers have concluded, on the basis of the amended plans that the development would not result in an unacceptable relationship being overbearing.
- No boundary screening
Response: It is acknowledged that the 3d drawings give the impression of screening where limited treatment exists.
- Large areas of cladding
Response: The concerns are noted and Officers recognise that the previous palette of materials proposed were not acceptable. The cladding has been omitted from the scheme.
- Increase in traffic due to the extended family
Response: It is accepted that the number of bedrooms and accommodation would increase family members, however the drive can adequately accommodate several cars. Informal discussion with highways have confirmed there are no objections in this respect.
- Scale of the extension is out of proportions and not sympathetic to the area.
Response: Officers agreed that the previously proposed extension proposed was not acceptable. These plans have been amended
- 3 –storey extension will appear taller given the difference in levels
Response: Officers agreed that the previously proposed extension proposed was not acceptable. These plans have been amended
- Changes the visual character of the development and that of the neighbourhood. The size and mass of the extended property will dominate the locality and be out of proportion to other properties.
Response: Officers agreed that the previously proposed extension proposed was not acceptable. These plans have been amended
- No objections to the revised plan provided that any windows above ground level are frosted.
Response: The windows at first floor level are considered to be sufficient distance to avoid any loss of privacy to nearby occupants. If necessary the windows could be obscurely glazed.

- Access would be dangerous safety of exiting and entering the drive from Birkby Road
Response: Alterations to widen the access have been approved under a previous application which remains extant. It is not considered that the works would result in any detriment to highway safety and discussions with Highways DM have confirmed that the increase in width would be beneficial.

Following re-advertisement of amended details comments have been received from Councillors Burke and Eastwood who support the proposals.

Two representations have been received which are responded to below:

- Concerns regarding access
Response: The access arrangements remain as previously approved. It is not considered that the works would result in any detriment to highway safety.
- The size and scale is out of keeping with the area
Response: The plans have been amended to address officer concerns. It is considered that the scale has been reduced sufficiently to address concerns and will not detract from the area.
- The development does not adequately respect the character of the existing dwelling or its surroundings
Response: The design has been amended to address concerns. The roof pitch runs through as advised by Officers and dormers located to the front which are not uncharacteristic of the area. The dwelling as extended will not detrimentally impact on the street scene or wider area.
- The development will still cause undue harm to existing occupiers.
Response: The size and scale of the development has been reduced so as to address concerns regarding the impact on neighbouring occupants. The amendments are considered to adequately address matters relating to bulk and mass. The scheme is not considered to result in any detriment to any neighbouring occupant.
- Insufficient evidence provided as part of the revised plans to suggest the tree can be adequately protected.
Response: Subject to condition (as outlined in section 12) there are no concerns regarding the impact of the scheme on protected trees. The KC Arboricultural Officer raises no objections.

Other Matters

10.22 *Trees*

The application is not accompanied by any information in respect of the impact on the protected trees within and adjacent to the site. The proposals show the trees to be retained and despite the submission of further information it remains unclear as to how the trees can be protected. The revised plans show the first floor stepped back and an absence in windows within the wall closest to the

tree, these design changes are welcomed. However, in order to ensure that the trees can be protected a tree survey and Arboricultural Method Statement, to include a tree protection plan, would be required to safeguard the trees during the works.

- 10.23 Subject to the imposition of a condition to ensure the trees can be protected, the development can be carried out in accordance with Kirklees Unitary Development Plan Policy NE9 and Publication Draft Local Plan Policy PLP33.

10.24 *Permitted development rights*

Should planning permission be granted the property would retain permitted development rights to erect outbuildings/enclosures, provided these complied with the regulations set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This could amount to an overdevelopment of the site which would be harmful to the visual amenity of the area and which could also have an adverse impact on the amenities of surrounding residents. As such it is recommended that permitted development rights for outbuildings be withdrawn by condition.

11.0 CONCLUSION

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

- 11.2 This application has been assessed against relevant policies in the development plan, emerging local plan and other material considerations and it is considered that the development, on balance, 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. Development within 3 years
2. In accordance with the approved plans
3. Matching materials
4. Withdraw permitted development rights for outbuildings
5. Permeable surfacing materials for extended forecourt area
6. No additional windows in the upper floors of the rear elevation of the extension.
7. Windows in the upper floors of the rear elevation to be obscure glazed.
8. Tree survey and Arboricultural Method Statement, to include a tree protection plan.

Background Papers:

Application and history files can be accessed at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93073>

Certificate of Ownership – Certificate A signed

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Mar-2019

Subject: Planning Application 2018/94133 Erection of two storey side, single storey rear extensions and front porch 8, The Crest, Bradley, Huddersfield, HD2 1QN

APPLICANT

A Hussain

DATE VALID

19-Dec-2018

TARGET DATE

13-Feb-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: Ashbrow

No

Ward members consulted

RECOMMENDATION: REFUSE

1. The two storey side extension proposed, by reason of its design, scale and siting on a prominent junction, would introduce an incongruous and discordant feature to both the host dwelling and the wider streetscene. This would materially harm the visual character and appearance of the area and be contrary to PLP24 (A) and (C) of the Kirklees Publication Draft Local Plan and Policies BE1 (i & ii), BE2 (i), BE13 (iv) and D2 (vi, vii) of the Kirklees Unitary Development Plan and Policies in Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is brought to Planning Committee at the request of Cllr Homewood who has provided the following reason:

“The decision on whether the development is acceptable is subjective and would benefit from a Committee site visit and decision.”

1.2 The Chair of the Sub-Committee has confirmed that Cllr Homewood’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 8 The Crest is a detached dwelling constructed from artificial stone walls and a concrete tile roof. The dwelling is set in a modest curtilage with a fair sized paved area to the front and a small garden to the rear. The dwelling is north facing. The property benefits from a driveway set in north east of the dwelling as well as an original garage. To the west is a further piece of land which falls within the curtilage of the property where the extension subject to this application is located.

2.2 The dwelling forms part of a larger housing estate granted permission in the late 1980s. The Crest is a cul-de-sac characterised by detached dwellings of plain design with open, lawned frontages. The road rises from south to north and no. 8 is prominently sited at the ‘T’ junction of The Crest. The rear elevation and the open land to the west of the house is clearly visible on entering The Crest.

2.3 The extensions subject of this application are largely completed. At the time of the officer’s last site visit the 2 storey extension on the west elevation, a porch on the front, north elevation and foundations for an extension on the south, rear elevation were present. Subsequently it can be stated this application seeks retrospective permission.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for single storey extension to the front and rear and a two storey extension to the side. These extensions are for the purpose of a porch, store, study/bedroom and sun room respectively.
- 3.2 The proposed side extension has a projection of 3m from the west elevation, a length of 6.35m, and a maximum height of 5.4m with the eaves at 3.85m. As seen on drawing 1753 6B, the store shall have a garage door like opening set just off from the existing dwelling, with a width of 2.4m and a height of 2.2m.
- 3.3 The porch has a projection of 1.5m, a width of 3m, and a maximum height of 3.3m with the eaves at 2.2m.
- 3.4 The proposed rear extension has a projection of 3.6m, a width of 4.6m and a maximum height of 3.5m with the eaves at 2.4m.
- 3.5 The materials proposed in the development match the existing property in its entirety with artificial stone for the walls, concrete tiles for the roof and upvc for the windows and doors.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The application includes development which is unauthorised and Planning Enforcement were first made aware of the works in May 2018. Enforcement gave the applicant the opportunity to apply for retrospective permission to which they did in July 2018 under application 2018/92485. This was granted planning permission for a lesser scheme than that on site. The main difference being the extension to the west of the dwelling was reduced to single storey in height.
- 4.2 2018/92485 – Erection for single storey side, front and rear extension was given conditional full permission.

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

- 5.1 No amendments have been sought on this application due to the extensive amendments on the previously approved application (2018/92485). The approved permission was granted 7 days before this new application was registered, and the 2018/92485 was originally submitted identical to this application before amendments as detailed below were negotiated, the applicant and agent were therefore aware of officer's viewpoints on the scheme as constructed.
- 5.2 Amendments negotiated on the 2018/92485 application related solely to the western, side extension and its subsequent development. The negotiations saw:
- The overall height of the side extension reduced to 4m to satisfy PLP24 in regards to scale and design details and the street scene.
 - The re-implementation of the footpath to satisfy PLP24 in regards to accessible space for all. This was conditioned.
 - The use to be a store, not a garage, with no parking on the driveway in front of the store; in the interests of highway safety, PLP21 and PLP24. Again this was also conditioned.

5.3 It would appear this application has included the re-implementation of the footpath and the use of the extension as a store feature that were negotiated on the previous scheme.

6.0 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 (2019). 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 (2019), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The Inspector's Report of 30/01/2019 concluded that the draft Local Plan provides an appropriate basis for the planning of Kirklees, provided that modifications are made to it. Given the conclusions of the Local Plan Inspector, adoption of the draft Local Plan is to be considered by Council on 27/02/2019. If Council resolve to adopt the Local Plan at that meeting, the Local Plan would carry full weight as the statutory development plan (effective immediately), and the UDP policies listed below would need to be disregarded.

6.3 Kirklees Publication Draft Local Plan

PLP1 – Presumption in favour of sustainable development

PLP2 – Place shaping

PLP21 – Highways and Access

PLP22 - Parking

PLP24 – Design

6.4 Kirklees Unitary Development Plan

D2 – Unallocated land

BE1 – Design principles

BE2 – Quality of design

BE13 – Extensions to dwellings (design principles)

BE14 – Extensions to dwellings (scale)

T10 – Highway Safety

T19 – Parking

6.5 National Planning Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published February 2019, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 12: Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised via site notices and neighbour letters. Final Publicity expired on 12/02/19. One comment was received in support of the application.

7.2 The lone comment, which was for support, stated the following comments:

- 'In line' with the rest of the house;
- Does not obstruct any other houses.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** None

8.2 **Non-statutory:**

- **Highways Development Management:** comments made advising that ideally 3 off street parking spaces should be provided, but the provision of 2 is on balance acceptable and the proposal should include the reinstatement of the footway.

9.0 MAIN ISSUES

- Principle of development
- Background
- Design
- Highway Safety
- Residential amenity
- Representations

10.0 APPRAISAL

Principle of development

10.1 The site is without notation on the Kirklees Publication Draft Local Plan. Policy PLP1 states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. PLP1 goes on further stating:

"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

In this case, the principle of developing the site for extensions is acceptable and shall be assessed against other material planning considerations below. This also adheres to Policy D2 of the UDP.

Background

- 10.2 As explained in section 5 above, this application is retrospective and the applicant originally applied for planning permission after an enforcement complaint was received. Currently the applicant has completed the majority of the external works for the two storey side extension and front porch.
- 10.3 A similar scheme to that now being proposed was submitted under application no.2018/92485, which after extensive amendments to the side extension to reduce the scale to single storey, approved extensions to the front, rear and side of the property. The permission approved granted a side extension which has a maximum overall height of 4 metres, 3 metres to the eaves with the current proposal having an overall height of 5.4 metres and 3.85 metres to the eaves.
- 10.4 This application also includes the front porch and rear extension in addition to the side extension, however it is noted that these elements of the proposal have gained planning permission under application 2018/92485 and this report will not provide a detailed assessment of these elements. Rather it will concentrate on the western side extension.

Design

- 10.5 The NPPF provides guidance in respect of design in chapter 12 (Achieving well designed places) with 124 providing an overarching consideration of design stating:
'124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'
- 10.6 Furthermore, paragraph 002 of the National Planning Practice Guidance (NPPG) Design states that the states:
"Good design should: Enhance the quality buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being."
- 10.7 Kirklees Publication Draft Local Plan policies PLP1, PLP2 and importantly, PLP24 are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive. With specific reference to extension it advises that: *"Extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers"*
- 10.8 Kirklees UDP Policies D2, BE1, BE2, BE13 and BE14 are also relevant which reflect guidance set out in PLP24.
- 10.9 The Crest is relatively unusual as it consists of a longer residential road leading in to a cul-de-sac as well as having a smaller cul-de-sac leading off it. The application site is considered to be in a prominent location and the site of the side extension is clearly visible from multiple views from the south, the west and from within the cul- de-sac which the application site is located off.

- 10.10 Whilst it is noted that the extension is set back from the front elevation of the dwelling this is the least prominent view. Rather the rear of the extension would be clearly viewed from within the local area, particularly from the south and west. Originally the host dwelling was designed with a clear setting back of property from the highway to create a spacious and open street scene, in line with the common design ethos of the wider estate. However the development of this area of the site, particularly due to its two storey scale, would erode this spacious and open street scene replacing it with a large and incongruous addition to the dwelling. This would be detrimental to the house property and the character of the local area and street scene.
- 10.11 Furthermore, whilst the development provides two floors and is classified as being two storeys in height, it appears as being 1 and half storeys in height with the roof space of the extension utilised to form the first floor room. The design approach of the extension has included large areas of blank stone wall above the store entrance on the front elevation and window on the rear elevation. Such a design lacks architectural detailing to help break up this mass of stone wall which is considered to detract from the visual amenity of the dwelling and character of the street scene.
- 10.12 In conclusion the proposed side extension is located within a prominent location and is considered to form an incongruous addition to the host property which would have a detrimental impact to visual amenity and the character and appearance of the local area. To permit such a development would be contrary to Policy PLP24 of the draft Local Plan and Policies D2, BE1, BE2 and BE13 of the UDP.
- 10.13 It is noted that the 2018/92485 application overcame the issue of design by securing amendments for the side extension to be reduced to a single storey 4m in height with the eaves at 3m. This reduction in size mitigated the poor design, such as the large amount of blank stone work, whilst reducing the overly prominent scale when factoring in the extension's siting. Planning Officers therefore consider that a single storey side extension as the most appropriate design approach for this part of the application site.

Highway Safety

- 10.14 Highways Development Management (HDM) were formally consulted in regards to the application along with an assessment of Policies PLP21 and 22 of the draft Local Plan, Policy T10 and T19 of the UDP have also been considered. HDM have advised that 3 parking spaces should be provided at the site given that the dwelling would have 5 bedrooms, along with the reinstatement of the footway to the front of the site which has been partly removed by unauthorised works by the applicant.
- 10.15 It is noted that the application site can only provide two off street parking spaces to the front/side of the dwelling as the existing garage of substandard internal dimensions to be counted as a space and it was observed on site that the garage is used for storage. However it is noted that the drive which serves the property to the front of the garage is relatively long and could, if necessary, accommodate two smaller vehicles. It can also be stated due to the nature of The Crest consisting of 2no. residential culs-de-sac and making up part of a wider housing estate, parking on street would not detrimentally affect the

highway safety of the area. Therefore, on balance, it is considered that the provision of only two parking spaces which meet the standard dimensions is acceptable.

- 10.16 The side extension has also stopped the use of a highway footpath and removed an element of the highway which allows pedestrians to cross the road using a dropped crossing. This is contrary to Policies PLP21 and 24 of the draft Local Plan and Policy T10 of the UDP as it prevents the needs of different uses being met and does not support the requirement to create accessible and inclusive places. This matter was brought to the attention of the Highways Registry Team on the previous application who have been investigating this matter.
- 10.17 In summary whilst plans submitted do show the footpath, currently this element of the highway has been removed during the building of this extension and needs to be reinstated at the earliest opportunity. A condition securing this works can ensure that this and was previously used on application 2018/92485. From a recent site visit it appears that these works are underway.
- 10.18 In conclusion, on balance Planning Officers considered that subject to appropriate conditions that the application would have an acceptable impact on highway safety.

Residential Amenity Issues

- 10.19 The National Planning Policy Framework seeks high quality design and a good standard of amenity for all existing and future occupiers of land and buildings. PLP24 (b) of the Local Plan states propels should:
“Provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings”
Policies D2 and BE14 of the UDP also seek to ensure that ‘residential amenity’ is taken into account in the assessment of application. In summary it is considered that the application would adhere to these policies for the following reasons..

10.20 No.10 The Crest

No.8 is set on a corner plot of the cul-de-sac meaning it is well-spaced from neighbours in most directions. No.10 The Crest is the neighbour most likely to be affected, however the extension to the rear of no. 8 is set approx. 4m away from the boundary with no.10. In addition the positioning of the garages between the rear gardens of no.s 8 and 10, combined with the fenced boundary treatment and single storey nature of the development adjacent no. 10 would mitigate the impact of this element of the scheme.

Other Neighbouring Dwellings

- 10.21 The side extension fronts a highway and the separation distance from adjacent dwellings means it will not materially impact the residential amenity in regards to overbearing, overshadowing and overlooking of the any dwellings opposite in any direction.

10.22 With regards to the front porch extension, it is considered that its small scale will not cause any material effect on the residential amenity of any dwelling within the vicinity of 8 The Crest.

10.23 In conclusion it is considered that the development would not cause material harm in regards to residential amenity would comply with the aims of PLP24 (b). No other neighbouring dwellings would be materially affected by the proposed development.

Representations

10.24 In total, 1 representation was received for this application, which was for support. It stated that the application:

- Is 'In line' with the rest of the house;

Response: Assessed within Design.

- Does not obstruct any other houses;

Response: Assessed within Residential Amenity.

11.0 CONCLUSION

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

11.2 This application has been assessed against relevant policies in the development plan, emerging local plan and other material considerations. It is considered that the development proposals do not accord with the development plan or emerging local 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 considerations.

Background Papers:

Website Link: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94133>

Certificate of ownership: Noticed served on Kirklees Council as highways authority

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Mar-2019

Subject: Planning Application 2018/90501 Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans) Stanley Mills, Britannia Road, Milnsbridge, Huddersfield, HD3 4QS

APPLICANT

Lindsays Allsorts Ltd

DATE VALID

13-Feb-2018

TARGET DATE

15-May-2018

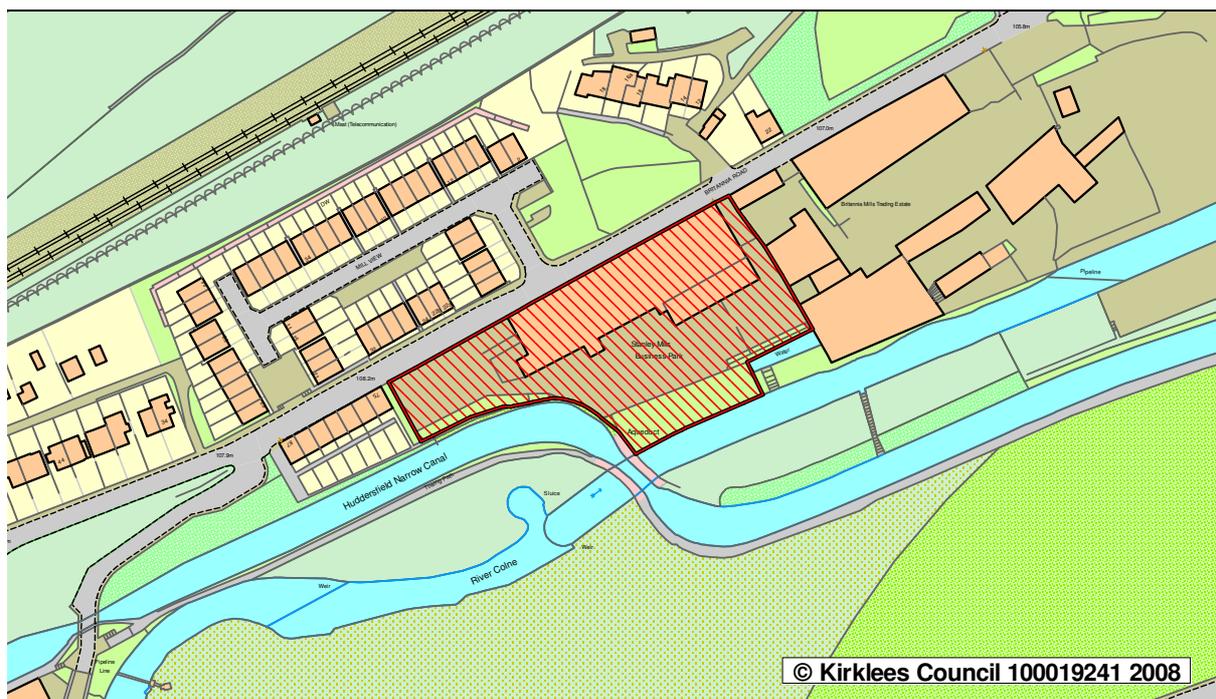
EXTENSION EXPIRY DATE

01-Dec-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: Golcar

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: Refuse

For the following reasons:

1) The site forms part of a wider Priority Employment Area as detailed in the Kirklees Publication Draft Local Plan. The provision of residential accommodation in this location would not be compatible with the allocation and would prejudice the continued use of neighbouring land for employment purposes and detrimentally affect the flexibility of those established uses. The proposal is therefore in conflict with policies D2 and B4 of the Kirklees Unitary Development Plan and policies PLP8, PLP24 and PLP52 of the Kirklees Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 This application is brought to the planning sub-committee for determination as the site area exceeds 0.5 ha but proposes less than 60 units.
- 1.2 The application was deferred by members at the Huddersfield Planning Sub-Committee on 13th December 2018. This was at the applicant's request in order to allow additional time to address all the matters of concern, including noise issues.
- 1.3 The applicant has now submitted a noise report, an amended transport statement, ecological impact assessment and a revised site plan.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site lies on Britannia Road approximately 800m to the west of Milnsbridge. The application site comprises a large four storey mill sitting within a hard surfaced area used for car parking. The site slopes down away from Britannia Road towards the Huddersfield Narrow Canal that runs along the rear boundary of the site. The ground floor/basement is below ground level at the front of the building that faces Britannia Road, but the sloping nature of the site means that the floor is at ground level to the rear of the site. Above that are three floors that follow the same footprint of the building.
- 2.2 According to the applicant the building was initially used for manufacturing purposes but has been used mainly for retail for the past 35 years, with it being the home of Lindsays Allsorts, who sold furniture, household goods, lighting and soft furnishings. The lower floor/basement and the top floor were used as storage, whilst the middle two floors, the ground floor and the first floor, were used for retail use. The building is now vacant.

- 2.3 The site forms the western end of a linear area of employment uses that stretch from the centre of Milnsbridge along the area of land between Britannia Road and the Huddersfield Narrow canal.
- 2.4 To the north of the site, on the opposite side of Britannia Road lies a relatively new residential development comprising two storey semi-detached and terraced dwellings. To the west of this development, also on the northern side of Britannia Road, is a line of older semi-detached dwellings which are within the Green Belt. To the south of the site is the Huddersfield Narrow Canal beyond which is an area of woodland.
- 2.5 The site is identified in the emerging local plan as being within a Priority Employment Area. It is unallocated in the Unitary Development Plan.

3.0 PROPOSAL:

- 3.1 The proposal seeks change of use to create 42 dwellings comprising a mix of one and two bedroom flats and the re-configuration of the retail floorspace to create 750m² of modern retail floorspace on the ground floor.
- 3.2 It is also proposed to introduce 8 small light industrial units (B1c use class) within the ground floor, each of which would include a loading bay accessed from the car park/servicing area at the rear of the building. The remainder of the ground floor would be used as a service/storage area.
- 3.3 In order to facilitate the above, alterations are proposed to the building including the removal of the existing rear lean-to extension and the replacement of windows. Larger window openings would be formed within the rear elevation to include Juliet balconies at regular intervals along the rear elevation. A total of 80 car parking spaces are proposed comprising 18 retail spaces, 8 spaces for light industrial units and 54 residential parking spaces.
- 3.4 For members information this proposal was not the subject of any pre-application discussions.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2007/95241 – Use of existing car park to park 22 private hire vehicles – refused.

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

- 5.1 Originally the application involved 63 residential units and 600m² (retained) retail floorspace.
- 5.2 The applicant has revised the scheme to remove residential accommodation within the basement and at ground floor level. As a consequence the total number of units has been reduced to 42. Eight light industrial units (B1c) have also been included within the ground floor. Further amendments have been made to the parking and overall layout.
- 5.3 Additional detail has been provided in response to initial comments from the Canal and Rivers Trust and additional noise, ecology and highways information submitted.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The 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 (2019). 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 (2019), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The Inspector's Report of 30/01/2019 concluded that the draft Local Plan provides an appropriate basis for the planning of Kirklees, provided that modifications are made to it. Given the conclusions of the Local Plan Inspector, adoption of the draft Local Plan is to be considered by Council on 27/02/2019. If Council resolve to adopt the Local Plan at that meeting, the Local Plan would carry full weight as the statutory development plan (effective immediately), and the UDP policies listed below would need to be disregarded.
- 6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:
- D2 – Development of sites without notation on the proposals map
 - B1 – Employment needs
 - B4 – Change of use of sites last used for business and industry
 - BE1 – Design principles
 - BE2 – Quality of design
 - BE12 – New dwellings providing privacy and open space
 - BE23 – Crime Prevention
 - EP4 – Noise generating development
 - EP6 – Taking into account existing and predicted noise levels
 - EP11 – Landscaping
 - H1 – Housing Need
 - H18 – Provision of Open Space
 - G6 – Land contamination
 - NE9 – Development affecting mature trees
 - S1 – Town centres and Local centres
 - T10 – Highway safety
 - T16 – Pedestrian Routes
 - T19 – Parking standards

6.4 National Planning Guidance:

NPPF Section 2. Achieving sustainable development
NPPF Section 7 Ensuring the viability of town centres
NPPF Section 12 Achieving well - designed places
NPPF Section 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change
NPPF Section 15. Conserving and enhancing the natural environment

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

PLP1 – Presumption in favour of sustainable development
PLP3 – Location of new development
PLP4 – Providing Infrastructure
PLP7 – Efficient and effective use of land and buildings
PLP8 – Safeguarding employment land and premises
PLP11 – Affordable Housing
PLP13 – Town centre uses
PLP19 – Strategic transport infrastructure
PLP 21 – Highway safety and access
PLP22 - Parking
PLP24 - Design
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP49 – Educational and health care needs
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.5 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application was publicised by way of site notice, neighbour notification and press notice. The following representations have been received which can be summarised as follows (3 objections and 1 support):

- Privacy of residents at the Scarbottom cottages.
- The North side of the development would intrude on the privacy of the residents with being at height. Currently the windows on this elevation are opaque.

- Britannia Road isn't marked with a central line and so vehicles stray to one side or another, along with offset cambers this raises safety concerns along with an increase in the volume of traffic.
- Narrowness of pavements and overgrowing vegetation causing people to have to use the roadway in places along Britannia Road. No pavement at present or possible on the mill side of the road.
- Concerns over noise and "out of hours" use. This is already an issue with existing work units next door to the development - late night & weekend use and noise, when permission is apparently for reasonable daytime use only.
- The site has the main mill buildings on the line of the highway with no pavement. Whilst there is a pavement on the opposite side of the road this is less than 1.20 metres wide in places (Public footpath HD 285A). Britannia Road is straight and relatively level and cars travel at speed along this length of road. There are bus stops on Britannia road and local residents walk into Milnsbridge along Britannia Road.
- Some sixty three flats are proposed for the development of which a number of the occupants will use transport other than car. A new development opposite the site at Mill View has created further dwellings with their entrance opposite Stanley Mills.
- Cars from the Mill View development whilst having off street parking spaces tend to park on Britannia Road and this can be quite intensive at times. The number of dwellings from this proposed development and the recent Mill View development will significantly increase the use of the single pavement. This together with the intensified vehicle movements needs to be considered in relation to highway safety.
- Highways must take into consideration the narrow width of the single pavement on the opposite side of the road to this proposal. Just yesterday a lady had to push her pram in the roadway as the already narrow pavement obstructed by overhanging trees/bushes. I understand that it is not uncommon to see prams having to carry out this manoeuvre. Irrespective of the proposed development there is already a serious pedestrian safety hazard on Britannia Road. The highways officer does need to weigh up the intensification of both road and pedestrian traffic from the development together with an increase in cars parked on the highway (as has occurred after the recent Mill View development) and the impact in terms of safety on an existing single and very narrow pavement.
- We note the use of Stacker Parking which is not a convenient or quick way of parking for most people and will add to more vehicles parking on Britannia Road again adding to highway safety issues. How does parking layout work when the top car is needed? Car underneath reverses out blocking one way system whilst lift operates, top car is then reversed and driven off the bottom car returns?
- The only hard surfaced non parking around the existing building is an area marked on site survey as unsafe for manned access, detail collected remotely. The residents will need to car travel or walk to find any nearby amenity space and it is currently not a safe environment for walking with the narrow pavement on one side of the road only.

- Will the car stacking systems be visible from the canal 3.5m high lines of stackable vehicles would not be the most attractive of views for residents or from a high value amenity such as a canal towpath.
- Land allocation – as per the recent refusal for residential use on the nearby site (to the east) on the opposite side of road . 2018/60/91018/W Reason for refusal –

The proposal would result in the loss of part of an employment allocation (B1.5) contrary to Policy B1 of the Kirklees Unitary Development Plan. In addition given the sites close proximity to an existing, unrestricted employment use on the opposite side of Britannia Road, the, the residential use would be incompatible with, and prejudice its continued use as employment land, contrary to Policy PLP8 of the Emerging local Plan.” The application would appear to be in conflict with above policy for this area which seeks to maintain an employment use.

- I am broadly in support of the proposed plans (2018/90501) to renovate the former Lindsays Allsorts building into 63 new residential units and refurbished retail space. The building has fallen into a state of disrepair, the apartments will provide accommodation to address the housing shortage and it will bring new people to the area.
- My one major concern is the access along Britannia Road. There is a major bottleneck along a 120 m (400 ft) section at the junction with Scar Lane due to the cars parked in front of the houses which effectively reduces the road to a single track. In the middle of the day when residents are out this is less of an issue but in the mornings and from late afternoons onward it can become a major problem due to the volume of traffic in both directions. This traffic includes heavy lorries visiting the industrial units on Britannia Road and therefore it can be necessary to reverse for considerable distances in order to give way and/or for queues to form back out onto Scar Lane. Furthermore, the speed at which some motorists approach this blind bend along Britannia Road adds an additional danger. I not sure how best these issues can be resolved as I am sure the residents along that stretch of Britannia Road will, understandably, not take kindly to being told that they can no longer park in front of their houses (even if alternative off-road parking were to be provided), there is little room to allow the road to be widened, an additional access road would be expensive and making Britannia Road one-way would, I expect, be highly unpopular. However, this does need to be addressed as 63 new residential properties on Britannia Road will add considerable amounts of traffic and especially so at rush hour when these problems are most acute.

Councillor Hilary Richards makes the following comments:

“Apart from some concern about exiting into Scar Lane from Britannia Road I cannot see arguments to stop this development apart from technical ones that planning will have looked into I am concerned about the exit into Scar Lane however and wonder if traffic lights at this T-junction might be considered”.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C.Highways DM – The revised Transport Statement does not fully address the highway concerns. Further information is required in relation to the servicing requirements for the different uses within the building along with refuse vehicle swept paths. Sightlines onto Britannia Road should also be provided. The applicant has not commented on the poor standard of the pedestrian access to public transport, as raised by objectors.

Canal and Rivers Trust – No objection subject to a condition.

Environment Agency – No objection.

8.2 Non-statutory:

K.C Ecology – Ecological Impact Assessment submitted and is being considered. Response to be provided within the written update.

K.C Education – No education contribution is required

K.C. Environmental Health – No objections based on the revised noise report which proposes secondary glazing to all elevations. Conditions relating to air quality and contamination are recommended.

K.C. Strategic Drainage – No objections

K.C Landscaping – Concerns raised with the amount of landscaping and outdoor space for future residents. The development triggers a requirement for public open space (POS) within which there should be a Local Equipped Area of Play (LEAP) with its own commuted sum. The proposal shows no public open space being provided on site. We would recommend a contribution towards the proposed playable spaces within the recommended guidelines of a 15 m walk, namely Crow Lane Rec.

Public Rights Of Way - PROW has no 'in principle' objection to development here (change of use and alterations) but there are concerns that a development of this nature has no indication of proposals or improvements relating to non-vehicular sustainable transport, potentially including the local PROW network. The local planning authority is asked to consider making a requirement for a reasonable and appropriate scheme.

9.0 MAIN ISSUES

Principle of development
Character, appearance and layout
Heritage
Highway safety and efficiency
Drainage and flood risk
Air quality
Ecological Issues
Infrastructure
Conclusion

10.0 APPRAISAL

Principle of development

10.1 The application site is without notation on the UDP proposals map and it is therefore considered that the principal policy determining the suitability of this proposal with regard to the UDP is D2 which indicates that development on such land will be permitted provided that the proposals do not prejudice:

- i the implementation of proposals in the plan;*
- ii the avoidance of over-development;*
- iii the conservation of energy;*
- iv highway safety;*
- v residential amenity;*
- vi visual amenity;*
- vii the character of the surroundings;*
- viii wildlife interests; and*
- ix the efficient operation of existing and planned infrastructure.*

10.2 Policy B4 of the UDP is also relevant as it states:

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:

- i) The suitability of the land and premises for continued business and industrial use;*
- ii) The availability of business and industrial premises of equivalent quality;*
- iii) The number of jobs likely to be created or maintained;*
- iv) The compatibility of the proposed use with surrounding uses;*
- v) The effect on the future operational flexibility of any neighbouring businesses;*
- vi) The effect on any buildings or architectural or historic interest;*
- vii) The effect on local amenity;*
- viii) The effect on the local highway network; and*
- ix) The potential for the site to be served by rail*

10.3 With regard to the Local Plan, the NPPF provides guidance with regard to decision making and the emerging plan (para 48):

“Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).” (NPPF, Paragraph 48)*

- 10.4 The site forms part of a wider Priority Employment Area allocation in the Kirklees Publication Draft Local Plan (PDLP). Policy PLP8 sets out the Council's approach to safeguarding employment land and premises in Priority Employment Areas. It states:

Policy PLP 8

Safeguarding employment land and premises

1. *Proposals for development or re-development for employment generating uses (as defined in the Glossary) in Priority Employment Areas will be supported where there is no conflict with the established employment uses (as defined in the Glossary) in the area. In instances where the site is out of centre and the proposal includes main town centre uses then policy PLP 13 will need to be applied.*
 2. *Within Priority Employment Areas, proposals for redevelopment resulting in a non-employment generating use, or for the conversion or change of use of sites and premises in use or last used for employment, will only be supported where:*
 - a. *it can be demonstrated that the site or premises are no longer capable of employment use; and*
 - b. *the proposed use is compatible with neighbouring uses and where applicable, would not prejudice the continued use of neighbouring land for employment.*
- 10.5 Paragraph 48 of the NPPF advises that weight may be given to relevant policies in emerging plans according to the stage of preparation, the extent of unresolved objections and consistency with the Framework. The Emerging Plan has been examined in public and found to be sound and the adoption of the Local Plan will be considered by the Council on 27th February 2019. The Emerging Plan is therefore a material consideration to which significant weight is attached. The implications of this proposal on the plan must therefore be considered, bearing in mind this site is outlined as part of a larger Priority Employment Area in the PDLP (KR3).
- 10.6 In response to this policy, the applicant states that between 1990 and December 2016, the bottom two floors of the building were occupied by Lindsays Allsorts (Furniture Retailer). Lindsays announced their closure in Dec 2015. The building was then occupied by 'Furniture by Stan' between December 2016 and December 2017. At its peak Lindsays employed between 8 and 10 FTE staff, including two directors. During the 26 years on the site the numbers fell, as the business became less viable. Furniture by Stan, who took over the building, operated with two Directors and a delivery driver, but they were unable to make a success of the business and closed in December 2017.
- 10.7 During the 26 years Lindsays operated on the site they were continually looking to increase the efficiency of the building by looking to attract new users to increase the occupancy of the building, which was always under used. This would have helped with the viability of their business. During those years a number of businesses moved into the building, including Nicco Bathrooms, Carpet Mill, Ultra Finishing, Rug Traders, Global Arts, Cookware, My English Bistro and finally Parkys Bistro, but none were able to operate a viable business in that location and either closed or took premises elsewhere.

- 10.8 Upon taking ownership of Stanley Mills the applicant explored a number of options for the mill. According to the applicant the fabric of the building is old and not suitable for flexible redevelopment. The plans submitted with the planning application show that there are two columns of 23 supporting cast iron pillars that run along each floor. These restrict the efficient use of the space making redevelopment costly. B1 and B2 uses do not generate the levels of income required to redevelop the building. The proposed residential development provides a viable use for the building, enabling Lindsays Allsorts, which is an established name in that location, to operate from a smaller more viable footprint. This will ensure the number of jobs provided previously in the building can be maintained, with expectations that the business can flourish creating more employment opportunities in the future.
- 10.9 Officers have considered the applicant's submission. However, the proposed residential element lies in within the emerging Priority Employment Area (PEA) and given the nature of the neighbouring uses at Britannia Mills Trading Estate and the unrestricted nature of those uses (in terms of hours of operation), the provision of residential in this location could significantly affect existing uses and the provision of future employment uses within the PEA.
- 10.10 The emerging policy is intended to prioritise employment uses over non-employment uses. It recognises the important role PEAs play in providing local employment opportunities and contributing to the local economy, whilst allowing flexibility for change of use if certain criteria are satisfied. The PEAs that have been allocated within the Plan are necessary to meet the council's employment land supply and its ambition to increase jobs growth above baseline trends, achieve expansion of the manufacturing and engineering sector, and attain an employment rate of about 75% by 2031.
- 10.11 PEAs are based on a wide ranging assessment of the suitability of existing employment sites for continued business and industrial use. The proposal represents a loss of part of the employment land use, albeit with the provision of some new light industrial units within another part of the building. Much more significantly however the proposal would prejudice the operational flexibility of established employment uses on the adjacent part of the PEA. There is also the potential that the PEA could be redeveloped at some point in future and residential development could provide a substantial constraint for any such future development.
- 10.12 In summary the council's employment strategy over the plan period is based on the retention of established business uses within the PEAs and officers consider that the application would unacceptably compromise this Priority Employment Area.
- 10.13 It is also noteworthy that the Strategic Planning Committee refused an outline application for residential development (2018/91018) further to the north east of the site and on the opposite side of Britannia Road. This application site is directly opposite Britannia Mills Trading Estate and was refused in June 2018 for the following reason:

The proposal would result in the loss of part of an employment allocation (B1.5) contrary to Policy B1 of the Kirklees Unitary Development Plan. In addition given the sites close proximity to an existing, unrestricted employment use on the opposite side of Britannia Road, the residential use would be incompatible with, and prejudice its continued use as employment land, contrary to Policy PLP8 of the Emerging local Plan.

- 10.14 Members should note that site 2018/91018 was in the current employment allocation whereas the current application site lies on an unallocated land in the UDP. However, in that particular case members raised objection with the close proximity of the site to the unrestricted employment use at Britannia Mills Trading Estate and the fact that it was incompatible with the emerging Local Plan which designates the whole area as a Priority Employment Area. The applicant has appealed the refusal of planning permission and a decision is awaited.
- 10.15 The applicant did not make representation on the emerging Priority Employment Area designation as part of the Local Plan process. Whilst the applicant has stated that attempts have been made to market the site and there is clear evidence that the existing building has not managed to secure a long-term tenant for some time, the site has not been marketed in light of the emerging Local Plan Priority Employment Area designation. In addition, whilst the applicant has stated that the residential element is necessary in order to secure the long-term viability of the site, no financial evidence has been submitted in support of the application. In light of all the above, it cannot be concluded that there is no reasonable prospect of the site being used for employment generating purposes in the foreseeable future. Fundamentally, therefore, the proposal fails to satisfy policy PLP8 of the PDL.
- 10.16 Furthermore, UDP policy B4 states, *inter alia*, that proposals involving the change of use from business uses should consider the compatibility of the proposed use with surrounding uses and the effect on the future operational flexibility of any neighbouring businesses. Whilst the proposed development would create additional jobs and help retain the existing building thus complying with elements of policy B4, the provision of residential is considered to be in overall conflict with the policy by the way it would affect the surrounding uses and flexibility of neighbouring uses in the future.
- 10.17 In terms of the retail element, retail on site is an established use and the proposed development involves consolidating this into a smaller floor area. There is no conflict with policy in this respect given the fall-back position.

Character, Appearance and Layout

- 10.18 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Policy PLP24 of the emerging Local Plan sets out how proposals can promote good design. Section 12 of the NPPF indicates that good design is a key aspect of sustainable development and that poorly designed development should be refused.

- 10.19 The conversion of the units would bring about benefits because it would allow a redundant mill building to be brought back into use. Whilst the building is not listed, on the face of it the building appears in good condition and is an example of a Victorian mill building which makes a positive contribution to the character and appearance of the street scene. The external alterations to the building are considered to be sympathetic to the host building.

Heritage

- 10.20 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving listed buildings or their settings. Policies BE1 and BE2 of the UDP focus on good quality design. Chapter 12 of the NPPF focuses on good design, chapter 16 relates to heritage assets. Policy PDLP35 reflects the NPPF in respect of heritage assets.
- 10.21 There is a Grade II listed bridge over Huddersfield Narrow Canal and the River Colne. Given that the proposal involves a change of use with relatively minor operations to bring the building back into use, the impact on the Grade II listed structure is considered neutral. Furthermore, the existing mill building sits on a higher level and set back from the edge of the canal screened by trees and vegetation.

Residential amenity

- 10.22 The proposed units comprise 32no 1 bed units and 10no 2 bed units. The size of each of the flats is sufficient to provide a good standard of amenity for future occupiers.
- 10.23 The latest site plan includes a small area of residential garden area overlooking the canal towards the south west of the site and this would assist in providing an amenity area for future residents. The nearest public recreational space would involve a 250m walk to the west along Britannia Road then across the bridge to the canal towpath. There are also two play areas within a 15 minute walk, including Crow Lane Rec.
- 10.24 The applicant has carried out a broad assessment of the uses within the closest employment site which lies adjacent to Stanley Mills and within the emerging Priority Employment Area (Stanley Mills Trading Estate). This includes a handmade pine furniture company, a motor vehicle mechanics and a shot blasting company.
- 10.25 A noise report has been submitted by the applicant which proposes secondary glazing to all facades of the building. Kirklees Environmental Services have advised that the specification of glazing proposed would be sufficient to protect future residents from noise associated with proposed and existing non-residential development within and adjacent to the site. The emerging Priority Employment Area, including Stanley Mills Trading Estate, does not have any restrictions in terms of hours of operation for its existing businesses. Environmental Services are aware of this but consider that the specification of glazing would still be sufficient in the event that the hours of operation or the nature of the industrial uses within the Stanley Mills Trading Estate changed in the future. The unrestricted nature of the established uses within the PEA does however give rise to the possibility that other nuisances, for example odours, become a source of nuisance in the future.

10.26 In terms of the impact on existing properties, there are no properties on the opposite side of Britannia Road with habitable room windows facing the mill building. There is a new build property with a gable facing the mill building on the opposite side of Britannia Road. The only potential for overlooking would be into the rear garden of this property from the upper floors of the mill building which is approximately 10m away. However, given the fact the mill building is offset from this property, it is not considered that the rear garden would receive an unacceptable or significant level of overlooking. Consequently, the privacy of the occupiers of this property and all other properties within the vicinity of the site would be adequately maintained. In this regard the proposed complies with BE12 of the UDP and PLP24 of the PDLP.

Highway safety and efficiency

10.27 It is intended to serve the proposed development from an existing access point off Britannia Road. The existing hard standing area would be formalised into a parking and manoeuvring area for the businesses and residential element. Parking is also proposed in the basement.

10.28 Additional highways information has been provided. The revised Transport Statement does not fully address the original highway concerns and further information is awaited in relation to the servicing requirements for the different uses within the building along with refuse vehicle swept paths. It is also necessary for sightlines onto Britannia Road to be demonstrated. An update on these matters will be provided within the written update.

10.29 Subject to the submission of acceptable details to address the above the application is considered to be acceptable from a highway safety perspective.

Drainage and flood risk issues

10.30 The application site is located in Flood Zone 1 and at low risk from flooding from rivers.

10.31 The site also lies in an indicative critical drainage area. Critical drainage areas are a Kirklees classification and simply indicate areas within the district that are more problematic in terms of surface water flooding. The Lead Local Flood Authority have been consulted on the application and have not raised any objections to the application.

Air quality

10.32 The proposal is a major development and due to its likely impact on air quality in the vicinity would require measures to mitigate this impact. Officers consider that the impact on local air quality could be offset by the inclusion of electric charging points and the implementation of a travel plan to encourage more sustainable transport methods. These matters can be satisfactorily dealt with via appropriately worded planning conditions in accordance with PLP24 and the West Yorkshire Low Emissions Strategy.

Ecological issues

- 10.33 An Ecological Impact Assessment has recently been submitted and is being considered by the Ecology Unit. A full response will be provided on ecology issues within the written update.

Infrastructure

- 10.34 In accordance with para 56 of the NPPF planning obligations should only be sought where they meet the following three 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.

Education Provision

- 10.35 The council's School Organisation service has confirmed that no education contribution is required. The number of two bed units within the development does not meet the threshold for a contribution.

Public Open Space

- 10.36 Policy H18 of the UDP requires 30sqm of Public Open Space (POS) per dwelling on development sites in excess of 0.4 hectares. A contribution is also required towards locally equipped play areas. Policy PLP63 carries forward POS and play area contribution requirements into the Local Plan.

- 10.37 In this case an off-site lump sum contribution, in lieu of both POS and LEAP, would be required. The figure will be confirmed in the written update. There are two play areas within a 15 minute walk of the site, one of which is Crow Lane Rec. The contribution would be targeted at these two nearest play areas.

Affordable Housing

- 10.38 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. Policy PLP11 states that where a housing development would provide more than 10 homes the proportion of affordable homes should be 20% of the total units. In this case however the flats would be formed within the upper two floors of the building that have been, to all intents and purposes, vacant for a significant period of time. The applicant has advised that the second floor has been vacant for at least 20 years and the first floor has only been used for occasional storage use in connection with the ground floor retail use. As such the scheme would benefit from Vacant Building Credit and consequently no affordable housing contributions apply.

Sustainable travel

- 10.39 On developments of this scale it is normally expected that provision be made to encourage sustainable forms of travel. The PROW officer has raised concerns that the development provides no indication of proposals or improvements relating to non-vehicular sustainable transport, potentially including the local PROW network and considers that a contribution would be reasonable towards an appropriate improvement scheme. It is considered that

a contribution towards this should be secured by s106 with the level of contribution being based on standard requirements for the provision of Metro Cards.

11.0 CONCLUSION

- 11.1 The application site lies on an area of unallocated brownfield land on the UDP. Within the emerging Local Plan the site is designated as a Priority Employment Area, this is given significant weight as a material consideration in the assessment of this application.
- 11.2 It is against the context of the emerging Local Plan and the nature of the surrounding land uses that officers have significant concerns. The proposed residential element is adjacent to an established area of employment uses to the north east, which includes unrestricted B2 uses. The PDLP prioritises employment uses within the site and wider area. Consequently there are significant concerns that introducing a residential use in this location would undermine the potential of employment generating proposals within the wider allocation and impact on the flexibility of existing industrial uses. It is not considered that the requirements of B4 of the UDP and PLP8 of the PDLP have been met in this case.
- 11.3 In conclusion, the tilted balance in favour of sustainable development as advocated by para11 of the NPPF is engaged in this case, however there are impacts of granting planning permission which would significantly and demonstrably outweigh the benefits.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90501>

Certificate of Ownership – Certificate A completed.

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 7th March 2019

Subject: Planning Application 2013/93879

Previous grant of permission for erection of 27 dwellings Land at land adjacent Bird Riding 109 Upperthong Lane Upperthong, Holmfirth:

Clarification and revisions to provision of Affordable Housing Secured by Section 106 Agreement

Grid Ref: 413051.0 408274.0

Ward: Holme valley South



Location plan- not to scale; for identification purposes only

Electoral Wards Affected:

Holme Valley South

RECOMMENDATION:

DELEGATE authority to the Head of Strategic Investment to secure a Deed of Variation to the Section 106 Agreement as earlier authorised by Committee on 20 February 2014 in respect of application 2013/93879 to confirm the following matters:

- 1. Duration of the Affordable Housing Scheme as 20 years to align with an agreement between KNH (Kirklees Neighbourhood Housing)and QSH governing the provision of the Affordable Housing.**
- 2. To include reference to QSH (Quality Starter Homes) or PACE Trustees as Provider or Alternative Provider**
- 3. To permit the transfer at the expiry of the period during which tenants may purchase their dwelling of any remaining unsold dwellings to the Council or other Registered Provider or other providing organisation as may be agreed by the Council.**

1.0 INTRODUCTION

1.1 This report summarises proposed changes to confirm the duration of the affordable housing arrangements to align with housing management arrangements; and to further enable the provision of the affordable housing by a new provider. Due diligence undertaken by the intended new owner and provider of the stock has led to clarifications being sought, which have highlighted an inconsistency between the scheme management arrangements and the planning arrangements as set out in the section 106 agreement. These are matters which did not form part of members' consideration of the development proposals in 2014, and the issues are brought to Sub-committee for consideration.

2.0 BACKGROUND

The scheme as agreed

2.1 Following the grant of planning permission for the development, 15 Affordable family homes have been built on this site, secured through a Section 106 Agreement pursuant to delegated authority. The affordable housing has been acquired from the developer and is being provided by Quality Starter Homes, and is being managed by the Council's housing management company, Kirklees Neighbourhood Housing.

2.2 The S106 Agreement and subsequent deeds of variation allowed for affordable housing provision by a Registered Provider (e.g. Housing Association) and also by Quality Starter Homes, as the named 'alternative provider'. The management of the 15 homes in a 'rent – to- buy' scheme is being provided by Kirklees Neighbourhood Housing, following a similar model to pilot schemes provided in Scholes (Cleckheaton) and Chickenley.

2.3 At the time of considering the proposals, a presentation was given to Planning Sub-Committee by a representative of QSH, to outline the scheme and its operation. No reference was made in the planning application submission or presentation to Sub-Committee regarding the duration of the scheme, and consequently the affordable housing scheme as secured in the S106 Agreement is not bound by any time limitations. However, as this is a 'rent-to-buy' scheme where tenants may elect to buy their home, it is technically possible that all 15 homes on the site will be acquired by tenants within a 5 year period, or for some homes to have been sold, and others remaining tenanted.

Management agreement

2.4 The specific management arrangements for the provision of this affordable housing model were agreed after the sub-committee decision in a management agreement between QSH and Kirklees Neighbourhood Housing ('KNH').

2.5 The management arrangement as agreed between QSH and KNH provides for a 5 year period during which residents may elect to buy their home, with a discount provided from the amount of rental fees that they have paid to the landlord. Those residents not electing to buy their home may then remain as a tenant. The management agreement runs for 20 years from the date of the provision on the homes in 2017. At the end of the period, the owner (QSH) is free to dispose of the properties.

Transfer to a new provider

2.7 As is permitted in the management agreement, QSH as the investor-owner of the properties may transfer their current or remaining properties to any other owner. QSH are transferring their portfolio to another organisation, PACE Trustees Limited ('the buyer'). Consequently, this organisation will need to be recognised as the provider of the affordable housing in a new deed of variation to the S106 Agreement. KNH are retained as the property manager and this does not affect tenants' right to buy their home or remain within the management period as a tenant.

Issues for consideration

2.8 The main issue for consideration by for the Sub-Committee is to consider whether the proposed alignment of the duration of the scheme with the Management Agreement between QSH and KNH is satisfactory, namely the provision and management of the affordable housing scheme at 20 years from its delivery.

2.9 As the scheme is a "rent to buy model" with a 5 year period for residents to buy their home, it is possible –and expected – that in such a scheme the 15 homes could be acquired over time by sitting tenants, and that the units become a private market scheme.

2.10 It is possible, in uncertain market conditions or rising house prices, that some or all residents may elect to remain as tenants. Consequently, consideration needs to be given to what happens to sitting tenants of affordable homes at the end of the 20 year period. The owner can elect to retain or sell the stock, and as established in the agreement between KNH/QSH, the owner will offer the stock to KNH or the council to acquire. Consequently, there may be some sitting tenants whose circumstances and housing needs mean that they still need to live in an affordable home.

2.11 In this case, the Service Director for Housing and Growth has committed to acquire remaining affordable housing stock, which would retain the stock in the affordable housing pool. As a Registered Provider, the Council may already acquire the stock in reference to the S106 Agreement.

2.12 From a risk to the Council perspective, the nature of this transitional "rent to buy scheme", the risk is considered to be sufficiently low as to enable a recommendation of approval to revised arrangements in a deed of variation to the S106 Agreement. The acquisition of remaining unsold stock by the Council or KNH would have two benefits: the retention of the homes as affordable stock and avoid a situation where tenants may otherwise face uncertainty with a market landlord.

Next steps

2.13 If sub-committee agree to these changes, a Deed of Variation to the S106 Agreement will need to be agreed between the parties having an interest in the development comprising the

planning unit, namely the developer, current and intended owner of the properties, and the Council's management company KNH.

3.0 RECOMMENDATION

3.1 It is recommended that Sub-Committee:

- (i) Agree to the proposed revisions to align the affordable housing scheme to that as agreed between KNH/QSH and currently governing the operation of the affordable housing scheme;
- (ii) Note the commitment of the Service Director for Housing and Growth to pursue the acquisition of stock;
- (iii) Agree to PACE Trustees being named as a provider of the affordable housing on this site in addition to QSH , as the Provider or Alternative Provider of affordable housing;
- (iv) Delegate authority to the Head of Strategic Investment to secure a Deed of Variation to the Section 106 Agreement as earlier authorised by Committee on 20 February 2014 in respect of application 2013/93879 to secure the matters referred to in (i) and (iii) above.