

# Public Document Pack



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

**Julie Muscroft**

The Democracy Service  
Civic Centre 3  
High Street  
Huddersfield  
HD1 2TG

**Tel:** 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Wednesday 29 May 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 **1.30 pm** on **Thursday 6 June 2019**.

(A coach will depart the Town Hall, at 9.15am to undertake Site Visits. The consideration of Planning Applications will commence at 1.30 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 Nell Griffiths  
Councillor James Homewood  
Councillor Mohammad Sarwar  
Councillor Mohan Sokhal  
Councillor Sheikh Ullah  
Councillor Harpreet Uppal  
Councillor Donald Firth  
Councillor Paul Davies  
Councillor Andrew Marchington  
Councillor Anthony Smith  
Councillor Nigel Patrick  
Councillor Bernard McGuin

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  
Smith  
J Taylor

#### **Green**

K Allison  
S Lee-Richards

#### **Independent**

C Greaves

#### **Labour**

S Hall  
A Butt  
E Hill  
M Kaushik  
Simpson

#### **Liberal Democrat**

A Munro  
A Pinnock  
J Lawson

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of previous meeting**

1 - 6

To approve the Minutes of the meeting of the Committee held on 18 April 2019.

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**3: Interests and Lobbying**

7 - 8

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

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**4: Admission of the Public**

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

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**5: Deputations/Petitions**

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

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

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**6: Public Question Time**

The Committee will hear any questions from the general public.

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**7: Site Visit - Application No: 2018/93717**

Erection of extensions and alterations to dwelling, erection of detached garage with office/store above and related landscape works (within a Conservation Area) Eastwood House, 14, Green Cliff, Honley, Holmfirth.

(Estimated time of arrival at site – 9.35am)

Contact Officer: Callum Harrison, Planning Services

Ward(s) affected: Holme Valley North

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**8: Site Visit - Application No: 2018/90391**

Erection of hot food take-away adj, 364, Meltham Road, Netherton, Huddersfield.

(Estimated time of arrival at site – 9.50am)

Contact Officer: William Simcock, Planning Services

Ward(s) affected: Crosland Moor and Netherton

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**9: Site Visit - Application No: 2019/90734**

Erection of front and rear extensions and alterations 38, Longden Avenue, Beaumont Park, Huddersfield.

(Estimated time of arrival at site – 10.10am)

Contact Officer: Emma Thompson, Planning Services

Ward(s) affected: Crosland Moor and Netherton

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**10: 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 – 10.40am)

Contact Officer: Nick Hirst, Planning Services

Ward(s) affected: Lindley

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## **11: Site Visit - Application No: 2018/91300**

Change of use of dwelling to Class D1 (non-residential institution) and formation of parking and associated landscape works  
Newhouse Farm, New House Road, Sheepridge, Huddersfield.

(Estimated time of arrival at site – 11.00am)

Contact Officer: Emma Thompson, Planning Services

Ward(s) affected: Ashbrow

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## **12: Site Visit - Applications for four definitive map modification orders, to add a public footpath to the definitive map and statement, Highfields/Clare Hill, Huddersfield (DMMO application references 208, 209, 210 & 211).**

(Estimated time of arrival at site – 11.25am)

Contact Officer: Giles Cheetham Definitive Map Officer - Public Rights of Way

Ward(s) affected: Greenhead

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## **13: Local Planning Authority Appeals**

9 - 30

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

Ward(s) affected: Holme Valley South; Colne Valley; Crosland Moor and Netherton; Lindley

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## **Planning Applications**

31 - 32

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) on Monday 3 June 2019.

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

- 14: Applications for four definitive map modification orders, to add a public footpath to the definitive map and statement, Highfields/Clare Hill, Huddersfield (DMMO application references 208, 209, 210 & 211).** 33 - 42

The Planning Sub-Committee will consider a number of applications to record public footpaths to the definitive map and statement, Highfields/Clare Hill, Huddersfield.

Contact Officer: Giles Cheetham Definitive Map Officer - Public Rights of Way.

Ward(s) affected: Greenhead

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- 15: Planning Application - Application No: 2018/91300** 43 - 66

Change of use of dwelling to Class D1 (non-residential institution) and formation of parking and associated landscape works Newhouse Farm, New House Road, Sheepridge, Huddersfield.

Contact Officer: Emma Thompson, Planning Services

Ward(s) affected: Ashbrow

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- 16: Planning Application - Application No: 2018/93326** 67 - 86

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

(Estimated time of arrival at site – 10.40am)

Contact Officer: Nick Hirst, Planning Services

Ward(s) affected: Lindley

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- 17: Planning Application - Application No: 2018/93717** 87 - 98

Erection of extensions and alterations to dwelling, erection of detached garage with office/store above and related landscape works (within a Conservation Area) Eastwood House, 14, Green Cliff, Honley, Holmfirth.

Contact Officer: Callum Harrison, Planning Services

Ward(s) affected: Holme Valley North

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- 18: Planning Application - Application No: 2018/90391** 99 - 108
- Erection of hot food take-away adj, 364, Meltham Road, Netherton, Huddersfield.
- Contact Officer: William Simcock, Planning Services
- Ward(s) affected: Crosland Moor and Netherton
- 
- 19: Planning Application - Application No: 2019/90734** 109 - 116
- Erection of front and rear extensions and alterations 38, Longden Avenue, Beaumont Park, Huddersfield.
- Contact Officer: Emma Thompson, Planning Services
- Ward(s) affected: Crosland Moor and Netherton
- 
- 20: Planning Application - Application No: 2019/90623** 117 - 124
- Erection of cat cage and garden shed to front (within a Conservation Area).
- Contact Officer: Emma Thompson, Planning Services
- Ward(s) affected: Colne Valley
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### **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 18th April 2019**

Present: Councillor Terry Lyons (Chair)  
Councillor Nell Griffiths  
Councillor James Homewood  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor Sheikh Ullah  
Councillor Harpreet Uppal  
Councillor Bernard McGuin

Apologies: Councillor Donna Bellamy  
Councillor Mohammad Sarwar

**1 Membership of the Committee**

Apologies of absence were received on behalf of Councillors Bellamy and Sarwar.

**2 Minutes of previous meeting**

**RESOLVED** - The Minutes of the meeting held on 7 March 2019 were approved as a correct record.

**3 Interests and Lobbying**

Councillors McGuin, Ullah, Uppal, Homewood and Griffiths declared they had been lobbied on application 2018/91581.

**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 Site Visit - Application No: 2018/91581**

Site visit undertaken.

**7 Site Visit - Application No: 2018/94038**

Site visit undertaken.

**8 Site Visit - Application No: 2018/94039**

Site visit undertaken.

**9 Site Visit - Application No: 2018/93453**

Site visit undertaken.

**Planning Sub-Committee (Huddersfield Area) - 18 April 2019**

**10 Site Visit - Application No: 2018/91244**

Site visit undertaken.

**11 Site Visit - Application No: 2019/90030**

Site visit undertaken.

**12 Local Planning Authority Appeals**

That the report be noted.

**13 Planning Application - Application No: 2018/91581**

The Committee gave consideration to Planning Application 2018/91581 Erection of detached dwelling with access off Longwood Edge Road rear of, 481, New Hey Road, Salendine Nook, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from David Storrie (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 including :

1. Development to be commenced within 3 years
2. Development to be in accordance with the approved plans
3. Prescriptive materials
4. Sightlines to be provided and retained
5. Secure layout for highways
6. Electric vehicle charging point
7. Erection of boundary treatment and future retention
8. No new side windows
9. 1st floor bathroom window obscure glazed
10. Remove PD rights for extensions and outbuildings

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

For: Councillors Griffiths, Homewood, Lyons, McGuin, Sims, Sokhal, Uppal and Ullah (8 votes)

Against: (0 votes)

**14 Planning Application - Application No: 2018/94038**

The Committee gave consideration to Planning Application 2018/94038 Demolition of existing single storey rear extension and erection of two storey rear extension. Infill of side passage way to form part of dwelling and formation of new window to front elevation (Listed Building) 95, Church Street, Paddock, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Asif Mahmood (applicant).

## Planning Sub-Committee (Huddersfield Area) - 18 April 2019

### **RESOLVED –**

Delegate to the Head of Strategic Investment to approve (contrary to the officers recommendation to refuse).

The Committee considered that the harm to the significance of the heritage asset, as detailed in the considered report, was outweighed by the public benefits of the proposal subject to conditions that ensure a high quality build to include the windows.

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

For: Councillors Griffiths, Homewood, Lyons, Sims, Sokhal, Uppal and Ullah (7 votes)

Against: (0 votes)

Abstained: Councillor McGuin.

### **15 Planning Application - Application No: 2018/94039**

The Sub Committee gave consideration to Planning Application 2018/94039 Listed Building Consent for demolition of existing single storey rear extension and erection of two storey rear extension. Infill of side passage way to form part of dwelling and formation of new window to front elevation 95, Church Street, Paddock, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Asif Mahmood (applicant).

### **RESOLVED –**

Delegate to the Head of Strategic Investment to approve (contrary to the officers recommendation to refuse).

The Committee considered that the harm to the significance of the heritage asset, as detailed in the considered report, was outweighed by the public benefits of the proposal subject to conditions that ensure a high quality build to include the windows

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

For: Councillors Griffiths, Homewood, Lyons, Sims, Sokhal, Uppal and Ullah (7 votes)

Against: (0 votes)

Abstained: Councillor McGuin.

## Planning Sub-Committee (Huddersfield Area) - 18 April 2019

### 16 **Planning Application - Application No: 2018/93453**

The Sub Committee gave consideration to Planning Application 2018/93453  
Erection of two storey rear extension and front dormers 39, Springdale Avenue,  
Thornton Lodge, Huddersfield.

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

#### **RESOLVED –**

That consideration of the application be deferred to allow officers an opportunity to  
discuss with the applicants amendments to the design, scale and visual amenity of  
the proposed extension.

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

For: Councillors Griffiths, Homewood, Lyons, McGuin, Sims, Sokhal, Uppal and  
Ullah (8 votes)

Against: (0 votes)

### 17 **Planning Application - Application No: 2018/91244**

The Sub Committee gave consideration to Planning Application 2018/91244  
Erection of detached bungalow (farm workers dwelling) Hollin Bank Farm, Cross  
Gate Road, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Committee received a  
representation from Paul Matthews (on behalf of the applicant)

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

#### **RESOLVED –**

Delegate to the Head of Strategic Investment to approve (contrary to the officers  
recommendation to refuse).

The Committee considered that the applicant had demonstrated that the existing  
enterprise was financially sound and could sustain a permanent need for an  
agricultural/rural worker and therefore complied with policy PLP55 of the Kirklees  
Local Plan.

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

For: Councillors Homewood, McGuin, Sims, Sokhal, Uppal and Ullah (6 votes)

Against: Councillor Griffiths (1 vote)

Abstained: Councillor Lyons

**18 Planning Application - Application No: 2019/90030**

The Sub Committee gave consideration to Planning Application 2019/90030 Demolition of stables and erection of detached games room Hogley Farm, Hogley Lane, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Dominic Shellard, Bill Warnock and Nick Willock (objectors).

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

**RESOLVED –**

That the application be refused (contrary to the officers recommendation to approve).

The Committee considered that the existing building was a temporary building and therefore could not be classed as a redevelopment of previously developed land. The Committee concluded that the proposal would therefore be an inappropriate development in the Green Belt.

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

For: Councillors Griffiths, Homewood, McGuin, Sims, Sokhal and Ullah (6 votes)

Against: Councillors Lyons and Uppal (2 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: 6 JUNE 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: Holme Valley South; Colne Valley; Crosland Moor and Netherton; Lindley;  
Ward councillors consulted: No**

**Public or private:**

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**1. Summary**

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

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

- 2.1 2018/62/92598/W - Erection of two storey side extension at 4, Meadow Lane, Slaithwaite, Huddersfield, HD7 5EX. (Officer) (Dismissed)
- 2.2 2017/62/91733/W - Erection of extensions and alterations to existing farmhouse and erection of extensions and alterations to existing attached agricultural barns to form 4 dwellings (Listed Building) at Nether Moor Farm, Sandy Lane, South Crosland, Huddersfield, HD4 7BX. (Officer) (Appeal against the wording of condition allowed and wording varied)
- 2.3 2018/ClassO/90713/W - Prior approval for change of use from office (B1) to 11 apartments (C3) at Green Lane Mill, Green Lane, Holmfirth, HD9 2DX. (Sub-Committee contrary to officer recommendation) (Allowed)
- 2.4 2018/62/90978/W - Erection of two storey and single storey extensions at Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN. (Sub-Committee contrary to officer recommendation) (Allowed)
- 2.5 2018/62/91750/W - Change of use from class A1 (shops) to A4 (drinking establishments) at 70A, Acre Street, Lindley, Huddersfield, HD3 3EL. (Officer) (Allowed) (Application for award of costs refused)

**3. Implications for the Council**

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

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

**4. Consultees and their opinions**

Not applicable, the report is for information only

**5. Next steps**

Not applicable, the report is for information only

**6. Officer recommendations and reasons**

To note

**7. Cabinet portfolio holder recommendation**

Not applicable

**8. Contact officer**

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

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

Not applicable



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## Appeal Decision

Site visit made on 29 April 2019

**by Jillian Rann BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 May 2019**

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**Appeal Ref: APP/Z4718/D/19/3221297**

**4 Meadow Lane, Slaithwaite, Huddersfield HD7 5EX**

- 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 Adam Rout against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/92598/W, dated 26 July 2018, was refused by notice dated 12 November 2018.
  - The development proposed is a two storey side extension.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. Since the application was refused, the Kirklees Local Plan (the Local Plan) has been adopted, on 27 February 2019. The policies referred to in the Council's reasons for refusal as being from 'the publication draft Local Plan' are therefore now adopted. The Council has confirmed that the Kirklees Unitary Development Plan (the UDP) has been superseded, and that any UDP policies referred to in the reasons for refusal should therefore be disregarded. I have considered the appeal accordingly, and have given both main parties the opportunity to comment on this matter.
3. In reaching my decision I have also had regard to the revised updated National Planning Policy Framework, 19 February 2019 (the Framework). The revisions to the Framework do not materially alter the national policy approach in respect of the particular issues raised in this appeal compared with the previous version, published 24 July 2018, which both parties have previously considered. References throughout this decision are to the 2019 Framework.

### Main Issues

4. The main issues are the effect of the proposed development on:
  - the character and appearance of the appeal site and its surroundings;
  - the living conditions of the occupants of 6 Meadow Lane with regard to outlook and light.

## Reasons

### *Character and appearance*

5. The appeal relates to a two storey, semi-detached stone house of relatively recent construction, which is part of a development of similar residential properties. The appeal property is part of a courtyard of two storey and four storey houses at the entrance to that development, close to the junction of Meadow Lane and Meal Hill Lane. Notwithstanding some differences in their height, those neighbouring properties and others further along Meadow Lane are relatively consistent in their appearance, with compact, rectangular footprints, simple, symmetrical pitched roofs and small, projecting gable features to their front elevations. Whilst differing in other aspects of their appearance, other older houses in the vicinity of the site also share the same regular footprints and simple, symmetrical pitched roof forms as the appeal site and its immediate neighbours.
6. In contrast, the proposed extension would have an irregularly-shaped footprint, widening from front to rear, and would be made up of different components with differing widths and roof forms. Whilst the two storey section would have a gable to the rear, its roof would be somewhat complex in form compared to neighbouring dwellings, made up of numerous different interconnecting sections of varying sizes and angles. That section would also be taller at the rear than the front, in contrast to the regular, level ridge of the main house. The flat-roofed rear section, whilst of limited scale, would introduce a further roof form, different again to that of the main building and of the two storey part of the extension.
7. As a result, the extension would have an awkward and irregular appearance, which would not reflect the simpler building forms which characterise the appeal dwelling and other houses in the wider street scene. It would be visible to some degree from the courtyard to the front of the site and, despite the presence of planting within the site's rear garden, would also be highly prominent in wider public views along Meal Hill Lane, which runs immediately to the rear of the site. In those public views, the extension would appear as an unsympathetic and highly discordant addition, which would cause harm to the character and appearance of the appeal building and its surroundings.
8. With its timber-clad walls and sedum roof, the materials of the proposed extension would contrast with those of the appeal building and other stone houses further along Meadow Lane. However, the site is located on the outer edge of that wider estate and the extension would be positioned such that the most prominent public views of the development would be along Meal Hill Lane to the rear. In that wider street scene, I observed some greater variety in building materials, including the incorporation of sections of white boarded cladding to the older houses on the opposite side of the Meadow Lane junction.
9. The appeal property is one of the last houses on Meal Hill Lane before it leads out into open countryside, and its rear elevation faces an area of open land opposite. As a result of the steeply sloping gradient of Meal Hill Lane and the fields beyond, the site and its immediate neighbours are viewed against the attractive backdrop of that open countryside when travelling out of Slaithwaite along Meal Hill Lane.

10. In that context, the use of timber boarding and a sedum roof would make some reference to the buildings and natural features of the rural landscape opposite and beyond the site, and provide some sense of transition between the built-up area and that adjacent rural landscape as the housing along Meal Hill Lane tapers out into the countryside. Therefore, and having regard to the variety of materials evident elsewhere in the wider street scene, the proposed materials would distinguish the extension from the host property without causing harm to its character and appearance, or those of its wider surroundings.
11. However, whilst I find no specific harm arising from the proposed materials, that does not alter my conclusions regarding the harm I have identified as a result of the unduly complex, irregular and discordant form of the extension. Therefore, for the reasons given, I conclude that the extension would have an adverse effect on the character and appearance of the appeal site and its surroundings. The proposal would therefore conflict with Policy PLP 24 a. of the Local Plan which, amongst other things, states that proposals should promote good design by ensuring the form and details of all development respects the character of the townscape.
12. The proposal would also conflict with the Framework, which states that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment.

#### *Living conditions*

13. The extension would be close to the boundary with No 6 Meadow Lane, and parts of it would be visible from the rear garden of that neighbouring property which, I observed, is relatively small in size. However, the two storey part of the extension would project no further than the rear elevation of No 6, and the single storey ground floor section would extend only slightly beyond the rear of that neighbouring property. For much of its depth, including all of its first floor, the proposed extension would therefore be positioned alongside the drive of No 6, rather than immediately adjacent to its private rear garden area. Consequently, and as the only section extending directly alongside No 6's rear garden would be a single storey component of limited depth, the extension would not appear as an unduly dominant or overbearing feature, or create a sense of enclosure to that neighbouring rear garden.
14. I have had regard to the appellant's overshadowing study, and recognise that the development, roughly to the south of No 6, may result in some additional shading of parts of that small neighbouring rear garden at certain times. However, the main bulk and mass of the extension would be located adjacent to No 6's drive, and it would not project directly alongside No 6's rear garden to any significant degree. The extension's roof would also be lower than the ridge of the existing appeal building which, itself, is located at a lower level than No 6. Therefore, any additional shading of that neighbouring rear garden which may arise, over and above that already caused by the existing appeal building, would not be of such an extent or duration as to significantly or adversely affect the living conditions of the occupants of No 6, or compromise their use or enjoyment of that garden area.
15. For the reasons given, I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of 6 Meadow Drive with regard to outlook or light. The proposal would therefore

not conflict with Policy PLP24 (b) of the Local Plan which, amongst other things, states that proposals should promote good design by ensuring they provide a high standard of amenity for neighbouring occupiers. That requirement is consistent with the Framework, which states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

### **Other Matters**

16. I have been referred to a number of other extensions in contrasting materials and of differing appearances elsewhere in Slaithwaite. However, I have little before me with regard to the circumstances in which those developments were constructed, and cannot be certain that they were directly comparable in all respects to the proposal before me. In any event, I have considered the appeal on its own planning merits.

### **Conclusion**

17. Whilst I have not found harm to living conditions, the absence of harm in that respect does not outweigh the harm I have identified with regard to character and appearance.
18. Therefore, for the reasons given and having regard to all other matters raised, the appeal is dismissed.

*Jillian Rann*  
INSPECTOR



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## Appeal Decision

Site visit made on 26 March 2019

by **Nicholas Taylor BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> May 2019

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**Appeal Ref: APP/Z4718/W/18/3209835**

**Nether Moor Farm, Sandy Lane, South Crosland, Huddersfield HD4 7BX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mrs Angela Bradley against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/91733/W, dated 18 May 2017, was approved on 23 February 2018 and planning permission was granted subject to conditions.
  - The development permitted is *erection of alterations and extensions to existing farmhouse and erection of extensions and alterations to existing attached agricultural barns to form 4 dwellings (listed building)*.
  - The condition in dispute is No 12 which states that: *Prior to works in associating [sic] with vehicular access, passing places and turning heads, as shown on plans ref. 4043-10-04 and SCP/17420.FO2 along Byway HUD/231/10 taking place and prior to occupation of the hereby approved dwellings, details of the surfacing and method of construction of vehicular access, passing places and turning heads shall be submitted to the Local Planning Authority. Prior to the occupation of the hereby approved dwellings the details as so approved shall be implemented. The passing places and vehicle turning facilities shall thereafter be left free of obstruction and retaining [sic] for their intended purpose.*
  - The reason given for the condition is: *In the interest of ensuring the safe and efficiency [sic] operation of the Highway Network, including local Public Rights of Way, in accordance with Policies T10 and R13 of the Kirklees Unitary Development Plan and PLP21 and PLP24 of the Kirklees Publication Draft Local Plan.*
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### Decision

1. The appeal is allowed and the planning permission Ref 2017/62/91733/W for erection of alterations and extensions to existing farmhouse and erection of extensions and alterations to existing attached agricultural barns to form 4 dwellings (listed building) at Nether Moor Farm, Sandy Lane, South Crosland, Huddersfield HD4 7BX granted on 23 February 2018 by Kirklees Metropolitan Borough Council, is varied by deleting condition No 12 and substituting for it the following condition:

- 12) The dwellings hereby approved shall not be occupied until the works to the proposed access route from Sandy Lane, including provision of vehicular passing places and turning heads, as shown on plans ref. 4043-10-04 and SCP/17420.FO2, have been carried out. Prior to the commencement of such works, details of their surfacing and method of construction shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and the passing places and vehicle turning facilities

shall thereafter be kept free of obstruction and retained for their intended purpose.

### **Application for costs**

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

### **Procedural Matter and Main Issue**

3. The appellant does not dispute the need for the condition in principle, but objects to the reference in its wording to 'Byway HUD/231/10'. She also objects to an Informative Note, included on the decision notice, which refers to 'public footpath HUD/233/10 and public Byway HUD/231/20'. The Informative Note does not have the legal status of a planning condition and there is no provision, in law, for an appeal to be made against it. Consequently, I have not considered it further in my decision.
4. The legal status, indeed existence or otherwise, of any public right of way (PROW) affecting the appeal property is a matter for determination under the Highways Acts and is not before me in this appeal. The appellant has lodged a separate appeal<sup>1</sup> concerning the rights of way issues which, at the time of writing, has yet to be determined.
5. Therefore, the main issue in this appeal is whether, having regard to planning considerations, condition No 12 is necessary and reasonable.

### **Reasons**

6. Planning permission was granted for a scheme to alter an existing farmhouse and convert agricultural barns into four new dwellings. As part of the approved scheme, it is proposed to improve the access track which leads from Sandy Lane to the farmstead. The drawings referred to in the condition indicate the extent of the works and demonstrate that large vehicles would be able to negotiate the passing places and turning head but do not specify details of construction.
7. Relevant development plan policies and paragraphs 108(b) and 110 of the *National Planning Policy Framework* (the Framework) require, among other things, that developments should provide safe and suitable access, minimising conflicts between users. Consequently, I am satisfied that a condition requiring further details of the works is, in principle, necessary and reasonable on planning grounds and that it is also necessary and reasonable to require the improvements to be carried out before the occupation of the dwellings. The appellant has signalled in writing her agreement in principle to such a condition.
8. In the interests of certainty, it is necessary to identify the works to which the condition relates. However, this can be achieved with adequate precision by referring to the proposed access route from Sandy Lane and to the two relevant drawings, which clearly show the intended locations. Whilst the potential existence of a PROW, albeit in dispute, is a material planning consideration, it is not necessary for this purpose to refer explicitly to Byway

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<sup>1</sup> PINS Ref ROW/3202859



HUD/231/10. The requirement for surfacing and construction details to be submitted would ensure that the route can be made suitable for all authorised users. The appellant acknowledges that she is aware of the need to abide by the requirements of the Highways Act, in so far as they may be relevant.

9. Therefore, I conclude that the appeal should be allowed and, as the appeal is made under s79 of the relevant Planning Act, the permission should be varied by deleting condition No 12 and substituting a revised condition in its place. I have re-organised the wording of the condition in the interests of clarity and to ensure that it meets the tests set out in paragraph 55 of the Framework.

*Nicholas Taylor*

INSPECTOR



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## Appeal Decision

Site visit made on 9 April 2019

**by Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2019

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**Appeal Ref: APP/Z4718/W/18/3216438**

**Green Lane Mill, Green Lane, Holmfirth HD9 2DX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Priestley Homes LTD against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/90713, dated 2 March 2018, was refused by notice dated 21 May 2018.
  - The development proposed is prior approval for change of use from office (B1) to 11 apartments (C3).
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) for change of use from office (B1) to 11 apartments (C3) at Green Lane Mill, Green Lane, Holmfirth HD9 2DX in accordance with the terms of the application, Ref 2018/90713, dated 2 March 2018, and the plans submitted with it subject to the conditions in Schedule 2, Part 3, Paragraph O.2 (2) and Paragraph W (12) (a) of the GPDO, and the following conditions:
  - 1) The development shall not be brought into use until the bike storage facility has been provided, and all the areas indicated to be used for the parking of vehicle's have been marked out and laid out with a hardened and drained surface in accordance with the Drawing No. 05 Rev C. Thereafter these areas shall be so retained, free of obstructions and made available for the use specified on the plan.
  - 2) Prior to occupation of the development hereby approved, 1 no. vehicle recharging point shall be installed in the car park of the hereby permitted development. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. Thereafter the electric vehicle recharging point shall be retained.

### Main Issue

2. Schedule 2, Part 3, Class O of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

3. Development coming within Class O is deemed to be granted planning permission by the GPDO provided that it would comply with the limitations listed in paragraph O.1 of Class O. It is a condition of Class O, among other things, that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to its impact on: transport and highways; contamination risks on site; flooding risks on site; and the impacts of noise from commercial premises on the intended occupiers of the development.
4. The dispute between the main parties is solely based around paragraph O.2 (a) of the GPDO. On the basis of the evidence that is before me, I agree that the proposed development would meet the remaining parts of paragraph O.1, and that it would accord with the remaining provisions of paragraph O.2 of the GPDO. I therefore consider the main issue to be the transport and highways impacts of the proposed development.

## **Reasons**

### *Approach to the decision*

5. Since the Council's decision, the Kirklees Local Plan (Local Plan) has been adopted. Policies in the Local Plan supersede saved policies within the Kirklees Unitary Development Plan (UDP). While UDP policies are no longer relevant and the Local Plan policies now carry full weight, paragraph W (10) of the GPDO states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. As such, despite reference to Local Plan policies PLP21 and PLP22 in the evidence before me, I have determined the appeal having regard to the provisions within the Framework.

### *Transport and highways impacts of the proposed development*

6. The appeal site comprises of a vacant detached three storey mill building built in stone and with a pitched roof. The mill is to the south of Holmfirth, the main settlement in the area. Washpit New Road and Dunford Road link the site to Holmfirth. The building is partly split-level and it is served by an area of car parking to the north. To the east are residential properties: Green Lane Farm and Green Lane Barn. To the south-west is Washpit Mills, which has been subject to recent development proposals. The most recent were granted planning permission by the Council for a mixed-use scheme<sup>1</sup>. This followed an earlier appeal decision which resulted in two cases being dismissed<sup>2</sup>. I note the Inspector's findings on highway and transport matters.
7. Framework paragraph 108 explains that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Framework

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<sup>1</sup> Council Refs: 2017/62/94336/W and 2017/65/94337/W

<sup>2</sup> Appeal Decisions APP/Z4718/W/17/3169043 and APP/Z4718/Y/17/3174173

- paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
8. The proposal would provide 14 no. car parking spaces to the front of the building and 22 no. bicycle spaces in the basement. Notably, the Council do not dispute the appellant company's view that the proposal accords with the Council's local standard for car and cycle parking provision. Furthermore, the appellant company estimates that the building could be occupied by around 12 people based on Census data for Kirklees. However, in practice this figure could be higher given that each unit would have two bedrooms large enough for a double bed. In any event, the Council contend that more parking provision is warranted in this case having regard to the site's location and future occupants' reliance on the private car for their day-to-day journeys.
  9. The prior approval process does not directly require consideration of 'location', but the site's location does have a direct bearing on transport and highways impacts of the development.
  10. I am informed that the Washpit Mills development includes the provision of a footway along Washpit New Road to Dunford Road. I do not have any details of this before me, and I did not observe any footway along the road during my site visit. Having regard to the evidence before me, it would seem that the Washpit Mills scheme and the appeal scheme would collectively amount to a similar number of residential properties as that which formed the basis of the dismissed appeal schemes.
  11. Green Lane Mill is just over a mile away from Holmfirth and around 7.5 miles away from Huddersfield. Regular bus services to both towns stop at bus stops around 450 metres away on Dunford Road. Based on my observations on site, I do not have any sound reasons to disagree with the findings of the Inspector who considered the Washpit Mills appeal schemes insofar as the actual and perceived risk of conflict between pedestrians and vehicles along Washpit New Road, and the significant disincentive that this route would pose to regular pedestrian use. Although the Washpit Mills scheme was for a different type and quantity of development, pedestrian journeys to the bus services would be no different. Thus, I concur that any realistic pedestrian access to sustainable travel options would not be present. I accept, however, that the provision of a pedestrian footway along Washpit New Road would only likely improve matters.
  12. Considerable cycle parking provision is proposed. This would enable and to an extent encourage use by cyclists. However, the topography of roads leading to and from the site are steep in places. This is the case for Rich Gate and Choppards Bank Road which lead to Dunford Road. Green Lane and Lamma Well Road leading onto Cartworth Road would pose a similar issue. All bar the fittest and most enthusiastic cyclists would be put off from using these routes. Washpit New Road is more gradual and Dunford Road leading into Holmfirth would be mostly downhill. Return journeys would, however, be uphill until Washpit New Road, meaning only the fittest and willing would be likely to cycle.
  13. Even though sustainable modes of transport would be available to future occupants, for the reasons explained above, I am of the view that future occupants would be heavily reliant on the use of private motor vehicles. Carpooling may lessen the singular use of vehicles, but it would not wholly change matters.

14. The Council suggest that two spaces per apartment is necessary. The reason for this level of provision is not explained, but this would probably amount to an over-provision. That said, equally, there is the potential for more vehicles than the appellant company's estimates. If true, any vehicles unable to park in the designated spaces would make use of Green Lane in front of the site to park. There are no restrictions here. Road users travelling along Green Lane, Washpit New Road and Rich Gate would not be travelling at speed due to the width and alignment of the roads, coupled with the junction of the three roads near to the site. The lane would also enable road users to pass any parked vehicle, and suitable visibility for the surroundings.
15. Concern is expressed by the Council about the accessibility of a number of the proposed parking spaces. Spaces 1 to 3 and 12 and 13 would result in vehicles either reversing into or out of these spaces onto Green Lane. I agree that the proposed arrangements are not ideal, but these arrangements appear to have been in place in conjunction with the office use. There is no suggestion that this led to highway safety issues or that users were unable to safely access these spaces. While there would be nothing to prevent future occupants or visitors from parking on the road, this would not be as a result of the proposed parking arrangements which are more likely to be used by future occupants and visitors for reasons of safety and convenience among others.
16. In drawing these matters together, I consider that the appeal scheme would not give rise to an unacceptable impact on highway safety. Nor would the residual cumulative impacts on the road network would be severe. I conclude that the transport and highways impacts of the proposed development would be satisfactory having regard to Framework paragraphs 108 and 109.
17. In the event that I am wrong, I have no reason to doubt that the building is in good condition and has a range of utilities. While, the building has not been actively marketed as an office while the proposal has been considered, the Council do not dispute the appellant company's view that the building could not successfully marketed as an office. I also have no reason to disagree that this could potentially result in a greater number of employees than the previous occupier who employed between 50 and 60 members of staff. Thus, there is a greater than theoretical possibility that the fallback position might take place.
18. Photographic evidence shows that when the building was used as an office the car parking area was over-subscribed and on-street car parking took place. There is no substantive evidence to suggest that this situation may not arise in the future. The Highways Appeal Statement demonstrates that there would be less two-way trips in both peak periods in connection with the proposed development compared to the office use. There would also be likely to be a character change in how vehicles use the site, with vehicles being parked overnight and not during the day when there is generally more traffic on the roads. Despite the numerous appeal decisions<sup>3</sup> cited, based on the specifics of this case, I consider that the fallback position would be more harmful than the appeal proposal and would therefore help justify it.

#### *Planning obligation*

19. A signed and executed section 106 (s106) planning obligation has been submitted. The s106 would provide for a contribution towards highway safety

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<sup>3</sup> Appellant Company's Statement of Case, Appendix 9

measures and/or sustainable transport measures within the vicinity of the site. Notwithstanding the Council's view on the s106, the planning obligation is not necessary in this case given my findings on the transport and highways impacts of the proposed development and the fallback position. As such, the s106 is unnecessary and I afford it no weight.

*Other matters*

20. While there may be demand for family homes in the area, the proposal would contribute to the overall housing mix in Kirklees and bring the mill back into use without resulting in additional built form.

**Conditions**

21. Paragraph W13 of the GPDO states that prior approvals may be granted subject to conditions reasonably related to the subject matter of the prior approval. I have had regard to the Council's suggested planning conditions. I consider that a requirement to provide the parking and cycling spaces for residents relates to highway and traffic issues, and so I have included it. I have also included a requirement for a vehicle recharging point in the car park given that low and ultra-low emission vehicles are a sustainable transport mode. These conditions are in addition to the conditions that the development must be completed with a period of 3 years starting with the prior approval date; and the development must be carried out where prior approval is required, in accordance with the details approved by the local planning authority.

**Conclusion**

22. I conclude that the proposed development would accord with the requirements for development permitted under Class O of Schedule 2, Part 3 of the GPDO and that the appeal should be allowed and approval granted.

*Andrew McGlone*

INSPECTOR



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## Appeal Decision

Site visit made on 19 March 2019

by **Kate Mansell BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 April 2019

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**Appeal Ref: APP/Z4718/D/18/3218457**

**Brigsteer, 402 Birkby Road, Birkby, Huddersfield HD2 2DN**

- 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 Acumen Architects against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/90978/W, dated 21 March 2018, was refused by notice dated 24 September 2018.
  - The development proposed is an extension to dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for an extension to dwelling at Brigsteer, 402 Birkby Road, Birkby, Huddersfield, HD2 2DN in accordance with application Ref 2018/62/90978/W, dated 21 March 2018, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 2532-01 Rev A (Plans as existing), 2532-02 Rev A (Elevations and Sections as existing), 2532-03 Rev C (Plans and elevations as proposed), 2532-04 Rev H (Proposed Site Plan), 2532-05 Rev D (Contextual elevations and block plan) and 2532-LOC Rev B (Location Plan).
  - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those on the existing dwelling in material, colour, size and texture.

### Procedural Matters

2. The Council adopted the Kirklees Local Plan (Kirklees LP) on 27 February 2019. I am required to determine the appeal on the basis of the development plan that is in force at the time of my decision. Accordingly, the proposal should now be considered against Policy PLP24 of the adopted LP, which is cited in the reason for refusal. The parties have had the opportunity to comment on the effect of the Kirklees LP on the proposed development and I have taken all comments into account in reaching my decision.
3. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the



main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

### **Main Issue**

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

### **Reasons**

5. Birkby Road is a busy thoroughfare that is principally characterised by large individually designed detached dwellings that are set back from the highway behind stone boundary walls. Typically planted behind the walls are hedgerows or mature trees, which gives the street an attractive tree-lined appearance.
6. The appeal site at No 402 (named Brigsteer) is a spacious modern house set within a modest garden that originally secured planning permission in 2004. It presents a side elevation to Birkby Road, from which it is set in beyond a side garden and screened by both tree and hedge planting behind the boundary wall. The entrance to the property is from an access that runs northward from Birkby Road onto which the front elevation of the property faces. To the rear, the appeal site is adjoined by a modern Church building.
7. The appeal proposal would introduce a two-storey extension attached to the south-facing elevation of the house and a single storey extension to the north-east corner. Both would be constructed in materials to match those on the existing property.
8. I note that the proposal originally submitted to the Council was substantially amended in the course of the planning application process. A detached garage and two-storey rear extension were omitted and the access was retained in its original position, rather than relocating it southwards. I also acknowledge that planning permission for the two-storey element of the appeal proposal was subsequently approved by the Council<sup>1</sup> on 30 January 2019. Nonetheless, I must consider the proposal before me.
9. The two-storey extension would infill a corner between the existing side wall of the house and the rear projection of the dwelling. Whilst it would modestly extend from the flank elevation by approximately 2.3m, the eaves and ridge height would be lower than the original dwelling, resulting in the proposal appearing subservient to the host building.
10. It would also maintain a distance of just under 10m from the site boundary with Birkby Road. Even taking into account the highway improvement scheme referred to by the Council, which if it proceeded, would require some of the appellant's land, there would still be a distance of 6.5m between the extension and the site boundary. Given that this would comprise the appellant's garden, a landscaped setting between the road and the house would be retained.
11. This would also permit either the retention of the existing trees, albeit acknowledging the Council's view that they do not merit a Tree Preservation Order, or three new trees that are indicated on the proposed site plan taking account of the implementation of the potential highways works. In this context,

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<sup>1</sup> Council Ref: 2018/62/93226/W



I consider that the two-storey extension would not appear visually dominant within the street scene.

12. The single storey extension would not project beyond the rear elevation of the house. It would therefore not be visible from Birkby Road. It would also be screened in views from the Church to the rear by the boundary treatment and it would be generously set in from the northern and western boundaries. On this basis, given its limited scale and that it would effectively infill the north-east corner of the dwelling, it would not be a visually assertive addition.
13. Taken together, the two storey and single storey extensions would amount to an additional footprint of approximately 45.9m<sup>2</sup>. The recent approval for the two-storey extension cited above confirms that the plot coverage of the existing house at No 402 is 17.5%. The extensions would increase that to approximately 21%. In comparison, the plot coverage of the adjacent dwelling at 408 Birkby Road is identified by the Council to be approximately 19.8% and 23.75% by the appellant.
14. Consequently, by far the majority of the appeal site plot would not be built upon and a sufficient area of useable garden would remain. The plot coverage following the implementation of the extensions would not be dissimilar to that of No 408. In any event, the Council's policies do not establish a proportion of plot coverage above which would be deemed over-development. On the evidence before me, the extensions would therefore appear subservient in their scale and form and the proposal would ensure that the extended dwelling would still remain within a landscaped plot with reasonable distances maintained to each boundary.
15. For these reasons, I conclude that the proposal would not be visually dominant within the street scene and consequently, they would not be harmful to the character or appearance of the area. Accordingly, I find no conflict with Policy PLP24(a) and (c) of the Kirklees LP. This policy seeks, amongst other matters, to ensure that the development respects the character of the area and that extensions are subservient to the existing building in scale, materials and detailing. It would also be consistent with the objectives of paragraph 127 of the Framework, which requires development to be sympathetic to local character.

### **Other matters**

16. I have had regard to the issues raised by third parties, many of which include concerns relating to the original proposal and elements that were omitted from the scheme in the course of the planning application process. Accordingly, they do not form part of the proposal before me. Additionally, any concerns relating to whether or not the original dwelling was constructed in accordance with the approved plans is a matter for the Council to enforce.
17. Reference is also made to covenants and rights of access. However, these are civil matters that do not affect the planning merits of the proposal. It is not a reason to withhold planning permission in the absence of any significant planning harm.
18. With regard to matters of privacy and overlooking raised by third parties, the Council do not identify any specific concerns and given the distances between the extensions and the nearest curtilage, I have no reason to disagree.

19. I acknowledge the site's proximity to the Edgerton Conservation Area, the edge of which appears to extend along the stone boundary wall of the dwellings opposite the site on Birkby Road. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA. However, the two-storey extension closest to the CA would be set comfortably within the garden of the appeal property, across the road from the boundary of the CA. I consider that it would have no perceivable effect upon the character or appearance of the CA, which would therefore be preserved.
20. A number of representations refer to the trees within the site either with regard to supporting their removal or seeking their protection, which is addressed above. Moreover, I note that within the 2004 Reserved Matters approval for the host dwelling<sup>2</sup>, there is, in any event, a condition stating that the 12 trees within the site should be retained.

### **Conditions**

21. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard time limit condition and in the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. A condition relating to materials is appropriate in the interests of the character and appearance of the area.
22. In granting permission for the two-storey element of the proposal referred to above, the Council imposed a construction management condition and a condition removing permitted development (PD) rights. I am unconvinced, however, that a construction method statement would be necessary given the scale of the proposal. In relation to PD, I note that permitted development rights were, in any event, previously removed from the property as part of the 2004 Reserved Matters approval cited above (Condition 8).

### **Conclusion**

23. For the reasons set out above, I conclude that the appeal should be allowed.

*Kate Mansell*

INSPECTOR

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<sup>2</sup> Council Ref: 2004/91771



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## Appeal Decision

Site visit made on 27 March 2019

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 May 2019**

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**Appeal Ref: APP/Z4718/W/18/3213285**

**70A Acre Street, Lindley, Huddersfield, HD3 3EL**

- 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 Diane and Ryan Stoppard, Ink Spot Bars Limited, against the decision of Kirklees Council.
  - The application Ref 2018/62/91750/W, dated 29 May 2019, was refused by notice dated 27 July 2018.
  - The development proposed is change of use classes under the Town and Country Planning (Use Classes) Order 1987 from class A1 (Shops) to A4 (Drinking Establishments).
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### Decision

1. The appeal is allowed and planning permission is granted for change of use classes under the Town and Country Planning (Use Classes) Order 1987 from class A1 (Shops) to A4 (Drinking Establishments) at 70A Acre Street, Lindley, Huddersfield, HD3 3EL in accordance with the terms of the application, Ref 2018/62/91750W, dated 29 May 2019, subject to the conditions in the attached schedule.

### Application for costs

2. An application for costs was made by Diane and Ryan Stoppard, Ink Spot Bars Limited, against Kirklees Council. This application is the subject of a separate Decision.

### Procedural Matter

3. Since the appeal was submitted the Kirklees Unitary Development Plan has been superseded and replaced by the Kirklees Local Plan (local plan). The appeal has been assessed against the relevant policies of the new local plan.

### Main Issue

4. The main issue in this appeal is the effect of the proposal upon the living conditions of neighbouring residents with particular regard to noise and disturbance.

### Reasons

5. 70A Acre Street is a vacant single storey retail unit located within a mixed use area. Residential development surrounds the site on three sides and there are further retail units on the fourth side. The premises are located on the edge of, but within, an area defined by the local plan as a District Centre where a mix of

- uses to serve the local community, businesses and visitors are encouraged including a range of uses to support the daytime and evening economy.
6. A Noise Impact Assessment has been submitted with the appeal in support of the appellants case. This found that at present the dominant noise source in the area is that of road traffic. Secondary to that was the noise from passing groups of pedestrians shouting and talking. Neither of these findings are surprising given the location of the site on a busy main route into Huddersfield and the proximity to other commercial uses, including other licensed premises.
  7. The Noise Impact Assessment recommends a series of mitigation measures that could be imposed to minimise noise and disturbance from the proposed use. The Council maintains its objection due to continued concerns about noise and disturbance primarily caused by patrons drinking and smoking outside of the premises. They also express concern regarding noise caused by mechanical appliances such as air conditioning units and about the impact severe restrictions might have on the success of the proposed business.
  8. I have considered the concerns of the Council along with those of local residents and I acknowledge that some noise and disturbance is likely to occur from customers arriving and leaving the premises and from those standing outside to smoke. However, in the context of the existing noise environment, I do not consider that the additional activity generated by the proposal would make a significant difference.
  9. Conditions can be imposed to prevent patrons from consuming food or drink on the forecourt to the front of the building. This would minimise the length of time that smokers spend outside the building, which is stated as being the Council's primary concern. Conditions can also be imposed to control matters such as opening times, music levels, keeping windows and doors closed, introducing a double door lobby and the location and type of mechanical ventilation to be used.
  10. I note that the appellants are not the current owners of the premises and as such, should they consider that the restrictions required in this location would not suit their business requirements, they have the option to look for an alternative site that better meets their needs. In my view it is for the appellants, rather than the Council, to decide whether or not any restrictive conditions would affect the success and viability of their business. The appellants would be purchasing or leasing the site in the full knowledge of these restrictions and in the full knowledge that their surrounding residential neighbours would be likely to make justified noise complaints if they cannot or do not manage the noise aspect of their business effectively. Furthermore, I have been provided with no compelling evidence that the conditions imposed would render the proposal unworkable or to be unreasonably restrictive.
  11. In reaching this view I have had regard to the size and nature of the proposed use, which is small scale and intends to offer locally made craft ales, in a relaxed environment with background music only. Although ownership could change in the future, the conditions to control noise would remain in force and would deter those seeking premises for a livelier business. I am also mindful of the fact that the Council has already granted a licence for the sale and consumption of alcohol on the premises and that the Police have raised no objections from a crime prevention perspective noting that antisocial behaviour would have been addressed as part of licensing process.

12. I therefore conclude that the change of use would not conflict with policy PLP 24(b) of the local plan, which is a design policy that seeks to ensure high standards of amenity and to maintain development free buffer zones between housing and employment uses (presumably in use class B). In this case the appeal premises are already in commercial use and the Council has just adopted the District Centre boundary having had regard to its proximity to residential properties. The proposal would not result in commercial properties being located any closer to residential properties than what presently exists.
13. In light of the additional evidence submitted with the appeal, the proposal would also comply with policy PLP 52 of the local plan and paragraph 180 of the National Planning Policy Framework, which require proposals that have the potential to increase noise to be accompanied by evidence to show that the impacts have been evaluated and measures incorporated to mitigate against any adverse impacts.

### **Other Matters**

14. In addition to the main issues addressed above, local residents have raised concerns regarding increased traffic and its associated air pollution and parking problems. I observed on my site visit that a residents parking permit scheme is in operation. The Local Highway Authority has not raised any concerns. The proposal relates to a local pub, which is within walking distance of a large residential catchment area and is on a main road served by public transport. To my mind the traffic and parking demand generated by such a use will be very limited.
15. A petition and an online survey have been submitted, which show significant support for the proposal. I am also mindful of the economic benefits that would result from the proposal, such as the creation of local jobs, bringing a vacant retail unit back into use and supporting the vitality and viability of the District Centre.

### **Conditions**

16. Since the Council refused the application the appellants have suggested reduced opening hours and a variety of mitigation measures that could be conditioned. The Council has not suggested any conditions.
17. I have imposed the standard time limit for implementation together with an approved plans condition to clarify the red line area to which the permission relates. I have not included the floor plans, which also show an outdoor seating area, as these are not to scale and appear to be inaccurate and misleading.
18. The appeal site is on the outer edge of the defined District Centre and is in close proximity to residential dwellings and gardens. Although the outdoor space to the front of the premises is very small, it is my view that the provision of any outdoor seating would encourage patrons to gather outside, which even before the 9pm threshold suggested, would cause disturbance to adjacent residents using their gardens. As such I consider it reasonable and necessary to impose conditions to restrict eating, drinking and the provision of seating outside of the premises at any time. This condition does not affect the retail sale of craft ales intended to be consumed off-site.

19. Having regard to the Noise Impact Assessment together with the concerns of local residents and the Council I have also imposed the conditions suggested by the appellants relating to opening times and noise mitigation. I have made some slight variations and additions for clarity.

### **Conclusion**

20. For the reasons given above the appeal is allowed subject to the conditions set out in the attached schedule.

*Rachael Bartlett*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 location plan & 1:500 block plan.
- 3) The drinking establishment hereby approved shall not be open for business other than between the hours of 12:00 and 23:00 Sundays to Thursdays and between the hours of 12:00 and 24:00 Fridays and Saturdays.
- 4) Upon commencement of the use hereby permitted all windows and doors shall be kept closed after 21:00 hours except for ingress and egress.
- 5) No deliveries to the premises shall take place between the hours of 21:00 - 07:00 hours.
- 6) No refuse or recycling material shall be taken out or moved around outside of the building between the hours of 21:00 - 07:00 hours.
- 7) No external seating shall be provided outside of the premises for use by customers in connection with the approved use as a drinking establishment and no food or drink purchased from the premises, for onsite consumption, shall be taken or consumed outside of the building.
- 8) No amplified music, televisions or public address system shall be audible outside of the premises at any time.
- 9) The use hereby permitted shall not commence until a scheme for noise control for plant and mechanical equipment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and any necessary noise control and attenuation shall thereafter be retained at all times.
- 10) Prior to the commencement of the use permitted, details of the installation of a double door lobby shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the A4 use commencing and shall thereafter be retained at all times.

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

## **PLANNING POLICY**

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 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.**



**Name of meeting:** Planning sub-committee (Huddersfield Area)

**Date:** 6 June 2019

**Title of report:** Applications for four definitive map modification orders, each to add a public footpath to the definitive map and statement, Highfields/Clare Hill, Huddersfield (DMMO application references 208, 209, 210 & 211).

**Purpose of report:** Members are asked to consider the evidence and decide on any requisite modification of the definitive map and statement of public rights of way. Four applications have been received for definitive map modification orders to record four public footpaths.

**Members are asked to make a decision** on the council's response to the applications and evidence received, which may potentially be the making of an order, and forwarding any order made to the Secretary of State, if opposed.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Karl Battersby 24 May 2019
Is it also signed off by the Acting Service Director for Financial Management, IT, Risk and Performance?	James Anderson on behalf of Eamonn Croston 28 May 2019
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Deborah Wilkes on behalf of Julie Muscroft 24 May 2019
Cabinet member <a href="#">portfolio</a>	N/A

**Electoral wards affected:** Greenhead

**Ward councillors consulted:** Cllrs. Patterson, Sokhal, Ullah.

**Public or private:** Public

## 1. Summary

- 1.1 The council has received four applications, relating to the recording of alleged public rights of way under the Wildlife & Countryside Act 1981, to modify the definitive map and statement of public rights of way (“DMS”) by order, affecting land between Clare Hill and Highfields. Changes to the definitive map and statement of this kind are called definitive map modification orders (“DMMO”). **App A** shows these DMMO application forms and plans, (file reference numbers 208, 209, 210 & 211).
- 1.2 The applications before members today relate to the routes in appended **Plan 1**.
- 1.3 A location plan is appended at **App B**.
- 1.4 The Council received the four DMMO applications on 4 January 2019 for orders to modify the definitive map and statement of public rights of way to record public footpaths on routes from points A to B (208), points B to C (209), points C to D (210), and points D to A (211) in the submitted application plans.
- 1.5 The land is west of Clare Hill, a public vehicular road, and east of definitive public footpath Huddersfield 343.
- 1.6 With each application and indicative plan, the Council received a copy of annotated “*Farrell and Clark* architect site plans” (**App A**), where the applicant has detailed the alignment of alleged public footpaths.
- 1.7 All affected land used to be part of the Council’s Ramsden Estate holdings. Part of the affected land was sold to Greenhead College in the mid-1990s, and part of that has recently been bought back by the Council and is to vest in Learning & Early Support. The Council also sold part of the Ramsden Estate land, directly off Clare Hill, to Clare Hill (Huddersfield) LLP, for development of housing.
- 1.8 The council has to determine the definitive map modification order applications. The council must consider the available evidence, before reaching a decision on whether it is requisite to make any order to modify the definitive map and statement. If the council makes an order, it must be advertised and notice given, with a period for formal objections to be made. If opposed, it would have to be submitted to the Secretary of State at DEFRA (“SoS”) to determine.
- 1.9 The council must decide what, if any, rights have been shown to satisfy the relevant test(s). This means that the council may make a different order or none at all, after appropriate consideration of the available evidence.
- 1.10 The evidence, whether for or against the application and any recording of any public right of way, is to be noted and considered.
- 1.11 When considering additions to the definitive map and statement of public rights of way, the council must make an order

1.11.1 If a public right of way is shown to subsist on the balance of probabilities,  
or

1.11.2 if the right of way is shown to be reasonably alleged to subsist.

## 2. Information required to take a decision

- 2.1 Members are asked to consider the report, the available evidence for and against the recording of public rights, and decide what action to take.
- 2.2 It is the council's statutory duty to maintain the definitive map and statement and make any requisite orders.
- 2.3 Guidance for members is appended (**Appendix 1**).
- 2.4 The application is made under the Wildlife & Countryside Act 1981.
- 2.5 The council should consider the available evidence and determine whether to make an order to modify the record of public rights of way when it is requisite in accordance with section 53 of the Wildlife & Countryside Act 1981.
- 2.6 Section 31(1) of the Highways Act 1980 provides that a presumption of dedication is raised where a way has been enjoyed by the public as of right (without force, secrecy or permission), without interruption for a full period of twenty years. The twenty-year period ends with an act that brings into question the public's right to use the way, and is calculated retrospectively from that time (Section 31(2) of the 1980 Act). Kirklees Council deposited a map and statement under section 31 (6) in 2012 for part of the land (**App G**).
- 2.7 Under Common Law there is no specific period of user which must have passed before an inference of dedication may be shown. However, a landowner must be shown to have intended to dedicate a right of way over the land. Public use can be used as evidence to show an intention to dedicate but it must be sufficient to have come to the attention of the landowners. If other evidence exists that showed that public rights were not intended, public use will not raise an inference of dedication.
- 2.8 The Committee must consider whether there is sufficient evidence to raise the presumption of dedication. The standard of proof for a final decision on an order is the civil one, that is, the balance of probabilities. If disputed, an order confirmation decision by the SoS would be made solely on the balance of probabilities.
- 2.9 Government guidance to local authorities is contained in DEFRA'S Rights of Way Circular 1/09, version 2
- 2.10 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69304/pb13553-rowcircular1-09-091103.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf)

- 2.11 Members are advised that when a definitive map modification order is made, which attracts objections which are not withdrawn, then the council have to forward it to the Secretary of State at DEFRA for determination. The DMMO consistency guidelines, are issued to the Secretary of State's inspectors in the planning inspectorate
- 2.12 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517495/Full\\_version\\_February\\_2016\\_consistency\\_guides\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517495/Full_version_February_2016_consistency_guides_2_.pdf)
- 2.13 The current landowners have not accepted that public rights subsist across the land, and two of them, Kirklees Council and Clare Hill (Huddersfield LLP), have not submitted any evidence relating to the existence of any alleged public rights. Greenhead College denies the existence of public rights across the land, and states that a locked gate and hedging made vehicle and pedestrian access onto the pitches more difficult from Clare Hill, where the college takes access to the pitches over Clare Hill (Huddersfield) LLP's land. Greenhead College stated that they sought to prevent unauthorised access and that at the current gap used to be hedging that, along with a locked gate, restricted access. (**App C** shows landownership boundaries of the fields down to Clare Hill, **App G** shows the Council's ownership in 2012).
- 2.14 Appended to this report are copy extracts of Ordnance Survey plans from 1893, 1906, 1918, 1959, 1985, 1994 and 2019, as well as a copy extract of the definitive map published in 1985 showing footpath 343. (**App D**).
- 2.15 Appended to this report are aerial photographs of the land from 2000, 2002, 2006, 2009, 2012 and 2018. (**App E**)
- 2.16 Appended to this report are photos taken by officers at the site in May 2019. (**App F**). These follow the alignments shown in the applications and the points where they enter/leave the fields.
- 2.17 No route was identified or claimed across this land in the definitive map and statement processes in the 1950s through to the 1980s. The land crossed by the application routes has been used for sports pitches, with the application routes skirting the edge of pitches and the mown area of grass. Access is indicated in the application at 4 points, two connecting to Huddersfield footpath 343, with one to Clare Hill, a public vehicular road and one to the rear and between 20 & 22 Cambridge Road.

- 2.18 In relation to the fourth access, to the rear and between 20 & 22 Cambridge Road, highways registry officers provided the plan appended at **App H** and stated:
- 2.19 “I have highlighted green the extent of adopted public highway in the vicinity of the DMMO app 208/10 and 209/10. The access road coloured orange is unadopted but is considered to be a public highway based on the available evidence which includes layout and a Traffic Regulation Order for Permit Parking. This is in the vicinity of the application 209/10 and 210/10 to add a footpath to the Definitive Map.”
- 2.20 Part of the land affected is proposed to be the site of a school. Members are asked to note that this proposed future use of the land cannot be taken into account by the Council as the surveying authority for public rights of way in considering these DMMO applications.
- 2.21 Officers contacted the applicant in early May 2019 to enquire about the provision of the “further evidence” he noted in the submitted application forms. Officers phoned again in late-May leaving a message, and phoned and wrote on 24 May to inform the applicant about the proposed report to sub-committee on 6 June. No further evidence has been submitted at time of writing.
- 2.22 After considering the evidence and the relevant criteria members have a number of options.
- 2.23 The first option for members is to refuse the applications and to decide that the Council should not make any order because there is insufficient evidence to demonstrate that a public right of way is reasonably alleged to subsist.
- 2.24 The second option for members is to conclude the evidence is sufficient for the Council to make an order to modify the definitive map and statement, to reflect unrecorded rights in relation to all the applications, and either confirm it or forward it to the Secretary of State if it is opposed.
- 2.25 The third option is for members is to conclude the evidence is sufficient for the Council to make an order to modify the definitive map and statement, to reflect unrecorded rights in relation to some of the applications, and either confirm it or forward it to the Secretary of State.

### **3. Implications for the Council**

#### **3.1 Early Intervention and Prevention (EIP)**

3.1.1 Providing better facilities for physical activity works towards local and national aims of healthy living.

#### **3.2 Economic Resilience (ER)**

3.2.1 There is an indirect impact of a welcoming environment which helps promote and retain inward investment

#### **3.3 Improving Outcomes for Children**

3.3.1 See 3.1.1

#### **3.4 Reducing demand of services**

3.4.1 See 3.5.

#### **3.5 Other (e.g. Legal/Financial or Human Resources)**

3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.

3.5.2 The Council must make a decision regarding the order application and any appropriate PROW status of this route, making any order that is requisite further to Wildlife & Countryside Act 1981, e.g. section 53. In accordance with the Council's delegation scheme, this is a decision for the sub-committee.

3.5.3 Any person may make an objection or representation to an order modifying the definitive map and statement. If objections are not withdrawn, any order made would be forwarded to the Secretary of State at DEFRA, and likely considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

### **4 Consultees and their opinions**

4.1 Ward members have been informed about the public footpath claims and have been informed of the report being brought to sub-committee.

4.2 Officers have contacted the landowner, statutory and local user groups.

4.3 No further evidence has been submitted. Cllr Pattison noted that she is not aware of any unrecorded public footpaths here.

## 5 Next steps

- 5.1 If an order is made, it will be advertised on site and in the local newspaper. All owners and occupiers will receive a copy of the order as well as other statutory consultees. Anyone may submit written objections to the order during the relevant notice period.
- 5.2 If no one makes an objection the Council could confirm the order. If objections are made, and not withdrawn, the order has to be referred to Secretary of State DEFRA, who will decide if the order should be confirmed. This usually involves appointing an inspector to consider the evidence from all parties at a public inquiry, hearing or by exchange of correspondence (written representations).
- 5.3 If an application is refused the applicant may wish to approach the Secretary of State by way of representations, who may direct the Council to make an order. [WCA 1981, Schedule 14, 3 (4)]. It would be for the Secretary of State to decide if there were any grounds for such an appeal. If the council refuses to make an order, the applicant has 28 days to appeal after notice is served by the council of its refusal decision.

## 6. Officer recommendations

- 6.1 **Officers recommend that** members choose the first option, described at paragraph 2.23, and decide that the DMMO applications are refused.

### Reasons

- 6.2 There is insufficient evidence to conclude that public rights subsist or are reasonably alleged to subsist.
- 6.3 The appended Ordnance Survey plans do not indicate any historically surveyed physical routes across this land. The appended aerial photos do not indicate any physical connecting routes across this land.
- 6.4 The appended officer photos show the alignments and accesses around the land from definitive public footpaths, Clare Hill and the area to the rear of 20-22 Cambridge Road.
- 6.5 There is sign of lines of tread taking access to the field, but no route has been constructed or provided.

6.6 No user evidence has been submitted, indeed no evidence discovered relating to a dedication of public rights of way, whether presumed under section 31 of the Highways Act 1980, inferred under common law, or relating to any legal event or other express dedication.

6.7 Officers walked the application routes in May 2019, when the appended officer site photos were taken. In itself, the ability to follow these alignments now is not sufficient evidence to conclude that public rights of way subsist or are reasonably alleged to subsist.

## 7. **Cabinet portfolio holder's recommendations**

7.1 Not applicable

## 8. **Contact officer**

Giles Cheetham, Definitive Map Officer

01484 221000

[giles.cheetham@kirklees.gov.uk](mailto:giles.cheetham@kirklees.gov.uk)

## 9. **Background Papers**

9.1 872/1/MOD/208, 209, 210 & 211

9.2 Appendices

[https://drive.google.com/drive/folders/1hbU9Sv\\_c9F1TR8F1RetccZAYT2JwgoDv](https://drive.google.com/drive/folders/1hbU9Sv_c9F1TR8F1RetccZAYT2JwgoDv)

9.2.1 Appendix 1 – guidance for members.

9.2.2 Plan 1 – Plan depicting all application routes

9.2.3 App A – DMMO application forms & plans

9.2.4 App B – location plan

9.2.5 App C - land ownership boundaries

9.2.6 App D – Ordnance Survey extracts and 1985 definitive map extract

9.2.7 App E – Aerial photographs

9.2.8 App F – officer site photos May 2019 & photo plan

9.2.9 App G - Section 31 (6) deposit mapping.

9.2.10 App H – Highways registry plan.

9.2.11 Report summary

## 10. **Service Director responsible**

10.1 Service Director, Commercial, Regulatory & Operational Services



**Name of meeting and date:**

Planning sub-committee (Huddersfield area) – 6 June 2019

**Title of report:**

**Applications for four definitive map modification orders, each to add a public footpath to the definitive map and statement, Highfields/Clare Hill, Huddersfield (DMMO application references 208, 209, 210 & 211).**

**1. Purpose of report**

**Members are asked to consider** the evidence and decide on any requisite modification of the definitive map and statement of public rights of way. Four applications have been received for definitive map modification orders to record four public footpaths.

**2. Summary of Report**

In January 2019, four DMMO applications were received concerning alleged public footpath routes, shown in appended plans between Clare Hill and Highfields, Huddersfield.

Public footpaths are a category of public highway recorded in the definitive map and statement of public rights of way.

Members are asked to consider and determine the applications, deciding whether the evidence demonstrates that any DMMO is requisite. An order to add the alleged public footpaths to the formal record would be requisite if the evidence demonstrates that a public right of way is reasonably alleged to subsist.

Submitted evidence in each application consists of an indicative plan and more detailed plan indicating the claimed route. No user evidence has been submitted.

**3. Ward Councillor comments**

No evidential comments to date on the existence of public rights of way. Cllr Pattison is not aware of any public footpath rights.

**4. Officer recommendations and reasons**

That sub-committee decides to refuse the applications and that the Council should not make any order because there is insufficient evidence to demonstrate that a public right of way is reasonably alleged to subsist.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date: 06-Jun-2019**

**Subject: Planning Application 2018/91300 Change of use of dwelling to Class D1 (non-residential institution) and formation of parking and associated landscape works Newhouse Farm, New House Road, Sheepridge, Huddersfield, HD2 1EG**

#### **APPLICANT**

Mr Singh, Guru  
Teghbadur Gudwara

#### **DATE VALID**

30-Apr-2018

#### **TARGET DATE**

25-Jun-2018

#### **EXTENSION EXPIRY DATE**

17-Aug-2018

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

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

#### **LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Ashbrow**

No

Ward Members consulted

**RECOMMENDATION: REFUSE**

1. The intensification of use of the site, the alterations required, including the erection of a 2.5 high close timber boarded fence necessary to mitigate against potential noise nuisance, would fail to preserve the setting of the Grade II\* Listed Building located opposite and cause harm to its significance. Furthermore the fence would be an overly prominent and incongruous feature which would result in harm to the visual amenity of the area.

The harm to the setting of the listed building is considered to be less than substantial harm, however, as required by paragraph 193 of the NPPF, great weight has been given to that harm in assessing the impact of the proposed development. Whilst a statement of public benefits has been submitted, and public benefits have been assessed, it is considered that these would not outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, policies LP24(a) and LP35 of the Kirklees Local Plan and paragraphs 127, 130, 190, 193, 194 and 196 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 The application was originally brought to Sub-Committee on 1<sup>st</sup> November 2018 due to the significant number of representations received both in support and against the proposed proposals. The resolution at Committee was as following:

That contrary to the officers recommendation to defer the application that, as outlined in the original report, the Head of Strategic investment be given delegated responsibility to approve the application including issuing the decision notice and to complete the list of conditions including those contained within the considered report including:

- (1) Works to commence within 3 years.
- (2) Works to be in accordance with the approved plans.
- (3) Areas for car parking surfaced and drained.
- (4) Turning facilities to be provided and retained.
- (5) Storage and access for collection of wastes to be submitted.
- (6) Condition opening hours.
- (7) Noise report to be submitted.
- (8) Lighting report to be submitted if external lighting is proposed.
- (9) Installation of 2 no. electric vehicle charging points

- (10) Arboricultural method statement to be submitted.
- (11) Landscaping scheme to be submitted.
- (12) Landscape maintenance condition.
- (13) Details of any additional tree works to be submitted.
- (14) Details of how fencing will allow movement of hedgehogs.
- (15) Details of extract ventilation system.
- 16) Scheme for CCTV.

(2) The following additional conditions were raised during the committee meeting:

- (a) The reduction in height of the boundary fence to 5 foot.
- (b) The widening of the access gate to a minimum 3.1 metres.
- (c) Restrictions on the numbers of people that would normally attend worship and the measures required on those occasions where numbers exceed the restrictions.

1.2 Following this resolution the applicants raised concerns regarding the conditions proposed to be imposed, specifically relating to the restricted opening hours and number of patrons as set out in the previous report (25). Subsequent discussions have concluded that the maximum number of attendees is agreed to be restricted to 120. Due to the increase in numbers proposed and intensification in use of the site additional information was required to support the development. This included a noise assessment and measures of attenuation in addition to car parking management. A revised site layout plan has been submitted to show 33 car parking spaces within the site boundary. The plan also shows the positioning of a 2.5 metre high acoustic fence which is required to mitigate potential noise. It is shown set in from the site boundary adjacent to the access track and proposed to be designed to be screened by ivy planting.

1.3 Furthermore, the opening hours are revised from those previously agreed by members from:

07:30 – 20:00 Monday to Friday  
08:30 – 18:00 on Saturdays and Sundays.

To:

Monday to Thursday 04:00 – 20:00  
Friday from 04:00 until 04:00am Saturday morning  
Saturday from 06:00 until 04:00 Sunday morning  
Sunday from 06:00 – 20:00.

These hours are as set out in the submitted Car Parking Management Plan and have been assessed by officers in KC Environmental Health and KC Highways Development Management.

1.4 The applicants have also submitted a supporting statement regarding additional wider community benefits facilitated by the provision of the centre. These are listed below:

- Community kitchen (The Mission or on the streets)
- Healthcare workshops
- Collaborations to provide blood donor sessions/adult and young person workshop events/education

- Sunday school
- Promote environmental awareness (tree planting/encourage wildlife)

1.5 The application is being brought back to sub-committee for determination as the additional information and further representations represents material changes from that previously considered and approved by Members.

## **2.0 SITE AND SURROUNDINGS:**

2.1 Newhouse Farm is a pair of semi-detached buildings forming one larger unit that is set within areas of garden/greenspace. The property is two storeys in height and constructed from stone.

2.2 The site is accessed off New House Road which is part adopted and shares access with Our Lady of Lourdes RC Primary School, The Bungalow and numbers 1 and 2 New House Hall.

2.3 A number of mature trees are located to south east periphery of the site which are protected under a Tree Preservation Order. The wooded area to the rear of the site and along the northern boundary is Lower Fell Greave which is an ancient woodland and also a local wildlife site.

2.5 New House Hall which is the closest property to the application is a Grade II\* Listed Building which is sub-divided into two separate dwellings. New House Hall is currently undergoing significant repair works following a fire in April 2017. The building was constructed around 1550 and is constructed from hammer dressed stone with a pitched stone slate roof and has 2-storeys with attics.

2.6 Public Rights of Way HUD/29/10 runs along the New House Road and adjoins HUD/28/40 which provides access into the woodland.

2.7 The Council's internal Land and Property Gazetteer lists the application site as a pair of semi-detached dwellings which was granted permission to change its use from a community training centre to form two dwellings (app ref 2013/93783). Council Tax records indicate that the property has been vacant since 31<sup>st</sup> March 2014. However, information has been obtained that one of the dwellings was converted and occupied on a short term tenancy whilst the other was never converted or occupied.

2.9 Notwithstanding the above, conditions were attached to the previous planning application to convert the building to dwellings, these relate to specifications for the surfacing works and informal parking area and also a tree protection scheme, which have not been submitted for approval and as such remain undischarged.

2.10 In addition, the Agent has provided a 'Commercial Property Standard Enquiries' documents which states, within item 8.3 that with regard to the 2013 application...*"It is evident that the work to the layout has not been undertaken in accordance with the planning permission."*

- 2.11 For the reasons outlined above Officers are of the view that the permission was not lawfully implemented and that the site could potentially operate in its previous capacity as a community use although there is still some uncertainty surrounding this. Irrespective it is considered that the operational requirements of the applicants would still require planning permission.

### **3.0 PROPOSAL:**

- 3.1 This proposal seeks permission to change the use of the property to Class D1 (non-residential institution) and includes the formation of parking, associated landscape works and also the erection of a 2.5 metre acoustic fence. The submitted information states that the vacant building is to be converted to a Gurdwara, a Sikh place of worship and a centre for the community. Other activities such as yoga and meditation classes which would be open to the wider community would also take place. A community meal would take place on Sundays.
- 3.2 Use Class D1 includes clinics, health centres, creches, day nurseries, schools, non-residential education and training centres, public libraries, public halls, exhibition halls, places of worship and law courts. The class groups together buildings visited by the public for a wide range of purposes on a non-residential basis.
- 3.3 The Gurdwara would fall within this Use Class as a place of worship with the community centre falling within the same use class as D1(g) which specifically includes use as “public hall or exhibition centre”. Community centres may be used for a multiplicity of purposes to serve the community however would also be a D1 use in accordance with the Use Class Order.
- 3.4 As such the building would be utilised as a mixture between a community building in connection with public worship or religious instruction which both fall within Use Class D1. In addition to general activities associated with the temple the applicants have set out a list of anticipated major events as follows:

Weddings – 1 per month  
Birthday parties – 1 per month  
Funerals – 4 per year  
Other functions – 4 per year

The building was previously a D1 use when it was a community training centre prior to the change of use granted in 2013.

- 3.5 There are no proposed alterations to the external appearance of the building.
- 3.6 It is proposed that these would be amended to be as follows:  
Monday to Thursday 04:00am to 20:00  
Friday from 04:00am to 04:00 am Saturday  
Saturday from 06:00am to 04:00 on a Sunday  
Sunday from 06:00am to 20:00.

This is outlined in the submitted Car Park Management Plan.

- 3.7 The applicants have agreed that maximum numbers will not exceed 120.

- 3.8 The application includes regularisation of the existing car parking area to provide 33 car parking spaces including 2 accessible spaces. The erection of a 2.5 metres high timber acoustic fence to be set into the site boundary to allow for additional planting and landscaping.
- 3.9 The western and southern boundaries are defined by the existing palisade fencing to the school.
- 3.10 The site proposals introduce new planting that is to comprise of native trees and shrubs. These are to be provided to the northern corner of the site with additional planting adjacent to the proposed fence where necessary.
- 3.11 Bin storage is shown on plan to the south of the property, close to the boundary with the school and the main entrance gates and it is proposed that refuse would be collected at the same time as the school whose refuse is collected from its rear entrance on New House Road.
- 3.12 Within Appendix G of the Noise Impact Assessment, the applicants have highlighted that two wardens would be on site overnight to prepare for the morning service. In addition, they will act as discreet security. A rest room would be provided as the two wardens would split the resting time between 21:00 and 00:00 and 00:00 and 03:00 with the other preparing for the activities for the following day and have time for reflection and meditation. The room for rest is limited in space and would only accommodate one person at a time with a small en-suite attached.
- 3.13 It has also been confirmed that funerals, weddings, baptisms, celebrations and festivals would all take place within the building. For such events a car park management plan would be implemented and adhered to with site volunteers.

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

##### 4.1 New House Farm (application site)

1987/03128 Change of use and erection of extension to existing building to form community training centre. This was subject to an hours of use condition which stated no activity shall take place on the premises outside the hours of 9am and 9pm on weekdays and 9am and 5pm on Saturdays or at any time on Sundays and bank holidays  
*Granted Conditionally*

2013/93783 Change of use and refurbishment of existing community farm house to form 2 residential dwellings  
*Conditional Full Permission*

##### 4.2 New House Hall (adjacent Grade II\* Listed Building):

1989/00634 Countryside Centre and office accommodation  
*Granted Conditionally*

1995/91045 Listed Building Consent for structural timber repairs and associated works to roof, first floor and party wall  
*Consent Granted*



2007/95023 Listed Building Consent for installation of bathroom, addition M & E services, amendments to heating system, alterations to garage and general insulation  
*Consent Granted*

4.3 Our Lady of Lourdes R C School:

1997/90244 Erection of 2.4 metre high steel palisade fencing  
*Conditional Full Permission*

4.4 New House Road:

1987/03944 Listed Building Consent for demolition of barns  
*Consent Granted*

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

5.1 Following the resolution of the application at the Committee meeting on the 1<sup>st</sup> November 2018, to approve the proposed development, the applicants raised concerns regarding the requirements of the recommended conditions. These included restrictions posed by the openings hours in addition to the maximum number of people that could attend at any one time.

5.2 Additional supporting information has been received in respect of noise impact and mitigation in response the increased opening hours, a transport assessment and revisions to the site red line to take account of the right of passing over third party land in addition to a site layout plan showing alterations and the inclusion of an ivy covered acoustic fence to be set in from the eastern boundary.

5.3 The applicant has provided additional information aiming to address matters, however the proposal does not, on balance, address officer concerns and does not satisfactorily minimise the impact of the proposals on the setting of the listed building.

**6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

Kirklees Local Plan (2019):

6.2 The site is allocated Urban Greenspace within the Kirklees Local Plan.

6.3 Kirklees Local Plan Policies:

LP21 – Highways safety and access  
LP22 – Parking  
LP23 – Core walking and cycling network  
LP24 – Design  
LP30 - Biodiversity  
LP33 – Trees

LP35 – Historic Environment  
LP48 – Community facilities and services  
LP52 – Protection and improvement of environmental quality  
LP61 – Urban Greenspace

#### 6.4 National Planning Guidance:

Chapter 2 – Achieving sustainable development  
Chapter 8 – Promoting safe and healthy communities  
Chapter 9 – Promoting sustainable transport  
Chapter 12 – Achieving well-designed places  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving and enhancing the historic environment

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

7.1 The application was originally advertised by site notice, newspaper advertisement and by neighbour notification letters. Following the submission of amended plans, the description of development was changed and the development was re-advertised by both site notice and neighbour notification letters. Due to the information received with regards to the changes to number of attendees and opening hours, the application has been re-advertised by site notices, neighbour notification letters and by newspaper advertisement for the full 21 day period.

7.2 Prior to the submission of the additional information, a total of 424 representations have been made. 421 against the development, 3 in support and 1 general observation. A petition containing 403 signatures has also been received in support of the application. Further comments were received following the publication of the Committee Update which were addressed.

#### **Summary of comments received in response to the original period of advertisement:**

##### Impact on Listed Building:

- Would detract from the setting of New House Hall
- Important to protect New House Hall from further interference and destruction

##### Visual amenity:

- Visual impact of the fence
- Would create an industrial estate look which is wrong for ancient woodland setting
- Fence would be imposing
- Lose the appearance of a country lane and experience of walking down a country lane past a meadow towards an ancient woodland would be lost
- It is not possible to plant trees and hedges in front of the gates where the industrial style fence would be most visible

#### Highway safety:

- Fence would restrict access for emergency vehicles
- Access by bin collections affected
- Increase of traffic on the lane which is a registered public footpath
- No separation of vehicles and pedestrians planned and the lane is very narrow

#### Impact on school:

- Fence too close to the lane and creates a narrow corridor from the rear gates of Our Lady of Lourdes School to the wood and leaves pedestrians, especially school children walking to and from neighbouring schools vulnerable and at risk from increased traffic
- All vehicles including bin wagons and emergency services need access to 1 and 2 New House Hall or the wood would be forced to reverse back down the narrow part of the lane possible to Bradley Boulevard putting pedestrians using the footpath at greater risk. Currently vehicles are able to turn round and drive forward.

#### Impact on woodland:

- If access into the wood is removed, it would be difficult to access the facility
- Would limit access into the wood
- Would ruin historic landscape
- Spoil approach to ancient woodland
- Woodland would be totally ruined
- Fence would run through a plantation of protected trees, some of which will have to be removed or have branches taken down and their roots would be affected

#### Other matters:

- Fence would enclose the lane – fear of crime
- Fence would feel excluding – not suitable in community use
- Wood not fit for wheelchair access
- Area has been established for public use for vehicular turning and parking for dog walkers etc
- Destruction of habitats close to the wood
- Will encourage fly tippers
- CCTV would be a better solution
- Property was not a former community centre but designated as a Business Property offering occasional training days and therefore believe the designation remains as Business Premises.

7.3 Following the submission of amended and additional details, the application was re-advertised by site notice and neighbour notification letters on 19<sup>th</sup> March 2019 and 9<sup>th</sup> May 2019. At the time of writing this report, 376 letters of objection have been received with one letter of support. Any further representations received shall be cited within the Sub-Committee update.

#### Impact on the Listed Building:

- Fence would detract from the historic setting of the Grade II\* Listed Building
- Extensive parking will detract from the historic setting of the Grade II\* Listed Building
- Fence will prevent the proper access and viewing of the Listed Building from its west face

#### Visual amenity:

- Visual impact of the fence would spoil nature of the area especially set within such a densely populated housing estate
- Impact of the fabric and historical finish of the lane from the greatly increased number of vehicle numbers
- Solid fence would look intimidating, incongruous and affect the unspoiled nature of the area

#### Residential amenity:

- Extended hours and number of visitors this development is predicted to attract will cause significant detriment to local residents
- Would cause great detriment in terms of sound, light pollution and increase in footfall to residences in the immediate area
- Large number of major events attracting large numbers of commuting cars and people attending the events would be detrimental to the local residents and wider area
- Noise from heavy increase of traffic all night passing local properties is not acceptable

#### Impact on the school:

- Noise from the building impinging on the school working day
- Parked cars could impede access which could be vital to the school

#### Impact on the woodland:

- Fence impacts on access to the local woodland and green environment
- It would be difficult to access the woodland should this facility be removed
- Fence would cause damage and deterioration to the ancient protected woodland
- Fence runs through copse of protected trees and will cause damage to the trees with no attempt to mitigate the damage
- Increase in noise, traffic and light pollution would be negative on the adjacent woodland

### Highway safety:

- Fence will hinder rightful vehicular access to Newhouse Hall
- Access restricted for emergency vehicles to the woodland, New House Hall, New House Farm and the School as the fence prevents correct turning and access including in case of fire, crime or medical emergency
- Concerned about safety of pedestrians including school children whilst using the footpath that will be enclosed by the development
- Lane is not suitable for such an intensive use and the application does not address how this will be mitigated
- Consider the amount of parking space will be insufficient for the type of events that are proposed which will cause a large overflow of cars onto the local roads to the detriment of traffic flow in the local area
- Too many cars will be on the lane

### Ecology:

- Would cause great detriment in terms of noise, sound, light pollution and marked increase in footfall to wildlife and the natural environment
- Will endanger deer and other wildlife in the woods

### Other matters:

- Enclosing of the lane with the fence would be intimidating – fear of crime
- Erection of the fence will feel excluding and not suitable for a building in community use
- Impact of the community use of the building on viability of existing community buildings
- CCTV would be a more viable alternative
- Would hinder access for any future restoration of building works taking place
- Small building and wider site not suitable for such an intensive and extended use
- Information difficult to locate embedded within reports
- Loss of views from New House Hall

### General comments:

- Amended plans should be re-advertised

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Historic England – England acknowledge the submission of supplementary information and refer to the Local Authority to consider this information in consultation with the specialist conservation adviser

## 8.2 **Non-statutory:**

KC Conservation and Design – Concerns remain to the revised scheme

K.C. Ecology – No objections subject to conditions

K.C. Public Rights of Way – Comments not received

K.C. Arboricultural Officer – no objection subject to conditions relating to the submission of an Arboricultural Method Statement, landscaping scheme and any other tree works being attached to the decision notice

K.C. Highways Development Management – no objection

K.C. Building Control – requires application to building control for material change of use, plus consideration given to Part M access

West Yorkshire Fire Service – no grounds to object if access to the site is maintained for emergency use

K.C. Environmental Services – no objections subject to conditions

West Yorkshire Police – the acoustic fence facing New House Road will act to create defensible space along that perimeter defensive planting should be introduced along the exterior of the acoustic fence to soften the appearance and to deter anyone from climbing

## 9.0 **MAIN ISSUES**

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

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 The application seeks planning permission for the change of use of the building to Class D1 (non-residential institution) and the formation of parking and associated landscape works. Kirklees Local Plan Policy LP1 requires 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 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.

- 10.2 The site is within an area allocated as Urban Greenspace on the Local Plan. Kirklees Local Policy LP61 accords with National guidance by restricting proposals for development subject to a limited number of exceptions. The site currently offers little in the way of sport and recreational facilities but provides a degree of openness associated with such designations. The development is for change of use and whilst part of the remaining areas within the site are to form parking areas the proposals do not include the erection of any new building or extension. Other landscape works are proposed but these would not result in the loss of urban greenspace but rather enhance the existing landscaping introducing new planting where required. The development relates to the continuation and enhancement of the main use of the site and maintains the quality and function of the green space thereby satisfying the purposes of Policy LP61.
- 10.3 Policy LP48 regarding sustaining community facilities and services is relevant as the proposed use as place of worship (Class D1) should be provided in accessible locations where the need to travel can be minimised through walking, cycling and public transport. Such locations are normally considered as town or local centres. Proposals will be supported for development that protects, retains or enhances provision, quality or accessibility. Provision to community facilities have positive impacts on wellbeing and healthcare. Such facilities need to be accessible to all sections of the community. Whilst not located within a defined town or local centre, the site is on the periphery of an established area of residential development neighbouring an existing school within the community. The development would enhance provision, quality and accessibility of a community facility to meet the needs of members of that community. Paragraph 92 of the NPPF states that planning decisions should 'plan positively' for the provision and use of shared spaces, community facilities and other local services such as meeting places and places of worship to enhance the sustainability of communities and residential environments.
- 10.4 Officers recognise that the development would be located within, and serve a part of, the community in which it is located thereby providing a facility in a sustainable location. Furthermore the wider services provided by the facility would have the potential to reduce the need to travel through co-location of services in accordance with the overarching aims of the NPPF.
- 10.5 The development as outlined will need to be capable of accommodation without giving rise to problems of disturbance for occupiers of adjacent premises, prejudicing highway safety and matters of heritage. A full assessment has been undertaken in respect of such matters and addressed further in the report. The principle of change of use complies with principal policies relating to continuing the protection of urban greenspace in addition to sustaining community facilities.

#### Impact on the setting of a Listed Building

- 10.6 The application site lies in close proximity to a Grade II\* Listed Building and as such any proposals for planning permission should have regard for its setting. The duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The setting of a listed building includes wider social, economic and historical connections between the

site and heritage asset in addition to direct visual and physical links. Paragraph 190 of the NPPF requires that the Local Planning Authority(LPA) identify and assess the particular significance of any heritage assets affected and take this into account when considering the impact of the proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. The extent of a setting is not fixed and may change as the asset and its surroundings evolve.

- 10.7 Insofar as the application site forms part of the setting of New House Hall, the land and building were formerly a farmyard associated with the Listed Building to the east with the two sites remaining visibly open to one another. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. Currently the site has a 'neutral' impact on the setting as it is vacant and there is no prominent physical barrier between the two sites. The intensification in the use of the site would bring additional activity, the parking of up to 33 vehicles and the physical separation of the two sites by a 2.5m acoustic fence. The fence is necessary to prevent an unacceptable loss to the residential amenities of nearby occupiers and the intensification of use could not be supported in principle without it. Views of the Hall would be foreshortened by the fence, which would also impinge on the character of the track, the experience of the asset (which currently sits within a tranquil setting) would also be influenced by the activities associated with the intensification of use. Officers are also mindful that the Listed Building is in a perilous condition due to the damage caused from the fire and cannot afford to have its 'value', or economic viability, reduced by inappropriate development. Harm to the setting of the listed building arising from the intensification of use of the site and the physical presence of the acoustic fence could detract from its future economic viability, thereby threatening its ongoing conservation, although it is acknowledged there is no evidence to suggest its economic viability would be affected by the proposal at this stage. Sustainable development under the NPPF can have important positive impacts on heritage and their settings. The economic and social viability of a heritage asset can be diminished if its setting is reduced by insensitively located development.
- 10.8 The proposals presented to Members previously included a paladin fence that was to be reduced in height to 1.5m as part of the committee's resolution to approve the application. At that stage the number of persons on site was to be limited to 25 and the hours of opening were less than now proposed. The amended proposal retains the external appearance of the existing building but includes external works necessary to support the intensification of use proposed. The acoustic fence now proposed is required to be at height of 2.5 metres and set within the boundary to provide mitigation from potential noise. The fence is set in from the boundary as far as is practicable in order to maintain space between it and the existing public right of way and listed building opposite. The applicants have also provided a photograph showing an ivy covered fence to soften its appearance within the wooded area.



- 10.9 The works proposed have been assessed against Policy LP24 and LP35 of the Kirklees Local Plan in addition to Chapters 12 and 16 of the NPPF. With the exception of matters relating to the impact on the setting of the listed building, the alterations to the site as a whole meet the requirements of Policy LP24. The scale of development and inclusion of measures to enhance the site promote good design and respect the townscape and semi-rural character. However, concerns remain regarding the relation of the site with the Grade II\* Listed Building to the east of the site.
- 10.10 Paragraph 193 of the NPPF states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. Any harm to, or loss of, the significance of a designated heritage asset from development within its setting, should require clear and convincing justification. Where the harm is considered to be less than substantial paragraph 196 requires that such harm should be weighed against the public benefit of the proposal.
- 10.11 The applicants have aimed to address Officer concerns regarding the development by restricting the number of attendees on the site thereby reducing the scale of car parking required which, as a result, facilitates the relocation of the acoustic fence. In addition to the provision of landscaping and additional planting.
- 10.12 The fence is set 10 metres from the Listed Building opposite screened by existing trees and proposed additional planting. The proposed fence would appear as a solid timber fence rather than mesh as previously agreed. In order to mitigate against any impact it has been moved away from the Listed Building as far as is practicable and located within an existing area of tree screening thereby reducing the harm in terms of its visual impact. Historic England acknowledge that the revisions would reduce the impact on the setting of the hall by moving the fence westwards and running it in a straight line as opposed to previous arrangements that brought the fence closer to the hall at its northern end. It is also proposed to make provision for ivy to grow up the eastern face of the fence to soften the impact and reinstate more of the green character of the setting of the hall which would in turn reduce the harm to significance. Historic England acknowledge the submission of supplementary information and refer to the Local Authority to consider this information in consultation with the specialist conservation adviser, see paragraph 10.7 above.
- 10.13 The changes to the site as a whole and scale of operational requirements in general are of concern when considering the proximity of the site to the listed building and the potential impact on its setting. Paragraph 194 of the NPPF requires that the Local Planning Authority should require clear and convincing justification for any harm. The scale of the development proposed has been determined by the requirements of the applicant and expectation of accommodating up to 120 attendees. The applicants have aimed to address remaining concerns as outlined below.
- 10.14 Taking into account the scheme proposed and relocation of the fence, it is considered the development would result in less than substantial harm which would require justification and weighing against the public benefits of the scheme in accordance with Paragraph 196.

- 10.15 The applicants have submitted a supporting statement (Appendix 4) which highlights a number of wider community benefits associated with the proposed use. It is recognised that the development proposals offer community benefit in terms of the provision of a place of worship in addition to ancillary events and these should be weighed against the harm that would result from the works proposed. In addition the bringing back of the site into use would provide inherent surveillance to the public right of way and the likelihood that this could reduce instances of anti-social behaviour. It would also bring a currently vacant building back into economic use. Whilst balanced in this case it is considered that the public benefit is not of sufficient merit to override concerns regarding harm to the setting of a listed building caused by the fence contrary to Policy PL35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

#### Impact on Amenity

- 10.16 The application site sits to the north east of an existing school and abuts residential properties to the eastern and southern boundaries. The conversion of the existing building is not considered to result in any loss of amenity to the school or any of its operations and no representation has been received. The site boundary is retained as currently. The main considerations relate to any impact of amenity including the occupants of nearby residential properties.
- 10.17 The physical works included within the application relate to the car park and acoustic fence. The acoustic fence is set back from the low stone wall abutting the public right of way, within the existing wooded area to the east of the site, and approximately 10 metres from New House Farm. Additional planting is proposed to soften its appearance. It should be noted that a 2.0 metre high fence could be erected without requiring planning permission due to it being set approximately 5 metres from the public right of way. The acoustic fence represents an additional 0.5 metres. The location and screening would mitigate any impact to those using the public right of way and to the occupants of the building opposite. It is considered that additional planting would assist to mitigate the impact of the scheme on visual amenity, protect the function of Urban Greenspace and the details of the planting would be agreed as part of a landscape scheme, secured by Condition. As set out in paragraph nos.10.6 to 10.14 however this would not, on balance, overcome the harm caused to the setting of the listed New House Hall.
- 10.18 *Noise:*  
Whilst Members sought previously to control the hours of operation on the site these posed unacceptable restrictions to the applicants. In order to achieve greater flexibility within the site the applicants submitted supplementary information which assesses the potential for noise associated with the increase in numbers and hours of operation. The noise report has been assessed by KC Environmental Health who agree with the conclusions and mitigation requirements. Furthermore the applicants have agreed to restrict numbers to a maximum of 120 and hours are now specified at:

Monday to Thursday 04:00am to 20:00  
Friday from 04:00am to 04:00 am Saturday  
Saturday from 06:00am to 04:00 on a Sunday  
Sunday from 06:00am to 20:00.

The erection of the acoustic fence shown on Plan REF 027 101 K is necessary to provide mitigation for the hours and number of occupants now specified. Furthermore, a condition requiring details of a noise management plan is recommended to address outstanding concerns regarding the operations of the wider site. As such it is considered that adequate measures can be put in place to protect noise sensitive premises on New House Road from activities taking place at the application site. The site lies adjacent to an existing school which generates noise by virtue of the school activities taking place during term time thereby providing an existing source of noise. Taking into account the noise report officers consider that, subject to conditions regarding the erection of the fence and noise management plan for external areas, it is possible to allow more flexibility in opening hours than was previously agreed subject to the measures outlined. The flexibility in terms of hours can only be supported with the provision of an acoustic fence as outlined previously, however this is considered detrimental to the setting of the listed building and as such requires balanced consideration with weight afforded to the wider community benefits. Should the fence not be supported for the reasons given above, the absence of mitigation measures would result in a development that would be harmful to the amenity of nearby occupants contrary to Policy LP52 of the Kirklees Local Plan. The development can only be supported in respect of Policy LP52 with the provision of an acoustic fence.

- 10.19 Conditions would also be required regarding controlling odour (if an extract ventilation system is proposed) and external lighting. These would be in the interests of the amenity of neighbouring properties and would accord with Policy LP52 of the Local Plan and guidance in Chapter 15 of the NPPF.

#### *Crime Prevention*

- 10.20 Paragraph 91 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which includes, amongst other things, ensuring that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
- 10.21 A number of comments received during the publicity period have raised concerns regarding the fence enclosing the lane and the fear of crime this may introduce when walking along the Public Right of Way towards the woodland, resulting in a detrimental impact on amenity. The fence has been set back from around 5.0 metres from the public right of way reducing any impact on the pedestrian route to allow continual use. The Police Architectural Liaison Officer raises no objections regarding the development proposed but makes recommendations in order to address matters regarding crime prevention in accordance with Policy LP24 of the Local Plan.

#### Landscape issues

##### *Impact on the Ancient Woodland and Ecology*

- 10.22 Beyond the northern boundary of the site is Lower Fell Greave which is an ancient woodland and also a local wildlife site. The trees to the south-east of the building are protected by Tree Preservation Order. As such, both the Council's Arboricultural Officer and also Ecology & Biodiversity Officer were consulted as part of the application process.

- 10.23 The Council's Arboricultural Officer raises no objection to the proposed development and considers that the buffer planting will be of benefit to the woodland. Boundary treatment to the northern boundary is to be conditioned as part of any landscaping scheme taking into account the existing open connection between the two. A post and rail fence would maintain the semi-rural open character whilst deterring development activities, and activities associated with the use of the building spilling out into the ancient woodland in accordance with Policies LP30 and LP33.
- 10.24 There are no objections to the proposed development in terms of impact on the ancient woodland or protected trees on the site. A method statement is required to show how the acoustic fence will be constructed whilst avoiding tree damage (under the protected trees). Further details regarding any tree work that may be required and information of additional planting, including species to be used and quantities are required. These matters can all be addressed by appropriate conditions that would include a landscaping plan.
- 10.25 With regards to the impact of the scheme on ecology and the wildlife site, the KC Biodiversity Officer has raised no concerns regarding the proposed development. However, conditions are required in respect of the submission of an Ecological Design Strategy to ensure the site complies with Policy LP30.

#### Highway issues

- 10.26 Previously concerns were raised by Highways Development Management regarding the intensification by vehicles on the Public Rights of Way. The access is less than 4.5 metres wide and already serving more than one property, including the service entrance for the school, and that parking, bin storage and collection, access by emergency vehicles and visitor numbers needed to be supplied. Further information has been received including a Car Parking Management Plan and confirmation that numbers will not exceed 120 attendees.
- 10.27 Access arrangements have been resolved with a passing place being constructed to allow the free movement of vehicles without significantly changing the nature of the Public Right of Way.
- 10.28 The car park management plan drafted by HDC Support Ltd has been examined. Information from the TRICS database has been used to validate the suitability of the proposed 33-space car park. Further information including number of attendees, and the potential frequency of overflow arrangements being used have been provided.
- 10.29 It is recognised that there would be some increase in traffic from the proposed development as the building is currently vacant. However, the submitted details state that the peak times when the building would be in use, as currently proposed, would be on Sundays which would not conflict with the schools opening times mitigating for some intensification in use.
- 10.30 Taking into account the supporting information received it is considered that the proposals can be supported.

- 10.31 A full assessment of the development in view of fire safety and access has been completed in discussion with the Fire Service. Access is maintained and the existing fire hydrant outside the line of the fence, adjacent the Public Right of Way, will be retained. West Yorkshire Fire Service have been consulted in this respect and raise no objections.
- 10.32 The submitted plans show a refuse collection point in close proximity to the main entrance gates. It is likely that bins will be collected at the same time as the neighbouring school's refuse is collected from its rear entrance on New House Road. A suitable strategy for the storage and collection of waste can be secured by condition.
- 10.33 Taking into account all the above, it is considered on balance, that the proposal is acceptable in terms of highway safety and parking provision and would accord with Policies LP21, LP22 and **LP23** of the Local Plan and advice within Chapter 9 of the National Planning Policy Framework.

#### Representations

- 10.34 **A total of 424 representations have been made. 421 against the development, 2 in support and 1 general observation. A petition containing 403 signatures has also been received.** The planning concerns raised in the representations raised to the original period of advertisement are summarised as follows:

#### Impact on Listed Building:

- Would detract from the setting of New House Hall
- Important to protect New House Hall from further interference and destruction

Response: The impact of the scheme on the adjacent Listed Building has been assessed within the 'Impact on the setting of a Listed Building' section of this report.

#### Visual amenity:

- Visual impact of the fence
- Would create an industrial estate look which is wrong for ancient woodland setting
- Fence would be imposing
- Lose the appearance of a country lane and experience of walking down a country lane past a meadow towards an ancient woodland would be lost
- It is not possible to plant trees and hedges in front of the gates where the industrial style fence would be most visible

Response: The impact of the scheme on visual amenity has been addressed within the 'Impact on amenity' section of this report.

#### Highway safety:

- Fence would restrict access for emergency vehicles
- Access by bin collections affected
- Increase of traffic on the lane which is a registered public footpath
- No separation of vehicles and pedestrians planned and the lane is very narrow

Response: The impact of the scheme on highway safety has been addressed within this report.

#### Impact on school:

- Fence too close to the lane and creates a narrow corridor from the rear gates of Our Lady of Lourdes School to the wood and leaves pedestrians, especially school children walking to and from neighbouring schools vulnerable and at risk from increased traffic
- All vehicles including bin wagons and emergency services need access to 1 and 2 New House Hall or the wood would be forced to reverse back down the narrow part of the lane possible to Bradley Boulevard putting pedestrians using the footpath at greater risk. Currently vehicles are able to turn round and drive forward.

Response: The Agent has confirmed that the peak times for the use of the building would be on a Sunday, subject to the currently proposed hours of use. This would not conflict with the school traffic. The impact of the development on highway safety, including the public right of way, has been addressed in the assessment.

#### Impact on woodland:

- If access into the wood is removed, it would be difficult to access the facility
- Would limit access into the wood
- Would ruin historic landscape
- Spoil approach to ancient woodland
- Woodland would be totally ruined
- Fence would run through a plantation of protected trees, some of which will have to be removed or have branches taken down and their roots would be affected

Response: The impact of the scheme on the woodland and the tree preservation order on site has been addressed within this report.

#### Other matters:

- Fence would enclose the lane – fear of crime
- Fence would feel excluding – not suitable in community use
- Wood not fit for wheelchair access
- Destruction of habitats close to the wood
- Will encourage fly tippers
- CCTV would be a better solution
- Property was not a former community centre but designated as a Business Property offering occasional training days and therefore believe the designation remains as Business Premises.

Response: The former use of the building and the fear of crime have been assessed within this report as has the impact on the woodland and the lane. Access into the wood for wheelchairs does not form part of the application and therefore is not a material consideration for this application.

Following receipt of additional information and revised plans a period of re-advertisement was carried out:

A total of 376 objections have been received and 1 letter of support further summarised below:

### Highway safety

- Plans do not allow for a hammer head or turning point for vehicles accessing the adjacent property, Newhouse Hall
- Fence prevents correct turning and access for emergency vehicles to New House Hall
- Safety of pedestrians whilst using the footpath due to large number of cars and events
- Vehicular access to New House Hall to visitors would be hindered
- Will prevent access to a public highway created through implied dedication
- Tightly enclosed land will prevent and not facilitate and would restrict emergency access
- Amount of parking spaces will be insufficient for the type of events proposed which will cause a large overflow of cars onto the local roads to the detriment of traffic flow in the local area
- Lane providing access is not suitable for such an intense use
- Large events would impede access to the school

Response: The impact of the scheme on highway safety has been addressed within this report.

### Impact on Listed Building

- Would be detrimental to historic setting of New House Hall
- Fence would prevent access and viewing the Listed Building from its west face
- Fence will leave New House Hall isolated

Response: The impact of the scheme on the adjacent Listed Building has been addressed within the 'Impact on the setting of a listed building' section of this report.

### Impact on woodland

- Fence impacts on access to the local woodland and green environment
- If access into the woodland is removed, it would be difficult to access the facility
- Fence would cause damage and deterioration to the ancient and protected woodland
- Fence will damage the copse of protected trees
- Fence would prevent access for emergency vehicles to the woodland

Response: The impact of the scheme on the woodland and the tree preservation order on site has been addressed within this report.

### Visual amenity

- Visual impact of fence
- Fence would affect unspoilt nature of the area
- Effect on the fabric and historical finish of the lane from the greatly increased number of vehicular movements
- Spoiling what is left of a rural part of Sheepridge

Response: The impact of the scheme on visual amenity has been addressed within this report.

### Residential amenity

- Extended hours and number of visitors will cause significant detriment to local residents in addition to the large number of major events
- Nature of proposed use would cause great detriment in terms of sound/noise and light pollution
- Site is unsuitable for such intensive and extended use as detrimental to people living in the area and those using the lane and adjacent woodland for recreation
- All the noise, vehicles and people will not be appropriate next to a school and from 4am isn't acceptable

Response: The impact of the scheme on residential amenity has been addressed within this report.

### Impact on ecology

- Sound, light pollution and marked increase in footfall would cause great detriment to wildlife and natural environment
- Fence and car park will further impact of the future viability of the ecology of the area

Response: The impact on ecology has been assessed within this report.

### Other matters

- Enclosure of the lane would be intimidating – fear of crime
- Greater risk of crime and there would be no way to escape an assailant
- Fence would be excluding – not suitable for a building in community use
- Will impact on the viability of existing community building provision
- CCTV would be a viable alternative
- Fencing suggests a distrust of the local community
- Block plan redundant as access shown is now designated for parking
- Heritage statement not factual
- Impact of noise increased traffic and congestion and visual impact are not appropriate to this location
- The peace of the ancient woodland would be shattered
- Would disturb learning at the school
- Empty buildings within the town centre that could be used
- Air pollution
- Demolition of a historic building

Response: Issues relating to the fear of crime have been addressed within this report, a sequential test has previously been submitted to demonstrate alternative buildings were not viable and also, no demolition of buildings is proposed as part of this application. Should the application be granted permission, conditions can be attached with regards to CCTV and air pollution by way of an extract ventilation system.

**No further material planning consideration matters have been raised that have not already been addressed within the report or above. Any further representations received will be reported to Members in the update.**



## Other Matters

- 10.35 Open Space – a number of objections make reference to the land being used by the public for parking for members of the public to use the woodland for dog walking etc. The Enquiry form submitted by the Agent clearly states within item 3.4 that....*"New House Road is designated PROW HUD/29/10 and other parts of the Property may have been used for dog walkers etc. The Council has advertised the proposal disposal of Open Space in accordance with Section 123 of the Local Government Act 1972 and no objections to the disposal were received"*. As such, the applicants have the legal right to prevent indiscriminate parking within the site to members of the public.
- 10.36 Air Quality. As the development is for a D1 use and proposes to formalise a car parking area within the site it is necessary to enable charging of plug-in and other ultra-low emission vehicles. This would accord with paragraph 110 of the NPPF, **Policy LP24 of the LP and the West Yorkshire Low Emissions Strategy. Given the number of parking spaces proposed it would be appropriate to require 2 no. vehicle recharging points be provided.**

## **11.0 CONCLUSION**

- 11.1 Whilst very much balanced in this instance it is considered that the wider public benefits of the scheme proposed are not considered to outweigh the harm that would result from the erection of a 2.5 metre high close boarded acoustic fence in addition to the intensification in use of the site which is considered harmful to the setting of the Grade II\* Listed Building located opposite and thereby contrary to Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

## **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f91300>

[Listing Description for New House Hall](#)

<https://historicengland.org.uk/listing/the-list/list-entry/1279156>

Certificate of Ownership – Notice served on Kirklees Council and the Diocese of Leeds

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 06-Jun-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

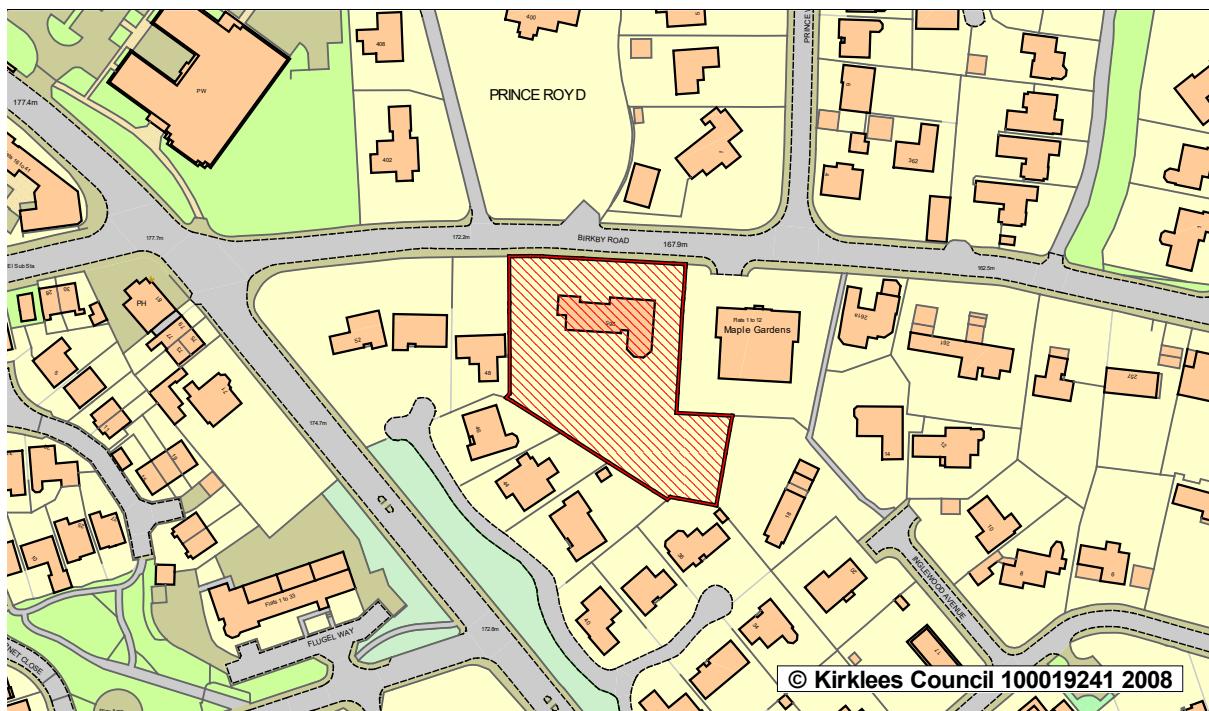
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Lindley**

No

Ward Members consulted

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**RECOMMENDATION:** REFUSE, for the following reasons;

1. By virtue of its density combined with the scale and mass of the proposed dwellings and their layout within the site, the proposal would result in an incongruous and cramped form of development which would fail to integrate with the existing built environment or to reflect the pattern of development in its immediate surroundings. It is therefore deemed to represent poor design and the proposal would represent an overdevelopment of the site. The development would unduly detract from the character of the surrounding area and cause harm to visual amenity, contrary to Policy LP24(a) of the Kirklees Local Plan as well as guidance within Chapter 12 of the National Planning Policy Framework.

2. The proposed layout, due to a combination of the proximity of dwellings to the southwestern (rear) boundary, their mass and scale, would result in an overbearing impact upon properties and their rear gardens adjacent to the site on Inglewood Avenue. This would also result in a poor standard of amenity for future occupiers. As such, the proposals would be harmful to residential amenity and contrary to Policy LP 24(b) of the Kirklees Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework, which seeks to, amongst other things, ensure that developments function well and provides a suitable standard of amenity for existing and future residents.

## **1.0 INTRODUCTION**

1.1 The application seeks the demolition of one dwelling and the erection of five detached dwellings, with garages.

1.2 In accordance with the Delegation Agreement, the application was first brought to the Huddersfield Planning Sub-Committee at the request of Cllrs Burke and Eastwood who opposed the development, including amendments, considering it constitutes overdevelopment of the site, despite being reduced in scale (in regards to the original scheme for 6 dwellings).

1.3 The application was first reported to Huddersfield Planning Sub-Committee on 7<sup>th</sup> March, 2019. Members resolved to defer the application to allow the applicant to reduce the number of units sought from five to four or less units. This was due to concerns of five units causing an overdevelopment of the site, which led to harmful impacts upon visual amenity and neighbouring dwellings.

- 1.4 The applicant has not reduced the number of units, retaining five. In response to member's concerns, the applicant has amended the plans to show fencing 3.0m along the south-west boundary and indicated additional soft planting along the boundary.

## **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 the erection of timber boundary fencing to rear boundaries. The fencing is to be 1.8m in height, with exception to the south-west boundary where it is to be 3.0m in height. Plots 3 and 4 are to have a 1.0m stone front boundary wall. The stone boundary wall alongside Birkby Road is to be lowered to 1.0m where required to enable sightlines, where else it will be 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. A culvert crosses the site, which required negotiations on securing appropriate enhancements to ensure appropriate safeguarding and no material greater risk from flooding being caused by the proposal.
- 5.3 Following the committee on the 7<sup>th</sup> of March, where members advised that they could not support five units and the applicant should consider four or less units, further discussions took place between the applicant and officers. The applicant was unwilling to reduce the numbers proposed, however sought to alleviate member concerns on density by improving the boundary treatment.
- 5.4 Because the applicant has not reduced the number of units from five to four or less, notwithstanding the amendments made, officers consider the scheme has not satisfactorily addressed the resolution of Committee. Furthermore when assessed against the adopted Policies of the Local Plan, which has now removed the technical 'space around buildings' standards set out by Policy BE12, officers consider that the development would not represent good design. This has led to the recommendation to refuse the application.

## **6.0 PLANNING POLICY**

### Kirklees Local Plan (KLP)

- 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 The site is Unallocated on the LP Policies Map, adjacent to the Edgerton Conservation Area
- **LP1** – Presumption in favour of sustainable development
  - **LP2** – Place shaping
  - **LP3** – Location of new development
  - **LP7** – Efficient and effective use of land and buildings
  - **LP11** – Housing mix and affordable housing
  - **LP21** – Highway safety and access
  - **LP24** – Design
  - **LP28** – Drainage
  - **LP30** – Biodiversity and geodiversity
  - **LP33** – Trees
  - **LP35** – Historic environment
  - **LP51** – Protection and improvement of local air quality

## National Planning Guidance

6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19th February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance.

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

- **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

6.5 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.

7.2 The end date for the previous period of publicity was 22 February, 2019. 32 representations were received to the proposal up to that date.

7.3 Following the committee on 7 March the plans were amended by the applicant. These amendments have been re-advertised by neighbour letter. The current period of publicity is not due to expire until the 4<sup>th</sup> of June. As such the period of publicity will not expire until after the committee agenda has been published. Representations received to the initial periods of publicity, and those in response to the current publicity received at the date the report was compiled, are summarised below. Any further representations received will be reported to members in the update.

- 6 houses are 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 3<sup>rd</sup> 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.
- Note the latest comments from the LLFA. Seek reassurances that their assessment was undertaken very recently, as there appears to be marsh-type grass growing on site following the removal of trees last year. Wanting reassurance that the new culvert does not pose a risk of water seepage.

#### *Local member interest*

- 7.4 Cllrs Burke and Eastwood expressed concern early within the application process and wished to be kept informed. They were appraised of the initial amendments secured by officers; however, the members did not consider them to overcome their concerns of overdevelopment of the site, resulting in the committee request.
- 7.5 Following the post-committee amendments, officers notified Cllrs Burke and Eastwood of the amendments and that, as the alterations did not conform with the resolution of the committee, the recommendation was now likely to be for refusal. The Councillors confirmed they would support this recommendation, and suggest a maximum of three units would be acceptable to them.

## 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 (LLFA): Have provided feedback on the surface water drainage and guidance for the applicant. Expressed concerns due to the details provided and flood risk, however following further details being provided and assessed, do not object to the proposal subject to conditions.

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 LP1 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 LP Policies Map. LP2 of the LP 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 In the recently adopted Local Plan the council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27<sup>th</sup> February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1<sup>st</sup> April 2013).
- 10.4 Recent amendments to National Planning Practice Guidance have revised the Housing Delivery Test measurement for local planning authorities and a technical note on the process used in its calculation. Results for 2018 (published 19<sup>th</sup> February 2019) show that housing delivery in Kirklees over the period 2015-2018 was 75% of the number of homes required by the test. This means that the council must produce an Action Plan within six months of the test results being published and continue to apply a 20% buffer to the five year housing land supply requirements. In summary the council can currently demonstrate a 5-year supply of deliverable housing sites, with appropriate buffer. Notwithstanding this, windfall sites contribute to housing delivery and there is no objection to the redevelopment of this site for housing in principle.
- 10.5 LP7 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, LP7 states this target should be 'where appropriate' and in the policy justification set out in para 6.40 that the policy allows for lower densities "densities where a site would not be compatible with its surroundings, applicants should refer to the design policy for further guidance" (Policy LP24). This area is characterised by large detached dwellings, set in generous curtilages. 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 and its impact on the surrounding environment, assessed against LP24 amongst other Policies, is undertaken below.

### Urban Design

- 10.6 First considering the loss of the existing building, it is neither listed nor deemed to be a non-designated heritage asset. Whilst not unattractive, it is not of significant architectural merit and does not meaningfully contribute to the aesthetic of the area: its demolition is not opposed.
- 10.7 Assessing the proposed development's layout and density, it is acknowledged that LP7 establishes minimum density targets for the district that this development falls well below. However, an important aspect of the policy is the stipulation of 'where appropriate', and that 'Housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme'. Residential development surrounding the site is prominently large, detached dwellings set in generous curtilages. This forms a verdant and spacious character that defines the surrounding built environment.

- 10.8 LP24(a) requires that 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'. By the standards established by the surrounding townscape, the proposal is considered an overdevelopment.
- 10.9 Whilst the dwellings sought are large and detached akin to those in the area, the proposed units are proportionally larger in their plots. This results in less open space between units within the site and to existing neighbours, resulting in a cramped form of development. As an example, plots 3, 4 and 5 have separation distances of 3m to each other, compared to typical distances of 4-7m at adjacent properties. Particular reference is made to plot 5, which is located in a narrow section of the site exacerbating concerns of overdevelopment, with the rear elevation of this plot being particularly closely spaced to existing buildings to the north, east and south.
- 10.10 In response to these concerns, the applicant has provided a study of nearby residential development and their respective densities. These include Birchwood Close, Plots 30 – 40 of Inglewood Avenue, Prince Wood Lane and the adjacent apartment block to the east of the site. Excluding the flats, as a different form of development, only one site has a higher density (Prince Wood Lane). However, this example was part of a larger estate of 40 units and therefore considered under a different context compared to this small scale windfall site. Turning to the examples of equivalent density to the application site, density of development is a consideration of unit numbers compared to site area. It does not reflect the scale of dwellings, their spacing to other properties and the proportionate size of their surrounding curtilage as has been considered above. The equivalent density sites are deemed to have more appropriate scale and spacing, both within the site and to neighbouring dwellings, compared to that sought.
- 10.11 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 is considered to correspond well with Inglewood Avenue and Birkby Road, which likewise host large dwellings of varied designs that form a coherent whole however the acceptability of the appearance of the dwellings does not overcome the concerns about the scale and massing combined with the density on site resulting in a poor form of development and therefore bad design.
- 10.12 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.

- 10.13 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.
- 10.14 In response to concerns of overdevelopment of the site, the applicant proposes a 3.0m high timber boundary fence to the southwestern boundary of the site. While there is noted to be some variance in levels, this is not considered an appropriate response to address the concerns (relating to residential amenity, addressed below) and a 3.0m high boundary fence would be an incongruous and imposing feature that is out of keeping with the predominant boundary treatments of the area. Given the large scale of dwellings and their curtilages, boundary treatments are mostly open and low level.
- 10.15 The site is on the edge of the Edgerton Conservation Area, with the site's west and south boundary to the properties on Inglewood Avenue forming the Conservation Area boundary. While not within the Conservation Area, development can affect its settings. Nonetheless, consultation has been undertaken with K.C. Conservation and Design. The heritage value can be considered its attractive architecture, style of design and verdant character. Notwithstanding the above concerns in relation to density, given the site is outside the Conservation Area, would not materially interfere with an existing prominent public viewpoint into the Conservation Area and would not interfere with the identified heritage significance of the area, officers and K.C. Conservation and Design do not consider the proposal harmful to the Conservation Area's setting, having a neutral impact. Planning Officers share this assessment, and do not consider the development to conflict with LP35 or Chapter 16 of the NPPF.
- 10.16 In conclusion, the proposed development is considered to represent an overdevelopment of the site. While taken in isolation the design of individual dwellings are visually acceptable, given the scale and massing of the proposals the cramped form of development therefore fails to respect the established urban grain and character of the wider area. In response to officer concerns regarding overdevelopment, the use of a 3m high boundary fence raises concerns regarding its impact on visual amenity. The proposal would result in an incongruous form of development which would harm visual amenity, The NPPF and Local Plan put good design at the heart of development, with LP24 stating 'good design should be at the core of all proposals in the district'. The application is considered to be contrary to the aims and objectives of LP24 of the LP and Chapter 12 of the NPPF.

#### Residential Amenity

- 10.17 The surrounding area is predominantly residential, with existing dwellings surrounding the site. Consideration is required as to whether the proposal would cause undue harm to the amenity of occupiers of these existing dwellings, followed by an assessment of the amenity of future occupiers. The policy context includes LP24(b) and paragraph 127 of the NPPF. LP24 states;

*Proposals should promote good design by ensuring:*

*b. they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary;*

The dwellings to the north, across Birkby Road, are separated to plots 1 and 2 by a similar distance to the existing dwelling and no concerns are raised as to the effect on residential amenity.

- 10.18 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 of both dwellings 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. As narrow side elevations hosting non-habitable room windows, despite the land levels, officers are satisfied there would be no harmful overbearing, overshadowing or overlooking upon the residents of Maple Gardens.
- 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 and south-west of the site are the rear elevations of nos. 18, 36, 42, 44 and 46 Inglewood Avenue. These dwellings currently face into the large garden space of Corby. It is noted, via representations, that there was previously mature trees along the south boundary which have recently been felled. The proposed dwellings would be erected in their place. It is acknowledged the trees would have likely been a pleasant view, 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.
- 10.21 LP24(b) has no set recommended separation distances. However it does establish that separation distances should be 'appropriate' within the context of the application. To establish this, consideration is required to the proposed distances compared to the establish separation distances within the area. Dwellings in the area have sizable curtilages leading to generous spacing between dwellings. Predominantly, separation distances (on flat ground), are typically in excess of 27m with shared boundaries being approximately half way.

- 10.22 Plot 3 to no.46 would have a separation distance of 19.5m between ground floors or 21.5m between first floors. While these dwellings have an approximately central shared boundary line, plots 4 and 5 are relatively closely spaced to the shared boundaries with their neighbours. At its closest, plot 4 would be 10m from the shared boundary with no.44. Nos 5 has three neighbours; nos.18, 36 and 42. Respectively, plot 5 would be 5.2m, 6.7m and 7.5m from the boundary of these dwellings. These separation distances are consistently lower than that of surrounding dwellings. The need for appropriate separation distances is, in this case, exacerbated given the large scale of the dwellings sought and the limited space between the dwellings, which leads to a greater impact through their mass and scale.
- 10.23 Being well below the separation distances established by the surrounding development, officers consider that the proposed development consisting of large dwellings with limited spacing to their neighbours (in the context of surrounding development) would cause material harm, through overbearing impact, to residents of the aforementioned dwellings (both within their dwellings and their respective rear private amenity areas).
- 10.24 Being located to the north of the aforementioned dwellings, overshadowing is not a concern. Considering privacy and overlooking, window to window separation distances are consistently in excess of 21m. Window to garden distances are lower, however boundary treatment and planting will mitigate opportunities for overlooking. Furthermore, existing residents fronting onto Inglewood Avenue have limited boundary treatments between one another, resulting in an open environment where screening is limited. Accordingly, on balance, officers do not consider material harmful overlooking would take place. This is not considered to prejudice the comments relating to overbearing, which is caused by virtue of the large mass, scale and density and layout of the proposed units, but the separation being sufficient to prevent harmful invasion of privacy.
- 10.25 It is noted that there are topographical differences between the site and neighbouring dwellings. Nos.42 – 46 Inglewood Avenue are on higher ground level. The higher level is not sufficient to overcome these concerns. Conversely, no.18 is on a lower ground level and as plot 5 is only 5m from the shared boundary at its closest point, this level difference exacerbates the concerns. The mature vegetation between plot 5 and no.18 is subject to removal without planning permission and limited weight can be attributed to it as screening.
- 10.26 The concerns relating to overdevelopment and the impact on neighbouring residents were discussed by members at the committee held on the 7<sup>th</sup> of March. Following this the applicant has amended the plans to show additional indicative planting along the south boundary and shown the boundary fencing being increased to 3m in height to attempt to alleviate concerns. Officers do not consider this sufficient to overcome the above concerns.
- 10.27 Consideration must also be given to the amenity of future occupiers. Each dwelling is a suitable size, based on the number of bedrooms sought, with garden spaces being commensurate to the dwellings they serve (in relation to amenity value). All habitable rooms would be served by windows that would provide an acceptable level of natural light. Conversely, as identified above, because of the scale of the proposed dwellings (and correspondingly the

number of windows per elevation) the proximity of plots 3 – 5 to nos. 46, 44, 42, 36 and 18 Inglewood Avenue would result in harmful overbearing between dwellings and gardens for future occupiers. This is partly mitigated by the proposed 3.0m high boundary fence, but this in itself would cause detrimental overbearing and overshadowing, within garden spaces, for occupiers of the new dwellings.

- 10.28 Concluding on the above, the proposed development is considered to be an overdevelopment of the site which, by virtue of the density, scale and mass of the development would result in a cramped form of development which would result in harmful overbearing of neighbouring dwellings, while not securing an acceptable standard of amenity for future occupiers. This is in breach of the aims and objectives of LP24(b) and paragraph 127(f) of the NPPF.

### Highways

- 10.29 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.
- 10.30 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.
- 10.31 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 refuse and emergency service vehicles, although a waste collection point is shown to the site's front allowing refuse services to not need to access the site. Its provision could be secured via condition.
- 10.32 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.
- 10.33 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 LP21.

### Other

#### *Trees*

- 10.34 Several un-protected young trees are to be removed on site, which is not opposed by officers of K.C. Trees.



- 10.35 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 LP33.

#### *Drainage*

- 10.36 Waste drainage is to be via sewer, which is acceptable.
- 10.37 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 within the site, is to be rerouted and improved through the site which is welcomed; there are recorded past flood events involving this culvert within the application site and its environs. The proposal includes mitigating the potential impacts which could arise through increased water flow through the culvert - which would occur through the additional impermeable areas created by the development.
- 10.38 The mitigation measures include the installation of an attenuation tank within the site to reduce the flow of water through the culvert. As a result of this mitigation the increase in water into the culvert, would be limited to 3litres a second in extreme weather events. As the culvert as improved is anticipated to currently accommodate 400 litres a second, this is considered to be a very limited increase. On balance, considering the improvement works proposed to the culvert and the minor flow rate increase of 3litres a second, officers and the LLFA do not object to the proposed arrangement, which is deemed to comply with LP28.

#### *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 should permission be granted. 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 LP30 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 LP24 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 would seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking if the application was to be approved. 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, as initially sought by the proposal, was an overdevelopment. Therefore, to attempt to overcome this concern, the number of units was reduced to five and their scale lowered. Nonetheless, when presented to members at the committee on the 7<sup>th</sup> of March they considered five units remained an overdevelopment, as outlined in this assessment. This led to further discussions between the applicant and officers, however as this has not been reduced in line with the committee's request, officers now recommend refusal.

- 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 and therefore are not considered three storeys. Nonetheless, as outlined in this assessment's report on visual amenity officers concur that the development would detract from the visual amenity of the area by virtue of the scale, mass and density of the development sought.

- 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 the residential amenity section of this report. It was concluded that the proposal would cause material harm to the amenity of neighbouring residents, specifically via overbearing. This forms a reason for refusal. On balance, materially harmful overlooking is not anticipated.

- 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 comment was received prior to the adoption of the Local Plan. As outlined in the principle of development section of this report, through the Local Plan the Local Authority can now demonstrate a 5-year housing land supply.

- 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 Birkby 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. While officers could not impose TPOs on new Trees, newly planted vegetation would benefit from five years of protection via condition if the application was to be granted.

- 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 would partly address this if permission was to be granted.

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

**Response:** The LLFA did express initial objection to the proposal and advised that the applicant explore improvements on 3<sup>rd</sup> 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 flow of 3litres a second in extreme weather events

- Note the latest comments from the LLFA. Seek reassurances that their assessment was undertaken very recently, as there appears to be marsh-type grass growing on site following the removal of trees last year. Wanting reassurance that the new culvert does not pose a risk of water seepage.

**Response:** The LLFA have reviewed the proposal during the course of the application, including providing additional comments following the committee held on the 7<sup>th</sup> of March. The culvert would be installed in accordance with the relevant rules and regulations, and should water seepage take place it would be reviewed by the LLFA.

## 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. The redevelopment of the site for housing is acceptable in principle.
- 11.3 Notwithstanding this, in the context of the surrounding built environment, the development is considered an overdevelopment of the site. The application is considered detrimental to visual amenity, the character of the area and the amenity of neighbouring and future residents. It therefore fails to comply with the aims and objectives of the Local Plan and NPPF. It is acknowledged that concerns relating to drainage, ecology and Highways have been addressed. However, these have a neutral impact on the planning balance and do not outweigh the harm caused.
- 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 not constitute sustainable development and is therefore recommended for refusal.

## **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: 06-Jun-2019

**Subject: Planning Application 2018/93717 Erection of extensions and alterations to dwelling, erection of detached garage with office/store above and related landscape works (within a Conservation Area) Eastwood House, 14, Green Cliff, Honley, Holmfirth, HD9 6JN**

#### APPLICANT

K Bedford

#### DATE VALID

23-Jan-2019

#### TARGET DATE

20-Mar-2019

#### EXTENSION EXPIRY DATE

11-Apr-2019

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected:** Holme Valley North

No

Ward Members consulted

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

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

“Immediate neighbours are concerned about the impact that the tree work and the proposed development will have upon their privacy and the enjoyment of their homes and have asked for the opportunity to raise their issues and concerns directly with the planning committee so that they are on an equal footing with the applicant.

As ward councillor I am happy to support this, and to request a site visit together with a full history of the tree protections and issues at this site since the applicant's home was built.”

1.2 The Chair has confirmed that Cllr Greaves’ reason is in accordance with the Councillor’s Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS**

2.1 Eastwood House, 14 Green Cliff, Honley is a substantial, two storey, detached dwelling faced with coursed natural stone walls and a concrete tiled roof. The property, granted permission in 1992, is set within a large curtilage of approximately 1,480m<sup>2</sup>. The property benefits from a detached garage to the north of the site, as well as a large garden which wraps around the south and east of the site. The land in to the south west of the application site is steeply banked and is difficult to access. Land within the application site is designated as part of a Tree Preservation Order (TPO) which stretches towards no.16 Green Cliff and into the Green Belt. The site is also located within the Honley Conservation Area.

2.2 The north west of the site is bound by no.16 Green Cliff. The south west of the site is bound by a very steep bank with a dwelling ‘Cherry Trees’ on the top of the bank which is set approximately 10m higher than the application property. To the south east of the site are nos. 1, 8, 9, 10 and 11 St Mary’s Mews and to the north east is field owned by the Village Trust, which is designated as Green Belt.



### **3.0 PROPOSAL**

- 3.1 The application seeks permission for the erection of extensions and alterations to dwelling, erection of detached garage with office/store above and related landscape works. The extensions are to both side elevations of the dwelling and the detached garage is to the south east of the site. The landscape works are to form space for the garage and see the part of the bank to the south west of the site excavated and a driveway formed.
- 3.2 The larger extension to the dwelling is to be two storey and on the north-west facing side elevation. It shall see the existing garage demolished and an extension built on a similar footprint. This extension would project 5.5m from the main dwelling which is the same distance as the side elevation of the existing garage. The width of this extension is 6m, with a maximum 6m with the eaves at 3.8m.
- 3.3 The smaller extension on the south east side will see the existing utility roof removed and the extension incorporate this footprint. The extension is to be two storey also. It has a projection of 2.6m, the same as the utility room; a width of 5m with a maximum height of 6.4m which would see the dwellings ridge height maintained, with the eaves at 4.6m.
- 3.4 The proposed garage is to be a double garage, two storey with an office/store above and set to the south east corner of the site. The footprint is 6.7m wide by 7.7m long which creates a 6m x 7m internal footprint. The maximum height of the garage is 6.1m with the eaves at 3.8m above ground level. The garage is dug in below the ground level by 0.3m.
- 3.5 The materials of the extensions and garage are all to match the existing property in its entirety with natural coursed stone for the walls, concrete tiles for the roof and timber/aluminium windows and doors.

### **4.0 RELEVANT PLANNING HISTORY**

- |            |  |
|------------|--|
| 87/03583   | Outline application for erection of 2 No. dwellings – refused, appeal subsequently upheld  |
| 92/02182   | Erection of detached dwelling with integral garage (revised house type). – approved and implemented (Permitted Development rights removed).  |
| 2014/90249 | Works to tpo(s) 18/78 within a conservation area – rg part granted/part refused  |
| 2017/90170 | Works to TPO(s) 18/78 within a Conservation Area - Part granted/part refused. It would appear this permission allowed for certain trees to be felled and then replanted, however they have not yet been replanted. |

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

- 5.1 Initially the scheme did not take into consideration the necessary replanting of the trees required under Tree Work application no. 2017/90170. The agent was asked to include the trees that needed replanting on the proposed plans.
- 5.2 The garage was also initially proposed to be at the southernmost point of the proposed driveway area, 3.8m away from the boundary with no.8 St Mary's Mews. Due to this close proximity to dwellings and the potential overbearing impact it could cause, amendments were sought to either reduce the scale or relocate the garage. The initial plans also saw an indicative access track created through the adjacent green belt land owned by the village trust.
- 5.3 Revised plans were received on 26/03/19 to show the garage dug further in to the ground by 0.3m which in turn reduced the overall height by 0.3m. The agent also had relocated the garage to the opposing side of the proposed hardstanding area, 4.71m further away from 8 St Mary's Mews, meaning the separation distance from the dwelling of 8 S Mary's Mews is 15.47m, and 8m from the shared boundary. The access track through the adjacent field was also removed. The revised plans also included details regarding the location of where the trees will be replanted. This was deemed, on balance, to overcome residential amenity issues arising from the original scheme.

## **6.0 PLANNING POLICY**

- 6.1 Policy 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 is the Local Plan adopted February 2019.

The application site is allocated with the Honley Conservation Area on the Kirklees Local Plan

### **6.2 Kirklees Local Plan**

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP21- Highway safety and access
- LP22 - Parking
- LP24 – Design
- LP33 – Trees
- LP35 – Historic Environment

### **6.3 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.

**Chapter 16:** Conserving and enhancing the historic environment.

## 7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice on 07/02/18, press notice on 8<sup>th</sup> February and neighbour letters for the initial proposed scheme on 24/01/18.
- 7.2 The application was re-advertised for a further 21 days by neighbour letters on 29/03/19 due to the submission of amended plans.
- 7.3 7no. comments were received during these periods of publicity. 4no. comments by 3no. individuals were received during the publicity through the first set of neighbour letters/press notice and the site notice; 3no. comments were received from 3no. individuals during the second publicity period.
- 7.4 Comments regarding to initial proposal; all comments opposed the application. Below is a summary of the points raised:

### Residential Impact

- Overlooking/loss of privacy due to position.
- Overshadowing from garage scale and location.
- Due to foliage removal dwellings now appear too closely together and impact privacy.
- Concerns regarding future use of garage could change.

### Visual Amenity

- The scale and two storey nature is incongruous on the setting.

### Trees

- The application for the approved reserved matters for the dwelling went to committee and clear parameters were set for building line to protect woodland area – the garage breaches these.
- 7 mature trees were removed and 6 others pruned, which emphasises impact of this garage. This tree work may not have had permission.

### Highways

- Access track through Village Trust land is unsuitable for heavy traffic.

### Non-material Planning Considerations

- Value of neighbouring properties would decrease.

- 7.5 Comments regarding to the revised proposal; all comments were against the application. Below is a summary of the points raised:

### Residential Impact

- Further to original objections concerned regarding overlooking and privacy issues.
- Natural light would still be blocked – overshadowing.
- Concerns over true use of first floor store, may in future become living quarters/social space and cause noise and loss of privacy.
- Despite reposition and being dug in, two storey nature still overbearing.
- Noise from traffic relating to garage and proposed hardstanding area/driveway.

### Visual Amenity

- Still appears incongruous.

### Trees

- Same concerns as previously raised

### Other

- Site Visit to see from St Mary's Mews is welcome.

### Non-material Planning Considerations

- Devaluation of adjacent properties.

Holme Valley Parish Council: "Support the application in principle subject to no overlooking and residents' concerns about removal of trees being addressed."

## **8.0 CONSULTATION RESPONSES**

### 8.1 Statutory:

- KC Conservation and Design: were consulted informally and had no objections.

### 8.2 Non-statutory:

- KC Trees on 13/02/19 in regards to initial scheme:

The site is covered by TPO 18/78/A9 and the Honley Conservation Area, consequently all the trees should be considered to be protected that are over 75mm in diameter when measured at 1.5m.

The tree survey provided gives a good level of detail to assess the potential impacts and was necessary given the site levels and the excavation required to provide the garage and turning area at the same level as the house.

The proposals are positioned outside the root protection area of the most important trees on the site, T7 and T27, and therefore I am satisfied that despite the excavations required the required levels can be achieved without harming the long term viability of the retained trees.

The amount of ground works and confined nature of this site does give me cause for concern however and I would ask that a Tree Protection Plan be provided either to demonstrate how the trees will be protected during the construction work. This should include a specification for tree protection barriers.

Another consideration on this site is the replacement trees that need to be planted in the same area as the proposed garage as a result of the condition on planning consent 2017/90170. Sufficient space needs to be afforded for these new trees to enable them to grow and with the proposed layout if they cannot be planted in the same place as the original trees.

## 9.0 MAIN ISSUES

- Principle of Development
- Design
- Residential Amenity
- Trees
- Highway Safety
- Representations

## 10.0 APPRAISAL

### Principle of Development

- 10.1 The site is within the Honley Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that LPAs have a general duty in that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”. Similarly paragraphs 193 and 194 of the NPPF indicate that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 10.2 Policy LP35 of the Local Plan follows the theme of national legislation and guidance. It states amongst other things that:
- Proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.*
- 10.3 The application site is located centrally within the conservation area and therefore, despite only being constructed in the 1990s, its design has a more vernacular appearance than other dwellings erected in the same period. Due to the relatively modern nature of the property, it does not hold specific importance to the significance of the conservation area, rather it has a neutral impact. The building makes use of traditional features such as stone lintels, sills and archways to create a grand appearance which is appropriate for the area. It sits comfortably in extensive grounds and is respectful of the established landscape features which surround it.
- 10.4 The proposed extensions and garage continue the design features of the main dwelling throughout and incorporate matching materials creating a cohesive appearance with the original building and wider area. The proposed extensions, garage and landscape works, in conjunction with the replacing of trees, would not cause harm to the significance of the conservation area. The scale of the extensions and the detached outbuilding would retain substantial open areas within the curtilage of the site, retain and replant trees to the extent that the dwelling would continue to sit comfortably within extensive grounds.

- 10.5 Therefore the proposed development would accord with Policy LP35 and national policy, notably Chapter 16 of the NPPF, the principle of the development is acceptable and therefore shall be assessed against further policy to ensure it is acceptable in every other respect.

### Design

- 10.6 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'*

- 10.7 Local Plan policies LP1, LP2 and importantly LP24 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. LP24 (a) states that proposals should promote good design by ensuring:

“the form, scale, layout and details of all development respects and enhances the character of the townscape”

(c) of the LP24 states:

“Extensions [should be] subservient to the original building...in keeping with the existing buildings in terms of scale, materials and details...”

In this case it can be determined the application satisfies LP24 in regards to visual amenity for the reasons as explained below:

- 10.8 The proposed extensions and garage continue the high quality of design seen in the host dwelling throughout the scheme. The proposed use of coursed natural stone on all elements is visual satisfying in terms of cohesion with the original building. The use of gables, ridge heights and traditional vernacular features such stone mullions, kneelers, lintels and sills continues the same quality of design and character throughout the application site. This use of architecture wholly respects the design of the existing building as does the material and details.
- 10.9 The location of the extensions, where the majority of the development is on existing developed land, ensure the plot will not appear overdeveloped whilst the host dwelling still appears the dominant element. The garage is relatively low for a two storey unit and its use of a pitched roof and the setting in to the bank ensure this too appears subservient to the host dwelling.
- 10.10 The scheme is therefore considered to be in keeping with the existing buildings in terms of scale, materials and details and respect the form, scale, layout and details of the area in regards to design and therefore is considered to accord with LP24 (a) and (c) as well as chapter 12 of the NPPF in regards of design. Matching materials shall be conditioned as a fundamental part of this assessment to conserve visual amenity of conservation area.

### Residential Amenity

- 10.11 The NPPF seeks to create places that promote 'health and well-being with a high standard of amenity for existing and future users' through chapter 12.

LP24 (c) of the LP states that development should seek to:

"...minimise impact on residential amenity of future and neighbouring occupiers".

- 10.12 The proposed extension to the north-west side would be erected on a similar footprint to the existing garage, however would be notably taller. The dwelling of No.16 Green Cliff is situated approx. 11m away from the proposed north west side elevation of the extension. Given the size of the plot of no.16, the separation distance from the dwelling and given there are no windows in the proposed north west elevation facing towards no.16, it is considered there would be no significant harm in regards to privacy, overbearingness or overshadowing towards no.16 Green Cliff.
- 10.13 The extension to the south east side would be in excess of 27m away from any other neighbouring properties. Given this distance there would be no significant harm in regards to privacy, overbearingness or overshadowing towards any neighbouring properties.
- 10.14 The proposed garage is to be placed towards the southern corner of the site. It is set approximately 15.5m away from the closest dwelling (no.8 St Mary's Mews) as shown on plan 18075d-04-P09 showing the garage specifically. This measurement accords with the Council's GIS systems also. The garage is to be set to the north west of no.8 St Mary's Mews with only a small amount appearing directly in line with the dwelling. Nevertheless it will be visible from this property. The latest amendment to the plans, which see the garage set down a further 300mm, the design set into the existing banking and side ridge facing towards St Mary's Mews are all positive factors in reducing the bulk and presence the garage would have particularly on no's 1, 8 and 9. Given that at least 2no. trees are to be replanted between St Mary's Mews and the garage, the mass of the garage would also be further reduced over time. Given this separation distance and the other factors mentioned, on balance it is considered there would not be an undue detrimental impact on the properties on St Mary's Mews in regards to overbearingness.
- 10.15 In relation to overshadowing, given the 15m separation distance of the garage away from any neighbours, and that the garage is to the north and north west of St Mary's Mews, there will not be any detrimental overshadowing from loss of sunlight and therefore the scheme is considered to be acceptable in regards to overshadowing.
- 10.16 The garage does not see any windows at any level facing towards St Mary's Mews, and therefore would not result in overlooking. When considering the privacy of the store/office proposed specifically, it is understood if the use of this were to change to living accommodation then it could become more substantial in regards to loss of privacy. To avoid any future loss of privacy to neighbouring properties it is proposed to impose a condition to remove the permitted development rights to convert the garage without written consent from the local planning authority. Furthermore to remove the rights for additional windows to be inserted in the walls or roof.

- 10.17 Cherry Trees, the dwelling to the west of the property, is set approx. 10m above the application site and 25m away from the dwelling. Therefore the proposed development is concluded to have no material impact on the amenities of this property. The driveway to the proposed garage runs approx. 10m away from Cherry Trees but, again, give the very steep bank between them, disturbance from vehicular movements is unlikely to have an impact on the residential amenity of Cherry Trees.
- 10.18 Vehicular noise associated with the use of the driveway and garage would be that normally associated with a domestic property. There are no concerns that this would have an adverse effect on the amenities of surrounding residents on St Mary's Mews or at 16 Green Cliff.
- 10.19 For these reasons set out above, on balance the scheme is deemed acceptable in regards to residential amenity and is assessed to accord with LP24 of the Kirklees Local Plan in respects of residential amenity. Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate. In this case it is considered that on balance, the harm is considered proportional.

### Trees

- 10.20 As mentioned above, the site is set within an area covered by TPO. Further to this, the trees are also protected by virtue of conservation area status. In 2017, permission was granted for Tree Works to 8 trees within the site under application 2017/90170. Conditions on this application stipulated that all replacement trees should be planted in the first planting season, which would be from November 2017 until March 2018 (inclusively). The trees had not been planted as of the site visit in February 2019, however it is understood that the tree replanting have very recently taken place. It is understood that all trees except one have been replanted in the positions as shown on the Arboricultural Method Statement (AMS) submitted for this application. Further information will be reported to Members in the update.
- 10.21 KC Trees have no objections to the scheme and replanting of the scheme providing a condition is inserted to ensure the construction, if approved, is built in accordance with the AMS to protect the trees and ensure the replanting scheme (in accordance with the previous Tree Works application) takes place and is successful. This shall be imposed condition in accordance with Policy LP33 of the Local Plan. KC Trees have requested an updated AMS plan to show the one tree out of position, however it is likely this tree position would not be detrimental to their assessment of the application. A formal response from KC Trees on this matter and if the replanting works affect the development applied for in the update.
- 10.22 After further consultation via discussions with KC Trees, it is understood that if this application is refused, enforcement action could still be taken to see the 1no tree planted out of position, replanted as originally approved.



## Highways Safety

- 10.23 Given that the application site has plenty of ability to park off street due to the large plot, there are no concerns regarding parking and therefore LP22 is satisfied.
- 10.24 Given that the extension would not materially intensify trips to and from the site, highway safety and access is acceptable and accords with LP21.

## Representations

- 10.25 For the purposes of clarity to the report, the comments received during both publicity periods have been combined and are set out below.

### 10.26 Residential Impact

- Overlooking/loss of privacy due to position.
- Overshadowing from garage scale and location.
- Despite reposition and being dug in, two storey nature still overbearing.
- Due to foliage removal dwellings now appear too closely together and impact privacy.
- Concerns over true use of first floor store, may in future become living quarters/social space and cause noise and loss of privacy.
- Noise from traffic relating to garage and proposed hardstanding area/driveway.

*Response:* These were all assess within the residential amenity section in the appraisal, sections 10.11 to 10.19.

### 10.27 Visual Amenity

- The scale and two storey nature of the garage is incongruous on the setting.
- Response:* This was assessed during the design section of the appraisal, sections 10.6 to 10.10.

### 10.28 Trees

- The application for the approved reserved matters for the dwelling went to committee and clear parameters were set for building line to protect woodland area – the garage breaches these.
- 7 mature trees were removed and 6 others pruned, which emphasises impact of this garage. This tree work may not have had permission.

*Response:* This was assessed through the trees section of the appraisal, sections 10.19 to 10.22. This application is assessed on its own merits and notwithstanding the previous grant of reserved matters for a dwelling, the development now applied for is considered acceptable.

### 10.29 Highways

- Access track through Village Trust land is unsuitable for heavy traffic.

*Response:* The access through the Village trust land is no longer a part of the scheme.

### 10.30 Other

- Site Visit to see from St Mary's Mews is welcome.

*Response:* The case officer has visited the site and visited the relevant properties on St Mary's Mews, a committee site visit will take place to view the application site.

### 10.31 Non-material Planning Considerations

- Devaluation of adjacent properties.

*Response:* This cannot be considered as it is not a material planning consideration.

## 11.0 CONCLUSION

11.1 In Conclusion, the proposal is recommended for approval subject to conditions below to preserve the Honley Conservation Area, protected trees and the residential amenity of neighbouring dwellings.

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

1. Development within 3 years
2. In accordance with the approved plans
3. Matching materials
4. Construction in accordance with Arboricultural Method Statement
5. Garage cannot be converted from approved use without prior consent from LPA.
6. Withdraw PD Right for additional windows in garage.

## Background Papers

2018/93717 Link to website:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93717>

Application Form submitted with Certificate A.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 06-Jun-2019

Subject: Planning Application 2018/90391 Erection of hot food take-away adj, 364, Meltham Road, Netherton, Huddersfield, HD4 7EH

#### APPLICANT

Thandi Bros Ltd

#### DATE VALID

12-Feb-2018

#### TARGET DATE

09-Apr-2018

#### EXTENSION EXPIRY DATE

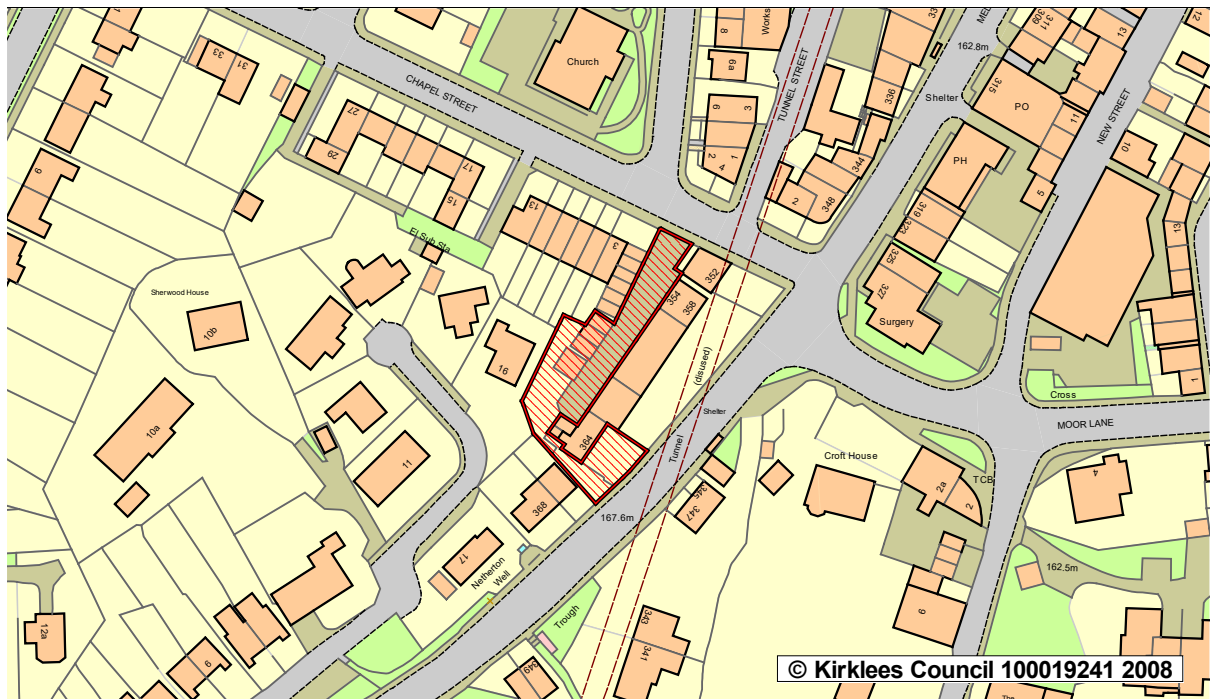
14-Jun-2019

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Crosland Moor and Netherton**

No

Ward Members consulted

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**RECOMMENDATION: Refuse**

1. The proposed building, by reason of its siting and scale, would form an unduly prominent and incongruous feature in the street scene which would be harmful to the character and appearance of the area. This is contrary to Policy LP24(a) of the Local Plan and Chapter 12 of the National Planning Policy Framework.
2. The development would give rise to a loss of residential amenity as a result of noise and disturbance at unsocial hours and odours arising from the proximity of the flue to residential property, contrary to the aims of Policies LP24 (b) and LP52 and Chapter 12 of the National Planning Policy Framework.
3. The submitted plans and information have not satisfactorily demonstrated that adequate off-road parking for staff, customers, and delivery drivers, can be provided within or in the vicinity of the site. Furthermore the proposed location of the bin store would conflict with a car parking space and make it difficult for cleansing operatives to access bins. This would result in an unacceptable impact on highway safety contrary to Policy LP21(a) of the Local Plan and para 109 of the NPPF.

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the sub-committee for determination following a request from Ward Councillor Manisha Kaushik which states:

“If you are minded to refuse the above application, I would like you to take it to the Planning subcommittee so that issues of parking and visual impact can be considered by Members. I would like a site visit by members.”

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

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises no. 364 Meltham Road, a hair salon with an apartment above at second floor which forms the end property in a row of modern commercial premises, and associated land, located on the north-western side of Netherton Road. There is space for parking and manoeuvring on the

forecourt of the property and next to this is an unused plot of land on the highway frontage, elevated above highway level by about 1.5-2.0m and overgrown with small trees, shrubs and weeds. To the rear of nos. 358-364, and at a higher level, is a private access track to serve the flats above the commercial units.

- 2.2 The nearest neighbouring property to the south-west is a 3-storey semi-detached dwelling. On the opposite side of the road, the frontage consists of low-density residential development.

### **3.0 PROPOSAL:**

- 3.1 The proposal is for the erection of a building to be used as a hot food takeaway. This would be a single-storey building and would require the excavation of the existing banking so as to create a flat surface at existing highway level. It would be joined to the existing hair salon building at one corner.

- 3.2 The proposed building would be 7.7m long and would project 6.2m forward of the front elevation of no. 364, leaving a gap of approximately 3.0m before the highway boundary. Its width would be 5.0m at the front, tapering to 3.2m at the rear which is required by the constraints of the site. It is proposed that it would be built in coursed natural stone and would have a hipped blue slate roof.

- 3.3 The entrance door is to be at the side of the building facing the vehicle forecourt. Proposed hours of opening are to be from 12pm until 12am, 7 days a week.

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

- 4.1 None

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

- 5.1 The additional or amended details have been submitted as a result of negotiation:

- 12-Mar-2018: Agent submitted further information and a planning statement in response to the case officer's request for further information about refuse collection and parking.
- 18-Jul-2018: Agent submitted amended plans deleting the bedsit (i.e. reducing the building to a single-storey) and reducing the projection of the proposed takeaway.

### **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 Local Plan.

6.2 The following Local Plan policies are considered to be relevant:

- LP 13: Town centre uses
- LP 16: Food and drink uses and the evening economy
- LP 21: Highway safety and access
- LP 22: Parking
- LP 24: Design
- LP 35: Historic environment
- LP 47: Healthy safe and active lifestyles
- LP 52: Protection and improvement of environmental quality

National Planning Policy Framework:

6.3

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised by site notice and neighbour notification letter. The publicity period ended 26-Mar-2018.

7.2 Representations have been received from 16 local residents or business persons and in addition a 59-signature petition against the proposal has been submitted. The concerns raised can be summarised as follows:

- Parking issues and no space for deliveries
- Impact on intervisibility
- There are already frequent accidents involving vehicles using the car park
- No provision for waste storage
- Visual impact
- Flue emissions will be unpleasant and potentially dangerous for residents
- The building would interfere with escape routes for hair salon
- Impact on foundations to adjoin properties
- There are enough takeaways in Netherton already.

7.3 The additional/amended information and plans were not re-publicised as these reduced the scale of development. The objections raised above are taken into account in the assessment of the application.

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:** Network Rail – No objection subject to conditions.

## 8.2 **Non-statutory:**

KC Highways Development Management – Recommend refusal.

KC Environmental Health – Recommend refusal.

KC Planning Policy (Local Plans team) - No objections.

KC Corporate Strategy and Public Health – Advise against, but this will depend on retail mix and balance of centre.

Police Architectural Liaison Officer – No objection subject to condition.

## 9.0 **MAIN ISSUES**

- Principle of development
- Impact on vitality and viability of Local Centre
- Urban design issues
- Residential amenity
- Highway issues
- Public Health
- Representations
- Other matters

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 The site falls within Netherton Local Centre on the Local Plan proposals map. It is close to the boundary with Netherton & Corn Bank Conservation Area, which lies on the opposite side of Meltham Road.
- 10.2 It is roughly 15m from a grade II Listed structure, a well-head with retaining walls, HUD 47/1436.
- 10.3 Impact on the retail balance and function of Netherton Local Centre will be considered having regard to LP 13 and 16. Policy LP 13 states, in brief, that main town centre uses shall be located within defined centres, which should provide a mix of uses whilst retaining a strong retail core. Policy LP 16 of the Local Plan states that proposals of this nature should be supported, subject to ensuring that the concentration of food and drink and licensed entertainment uses should not be in any one part of a centre, where this would result in harm to the character, function, vitality and viability of the centre.
- 10.4 The proposal will also be assessed having regard to potential impacts on highway safety and parking (LP21-22), its design and appearance, including any impacts on heritage assets (LP24 and 35), implications for public health and health inequality (LP47) and the local environment and residential amenity (LP52). Similar considerations are set out in the NPPF policies listed above.

### Impact on vitality and viability of Local Centre

- 10.5 The August 2018 occupancy survey of Netherton Local Centre found that 5 out of a total of 20 units were in “leisure service” use, which includes restaurant, hot food takeaway, drinking establishment and “A1 takeaway” (or sandwich bar) use. Should this application be approved, the number of leisure service uses would amount to 29% of the total number of units. There are no unimplemented planning permissions for hot food takeaways in Netherton Local Centre at the present time. It is therefore considered that the proposal would complement the existing uses and would not have a detrimental impact upon the retail mix and balance of the centre.

### Urban Design issues

- 10.6 This part of Netherton does not display a strong coherence in architectural style, but it is notable that 352 to 364 Meltham Road are all set back substantially from the highway boundary across a shared forecourt. 336-368, also on the north-west side of the highway close to the site, are set back by some 5m. On the opposite side of the road is an optometrist’s and an attached dwelling with only a small yard at the front. The rest of the south-eastern road frontage gives the impression of being open and undeveloped with many small trees.
- 10.7 The building has been reduced in scale from what was shown on the original plans – a two-storey structure with a gable roof extending to the highway boundary. Even as amended, however, it still projects far beyond the line of the existing shops and 2.5m beyond the line of the adjacent dwelling houses, nos. 366-368. It is considered that in context, the erection of a new building projecting this far forward would look incongruous and out of keeping with the street scene. This is notwithstanding that it would be seen in the context of rising land to the south-west and north-west.
- 10.8 Officers’ assessment is that the development would not adversely affect the setting of the Netherton and Corn Bank Conservation Area, as it is clearly distinct from the character and appearance of the Conservation Area, nor would it be harmful to the setting of the Listed well-head referred to previously.
- 10.9 It would however be harmful to visual amenity and would therefore conflict with the aims of PLP24(a) and Chapter 12 of the NPPF.

### Residential Amenity

- 10.10 Hot food takeaways are liable to give rise to noise disturbance from a number of factors – from the takeaway ventilation system, from cars or delivery vehicles pulling up and departing, engines revving and doors slamming, and from the behaviour of customers, who may arrive intoxicated at later times and will sometimes linger outside waiting to be served or eating their meals.
- 10.11 In a town or local centre, a certain amount of noise and activity in the evenings may be accepted beyond what would be considered normal in a residential area, but Netherton is a fairly quiet village which is not likely to have a high level of activity on the streets late at night. It is also important to note that the surrounding area is of mixed residential and commercial character. The site is at the very edge of the commercial centre of Netherton, just at the point where commercial uses give way to residential use. Furthermore the adjacent commercial premises have residential flats above.



- 10.12 Given the character of the surrounding area it is considered that the proposed takeaway, especially with the proposed closing time of midnight, would result in a significant and noticeable increase in late night noise and disturbance at this location which would be liable to result in a reduction in amenity for residential properties close to the site.
- 10.13 Emission of fumes from hot food takeaways can be prevent or at least mitigated by the installation of an appropriate ventilation system with filtration to remove grease and odours. Even with such mitigation measures implemented, however, fumes can still cause nuisance if the takeaway is very close to existing residential properties. In this instance it is considered that the extremely close relationship between the proposed takeaway and its two residential neighbours – 366 Meltham Road to the south-west and the flat above no. 364 to the north-east – would result in an irreconcilable conflict between these two uses, with a very high probability of loss of amenity resulting from fumes.
- 10.14 It is considered, in summary, that the development would not be able to operate without giving rise to a loss of residential amenity as a result of noise and odours, contrary to the aims of Policy LP52, and NPPF Chapter 15.

#### Highway issues

- 10.15 It is anticipated that the local highway network would be able to absorb the additional traffic generated by the development. Visibility splays at the south-west entrance to the car park are substandard and there is limited circulation and manoeuvring space within it, but the development would result in a small improvement in visibility (from 7m to 20m). It is therefore considered that the possible intensification of the access is not a significant enough concern to warrant a refusal.
- 10.16 No dedicated parking is provided to serve the proposed takeaway. It has not been clearly demonstrated where staff would park. Section 10 of the application form says that an additional two spaces would be created or provided at the rear but these have not been shown on a plan.
- 10.17 Customers and delivery drivers would, in principle, be able to take advantage of the large parking area in front of 354-364 Meltham Road. This area appears to be shared by the businesses occupying the frontage and contains approximately 15 spaces (4, 3 and 5 in front of the hair salon, dental practice and supermarket respectively although not all are marked out, and capacity for a further 3 in front of the pizza takeaway). Based on officers' observations it appears that the car park is heavily used during the daytime. It is possible that there would be more spaces available in the evenings, although no objective evidence has been provided of levels of parking demand at different hours of the day.
- 10.18 Takeaways and other businesses are often granted planning permission without dedicated parking, but this tends to be in cases where there is a parking lay-by adjacent to the premises, or where officers are satisfied that vehicles can park informally by the roadside without it giving rise to highway safety problems. In this instance it is noted that the site is located on a major road on which typical vehicle speeds are likely to be in the region of 30 mph, and so

any on-street parking would be highly undesirable from the point of view of highway safety. There is a traffic regulation order (double yellow lines) on the north-west side of the highway close to the junction with Chapel Street, but the road frontage outside the supermarket and dental practice is unregulated, as it is on the opposite side of the highway outside the optometrist.

- 10.19 Drawing AL02A shows the position of the integral refuse/recycling bin store. This is cause for concern as it is immediately adjacent to a car parking space which is likely to be used by the neighbouring hair salon. This may make the bins inaccessible to a cleansing operative on collection day and could also make it difficult for takeaway employees to wheel the bins to a suitable collection point. The space created by setting back the development could be suitable for a bin collection point which again has not been shown.
- 10.20 In conclusion, based on the information submitted it is considered that the takeaway would result in additional demand for car parking that it might not be possible to accommodate within the existing car park. Furthermore the proposed location of the bin store would conflict with a car parking space and make it difficult for cleansing operatives to access bins. This would not be in the interests of highway safety and contrary to Policies LP21 and LP22 of the Local Plan and para 109 of the NPPF.

#### Public Health

- 10.21 Planning Practice Guidance – health and wellbeing advises that planning can influence the built environment to improve health and reduce obesity and excess weight in local communities, taking into account proximity to locations where children and young people congregate, evidence of locally high levels of obesity, deprivation and poor health, and clustering of certain use classes within specific areas.
- 10.22 The general aim of creating and supporting healthy communities is also promoted by Chapters 2 and 8 of the NPPF.
- 10.23 Local Plan policy LP 47 Healthy, active and safe lifestyles criterion (j) refers to working with partners to manage the location of hot food takeaways particularly in areas of poor health.
- 10.24 The typical adult diet exceeds recommended dietary levels of sugar and fat. Living within close proximity to fast food takeaway outlets has been associated with rates of obesity and weight gain.
- 10.25 There are also inequalities on obesity rates between different socioeconomic groups: among children in reception and year 6, the prevalence of obesity in the 10% most deprived groups is approximately double that in the 10% least deprived.
- 10.26 Obesity is a complex problem that requires action from both individuals and society across multiple sectors. One important action is to modify the environment so that it does not provide easy access to energy-dense food in order to help make the healthy choice the easy choice via environmental restructuring.

- 10.27 Crosland Moor and Netherton, taking the Ward as a whole, is in the 40% most deprived areas in England according to the Index of Multiple Deprivation. The proportion of reception age and Year 6 children who are overweight or obese within the Ward (Crosland Moor and Netherton) is close to the Kirklees average, but is still considered high enough to be a cause for concern.
- 10.28 It is considered however that as the concentration of hot food takeaways in or near Netherton Local Centre is not particularly high, and as the site is not within 400m of a school, this particular concern would not be a sufficiently strong material consideration to be a reason for refusal in this instance.

### Representations

10.29 A summary of the comments received is set out below with officer responses:

- Parking issues and no space for deliveries  
**Response:** See 10.16-21 above.
- Impact on intervisibility  
**Response:** See 10.16-21 above.
- There are already frequent accidents involving vehicles using the car park  
**Response:** Access arrangements to the car park are not ideal and there is very limited circulation space within it. It is considered that these factors would not in themselves be a serious enough concern to justify a refusal, although there is a lack of clarity about how parking provision would be accommodated for the new development and on this basis officers are not minded to approve.
- No provision for waste storage  
**Response:** Waste storage has been addressed on the current plans but waste collection has not.
- Visual impact  
**Response:** Noted – this issue has been examined in 10.6-10.10 above.
- Flue emissions will be unpleasant and potentially dangerous for residents  
**Response:** Noted – see 10.11-10.15 above.
- The building would interfere with escape routes for hair salon  
**Response:** The natural escape route would be across the existing car park, which would remain.
- Impact on foundations to adjoining properties  
**Response:** This would normally be treated as a private civil matter and would therefore not be a material planning consideration.
- There are enough takeaways in Netherton already.  
**Response:** It is the view of planning officers that the proposed development would not lead to an over-concentration of takeaways. It should be noted that the planning system cannot be used as a means of restricting commercial competition.

## Other Matters

- 10.30 *Crime and disorder.* Hot food takeaways may sometimes give rise to increased levels of crime or anti-social behaviour. This is more likely to be an issue where there is a high concentration of evening economy uses within a small area. It is considered that owing to the lack of evidence of significant problems of this nature in Netherton centre, this would certainly not amount to a reason for refusal. In the event of officers being minded to approve, the installation of a CCTV scheme, as recommended by the Police Architectural Liaison Officer, could be conditioned.
- 10.31 *Land stability.* The development site is within formal consultation distance of a rail tunnel. Network Rail have been consulted and do not object to the proposal in principle.

## **11.0 CONCLUSION**

- 11.1 It is considered that the proposed development, owing to its siting, would be harmful to the street scene and visual amenity, and that owing to its position close to residential properties would be liable to result in a loss of residential amenity owing to noise and unsociable hours and odours. Furthermore it has not been demonstrated that parking demand generated by the development could be safely accommodated within or in the vicinity of the site, nor that refuse can be safely collected.

### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90391>

Certificate of Ownership – Notice served on Kirklees Council Property Services:

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 06-Jun-2019

Subject: Planning Application 2019/90734 Erection of front and rear extensions and alterations 38 , Longden Avenue, Beaumont Park, Huddersfield, HD4 5JE

#### APPLICANT

S Rob

#### DATE VALID

07-Mar-2019

#### TARGET DATE

02-May-2019

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Crosland Moor and Netherton**

No

Ward Members consulted

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**RECOMMENDATION: Refuse**

1 The proposed first floor rear extension, by reason of its siting, scale and design, would fail to respect the character and appearance of the host building or the surrounding area. This element of the proposal would result in a disproportionate and incongruous addition to the original dwelling. To approve the development would be contrary to Policy LP24 (a,c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 This application has been brought to Committee at the request of Cllr Manisha Kaushik for the following reason:

*“If you are minded to refuse this application please can I refer this to the Huddersfield Planning Sub Committee? My reason for this are as follows:*

*The proposed plans are in keeping with current land and street scape  
Previous applications from neighbouring properties have been approved  
Not out of character  
Property next door has a two storey stone extension  
Stone will last longer than the cladding suggested”*

1.2 The Chair of Committee has confirmed that Cllr Kaushik’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 38 Longden Avenue is a semi-detached stone constructed bungalow located within a predominantly residential area. Longden Avenue itself slopes gently upwards from north-east to south-west with the properties within the immediate vicinity being mainly semi-detached and detached dwellings constructed from stone.

2.2 The application property has a pitched gable feature to the front also a bay window with a driveway to the side leading to a detached garage to the rear of the dwelling.

2.3 There is also a small garden area to the front of the property with a larger lawned garden to the rear. Within the rear elevation of the property is a cat slide projecting element and also a rear facing dormer extension. Boundary screening consists of fencing.

### **3.0 PROPOSAL:**

3.1 Permission is sought for the erection of front and rear extensions and alterations.

3.2 The application has been submitted following the granting of Planning Permission under application number 2018/94037 for the erection of front and rear dormers and alterations.

3.3 A dormer extension is proposed, and has previously approved, within the front elevation of the property being a total width of 3 metres, 1 metre in height to the eaves with an overall height of 2.7 metres to the ridge of the hipped roof. The dormer would be set up from the gutter line by 1.2 metres and would have a roof ridge that would match the existing roof.

3.4 It is also proposed to replace the existing rear dormer with a first floor extension principally located within the roof space. This revised extension would be set back slightly from the gutter line in part, be centrally located within this section of roof slope which has a higher eaves height on the rear elevation. The extension would be a total width of 2.2 metres and total height of 1.1 metre to the eaves with the overall height being 2.4 metres to the ridge of the pitched roof, set down down from the roof ridge by 0.3 metres.

3.5 The final part of the scheme is to erect a true first floor extension to lie flush with the rear elevation of the property. The extension would have an eaves height set above the existing eaves by 2 metres, being a width of 3.9 metres lying flush with the side elevation of the property with the ridge of the pitched roof matching the overall height of the host dwelling.

3.6 There are also alterations to the property which include the removal of the chimney stacks, the blocking up of a ground floor side elevation of the property and the replacement of windows within the ground floor of the rear elevation to patio doors.

3.7 The proposed construction materials would be stone for the walls, tiles for the roof and uPVC for the windows and doors.

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

4.1 2018/94037 Erection of front and rear dormers and alterations  
*Conditional Full Permission*

This scheme was granted permission with amended plans being submitted following concerns regarding the first floor extension (as proposed within this current submission). It was previously suggested to the Agent in terms of raising the eaves within the roof slope and its impact on visual amenity, this be omitted and a dormer extension proposed instead. This amendment was made and submitted plans received. It was also suggested that the front dormer extension be reduced and plans amended to alter the roof form to a hipped design rather than pitched design. This amendment has been retained as part of this current submission.

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

5.1 No negotiations have taken place nor have any amended plans been sought or received. This is due to the design of the scheme reverting back to being a first floor extension and negotiations took place as part of the previous application in terms of amending this element.

## **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 The site is without notation within the Kirklees Local Plan.

### **6.3 Kirklees Local Plan**

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP24** – Design

### **6.4 Supplementary Planning Guidance / Documents:**

None relevant

### **6.5 National Planning Guidance:**

- **Chapter 12** – Achieving well-designed places

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

7.1 The application was publicised by site notice and neighbour notification letters. No representations have been received.

## **8.0 CONSULTATION RESPONSES:**

8.1 None required

## **9.0 MAIN ISSUES**

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



## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 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.
- 10.2 The scheme will be assessed taking into account local policy guidance within Policies LP1, LP2 and LP24 of the Kirklees Local Plan which supports the guidance contained within the NPPF. Policy LP24 is particularly relevant in this instance in relation to design and states that extensions should be subservient to the original building in terms of scale, materials and details and minimise the impact on residential amenity of future and neighbouring occupiers.

### Urban Design issues

- 10.3 In terms of design, the dormer extension to the front of the building is not an uncommon feature within Longden Avenue with other properties also hosting front dormer extensions of varying size and design. There is no specific policy relating to the erection of front dormer extensions however Policy LP24 relates to design. The scale and appearance of this dormer has been previously considered acceptable as it would be contained within the existing roof and would be set in from both the side elevation and the shared boundary of the property with the original roof slope being clearly visible. The hipped roof form visually reduces the scale of the dormer and allows it to site more comfortably in the original roof form (following the removal of the chimney) and wider street scene.
- 10.4 Whilst the application form states that the front dormer would be faced in stone, it is considered that if permission be granted, a condition would need to be imposed requiring the face and cheeks of the dormer to be tile hung to minimise its impact within the street scene.
- 10.5 With regards to the replacement dormer within the rear elevation, this element of the scheme has been previously approved. It is considered that this extension is an improvement in terms of visual amenity and makes a more positive contribution to the development.
- 10.6 The final element of the scheme is to erect a large first floor extension to the rear of the property. The eaves level of the structure would be significantly above that of the existing bungalow, appearing at odds with the current roof profile. The side elevation of this extension would be two storeys in height, reinforcing the massing of the extension, appearing as an incongruous addition and subsequently, failing to respect the proportions and form of the original bungalow.
- 10.7 The scale, massing and design of the extension would not be subservient to the original building and would result in a structure that would be disproportionate to the original bungalow. This is contrary to LP24 which requires that .... *"extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details..."*

- 10.8 Photographs of other extensions to properties have been submitted however, other than one of the sites, no details have been provided in terms of the planning history and therefore hold little weight in the assessment of the proposed scheme.
- 10.9 The proposed internal works do not require permission and the proposed alterations to the fenestration details are considered to be acceptable.
- 10.10 It is therefore considered that whilst the front dormer and replacement of the existing rear dormer are acceptable from an urban design and visual amenity perspective, the rear first floor extension would be harmful to the character and appearance of the host dwelling and the surrounding area. The resultant visual impact would appear that the bungalow has a two storey addition which would not be subservient or in keeping with the host dwelling and would not accord with Policy LP24 (a and c) of the Kirklees Local Plan or Chapter 12 of the NPPF.

#### Residential Amenity

- 10.11 With regards to residential amenity and overshadowing, the proposed works within the roof of the rear elevation would create an additional opening with the creation of the new first floor extension. Notwithstanding this, there is a significant distance between the rear of this dwelling and properties along Foster Avenue such that it would not have a material impact on the privacy of neighbouring properties, or those situated either side of the host dwelling.
- 10.12 As the extensions would be set within the confines of the roof with the adjacent detached property being a two storey dwelling set up from the application site, it is not considered that there would be a material impact on the neighbouring property by virtue of overshadowing or from being overbearing.
- 10.13 It is therefore considered that the proposal is acceptable in terms of residential amenity in accordance with Policy LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

#### Highway safety

- 10.14 As the development would be contained within the roof slope of the dwelling, there would be no alterations to parking provision that would impact on highway safety.

#### Other matters

- 10.15 There are no other matters for consideration.

#### Representations

- 10.16 No representations have been received.

### **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 means in practice.

11.2 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development does not accord with the development plan and that the adverse impacts of the development would significantly and demonstrably outweigh its benefits with assessed policies within the NPPF taken as a whole. It is therefore recommended that the application be refused.

**Background Papers:**

Application web page:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90734>

Certificate of Ownership – Certificate A signed and dated 7<sup>th</sup> March 2019.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 06-Jun-2019

Subject: Planning Application 2019/90623 Erection of cat cage and garden shed to front (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield, HD7 6HB

#### APPLICANT

R Haworth

#### DATE VALID

22-Mar-2019

#### TARGET DATE

17-May-2019

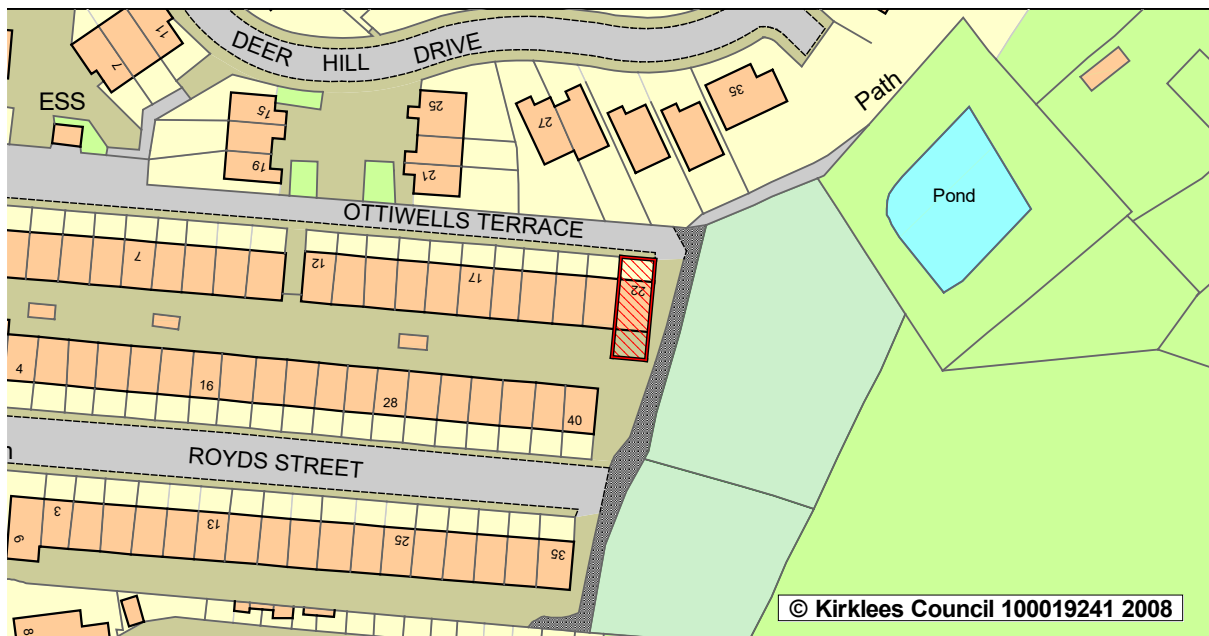
#### EXTENSION EXPIRY DATE

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Colne Valley**

No

Ward Members consulted

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**RECOMMENDATION: Refuse**

1 The proposed cat cage and garden shed by reason of their scale, form, siting and materials would fail to preserve the character and appearance of the host building, the terraced row of dwellings of which it forms part of and the wider Marsden Conservation Area causing harm to its significance and to the visual amenity of the area in general. The harm is considered to be less than substantial harm, however, as required by paragraph 193 of the National Planning Policy Framework, great weight has been given to that harm in assessing the impact of the proposed development. Public benefits have not been demonstrated to outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 (a and c) and LP35 of the Kirklees Local Plan and paragraphs 127, 130, 190, 193 and 196 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

- 1.1 This application is brought to Committee at the request of former Cllr Donna Bellamy for the following reason:

*“For committee to determine if it does impact on the Conservation Area. If it is indeed a prominent development at the front of the house, as this row of terraces generally use the other entrance to their homes so could be seen as rear of house.”*

- 1.2 The Chair of Committee has confirmed that former Cllr Bellamy'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 22 Ottiwells Terrace is an end terraced property within the Marsden Conservation Area and Ottiwells Terrace is one of the three streets of terraces consisting of five long rows of cottages. The houses on this street date back to the early 20<sup>th</sup> Century and they are typical of mill worker's housing of the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries with hammer dressed stone external walls, ashlar stone window and door surrounds and the repetitive design of windows and doors along the terrace.

- 2.2 The dwellings within the terraced row are typified by low stone boundary walls with gate posts around small front gardens, some of which have hedges, short railings or low dividing boundary fences. The boundary treatments are, in the main, at low level and in keeping with the character of the terrace by the use of traditional materials.
- 2.3 The site is located in mainly residential area with the vicinity comprising of mainly terraced properties. The rear elevations of the properties facing the application site are relatively modern detached properties.

### **3.0 PROPOSAL:**

- 3.1 The application seeks permission for the erection of a cat cage and garden shed to the front of the property. At the time of the site visit, the cat cage and shed had been constructed and in situ at the property.
- 3.2 The proposed cage encompasses most of the front garden area projecting forward of the front elevation of the property by 4.1 metres and 3.4 metres in width. The shed sits within the garden area enclosed by the cage and abuts the front and side boundaries of the property being a depth of 2.65 metres and a width of 1.75 metres. The structure sits upon 0.3 metre high decking.
- 3.3 The shed is clad with a shiplap finish and the fencing is a lattice style. The cage itself is a T bar steel frame with a grey/silver finish.
- 3.4 The submitted Design and Access Statement states that the cage is required to provide a safe outdoors space for the young cats/kittens at the property and protect them from loss or harm and prevents them causing motor accidents. It also cites that the structure makes the house more secure and stops people throwing litter in the garden or sitting on the wall and also from theft of the stone. The Statement goes on to say that the shed provides much needed outside storage as well as an enclosed seating area for the summer months. It has been designed to give privacy in the living room and the cats somewhere to run off energy using the roof.

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

- 4.1 No planning history
- 4.2 Enforcement history: COMP/18/0297  
Alleged unauthorised structure – under investigation

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

- 5.1 No negotiations have taken place nor have amended plans been sought or received. This is due to the application seeking retrospective permission for development which has already taken place.

### **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 The site is within the Marsden Conservation Area within the Kirklees Local Plan.

6.3 Kirklees Local Plan (as modified):

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP35** – Historic environment

6.4 Supplementary Planning Guidance / Documents:

Marsden Conservation Area Appraisal

6.5 National Planning Guidance:

- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

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

7.1 The application was publicised by letters, press notice and site notice. The period of publicity expired 26<sup>th</sup> April 2019. 15 letters of representation have been received with 8 representations against the proposal, 6 representations in support of the proposal and 1 general comments regarding the proposal. The following is a summary of responses:

### Objections

- Visual amenity issues: Far too large for the size of the front elevation, creates an eyesore, is unsightly and doesn't blend in with surroundings (including when seen from a distance)
- Highway safety issues: wooden sheds create a blind spot for vehicles turning the corner which blocks view for oncoming children and traffic, close to a public footpath and create danger for users.
- Residential Amenity issues: The shed/cat cage seems to have been fitted with electric and lights up most evenings appearing to have a use which is more than a shed giving concerns regarding noise when used for social occasions

### Supporting comments

- Good quality materials used and not out of keeping with the surrounding and other adjacent buildings
- No detriment to the environment and no detracting from the natural beauty of the area
- It is an end house with no view, it is not an eyesore



### Non material issues:

- Devalues other houses in the terrace
- Cage is amazing
- Protects animal from straying onto the roads
- Believe it is intended for breeding and the sale of cats
- It is not to be used for the breeding of cats and the cats are none breeding cats as terms of contracts given at adoption to each family, confirmation is given that neutering has been completed on each rescue cat

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Conservation and Design – object due to the impact on the host property and wider Conservation Area

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

West Yorkshire Police – advice given regarding mitigation security measures

K.C. Public Rights of Way – No comment due to being retrospective application

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on the Conservation Area/visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations
- Conclusion

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is within the Marsden Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. Policy LP35 requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and to ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

## Impact on the Conservation Area/visual amenity

### *Information submitted with regards to significance*

- 10.2 Paragraph 189 of the National Planning Policy Framework requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. The applicant has provided a Design and Access Statement which falls short of the tests set out in paragraph 189. The development shows limited regard to the significance of the Conservation Area by obscuring a considerable amount of the façade and introducing a dominant and incompatible feature in the front garden where the significance lies in the visibility of the line of facades and the low boundary features. The use of a grey metal framework and mesh for the cage structure on such a large scale is out of keeping with the terrace.

### Impact of the proposal on the significance on the Conservation Area

- 10.3 Policy LP24 requires that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape and minimise impact on residential amenity of future and neighbouring occupiers.
- 10.4 Paragraph 193 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the Local Planning Authority should give great weight to the heritage asset's conservation irrespective of harm.
- 10.5 The proposed cat cage extends across almost the full width of the dwelling and covers the depth of the front garden set down from the first floor windows by 0.7 metres. The shed sits within this caged area. Its mass erodes the streetscape of the terraced row resulting in an overly prominent and incongruous form in the previously open front garden area, resulting in the loss of the strong linear form of the row.
- 10.6 As cited within the consultation response from the Conservation and Design Officer, the terraced mill worker's houses are characterised by the repetition of the facades and low boundary features in the front gardens. It is considered that this large structure causes less than substantial harm to the character and significance of the Conservation Area by obscuring a considerable amount of the façade and introducing a dominant and incompatible feature in the front garden. Whilst it is noted that the application site is the end of a terraced row, the repetition of the terrace and the view along it is interrupted by the introduction of the large structure and therefore harm is caused to its distinct character.
- 10.7 It is not considered that it has not been demonstrated that public benefits outweigh the harm to the character and significance of the Conservation Area.

### Justification for the harm to significance

- 10.8 Paragraph 194 of the NNPF requires that the Local Planning Authority should require clear and convincing justification for any harm.

- 10.9 The applicant's Design and Access Statement states that the use of woodwork and the cage typifies Marsden's industrial heritage and improves the appearance of the dwelling and improves the view as the shed partially hides the neglected woodland and dilapidated sheds and rubbish and old fences in the allotments. As set out above, it is considered that the justification submitted falls short of being clear and convincing as required by paragraph 194 of the National Planning Policy Framework.
- 10.10 As such, it is considered that the cat cage and shed result in an unacceptable form of development from a visual amenity and Conservation Area perspective and would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan as well as the aims of Chapters 12 and 16 of the National Planning Policy Framework.

#### Impact on residential amenity

- 10.11 The cat cage and shed are effectively single storey in height and set in from the boundary with the adjoining property, No. 21. As the elevation facing the neighbour is the framework and mesh of the cage with the door to the neighbouring property being adjacent to the boundary, it is not considered to cause significant harm by virtue of overshadowing or, on balance, by being overbearing. The rear elevation of the properties on Deer Hill Drive would face the application site but a separated from the structure by a boundary wall and Ottiwells Terrace.

#### Impact on highway safety

- 10.12 The proposal does not result in an intensification of the use of the dwelling and does not result in a loss of parking provision or access arrangements. However, visibility has been reduced when accessing the rear of the properties raising concerns regarding highway safety issues and thus not compliant with Policy PLP21 of the Kirklees Local Plan. However, when considering the implications of the proposal on highway safety, it is noted that Ottiwells Terrace and the road connected to the rear of the terrace are privately owned, unadopted roads with the GIS System not indicating that these roads are connected to the side of the application site. Whilst they are used for vehicular access traffic speeds are low and given this it is considered that on balance, there is not a materially detrimental impact on highway safety or the users of any public right of way running close to the site.

#### Other matters

- 10.13 The site is located within the Council's GIS bat alert layer however, it is not identified on the map as having bat roosts and the proposal does not interfere with the existing roof of the property. As such, it is not considered that a Bat Survey is required in this instance.

#### Representations

- 10.14 15 letters of representation were received as part of the public consultation process for the application. Insofar as they have not been addressed in the report above, comments are summarised below with the Local Planning Authority response. Letters in support of the application are noted.

## Objections

- Visual Amenity Issues:  
See paras 10.2-10.10 of the assessment.
- Highway Safety Issues  
See para 10.12
- The shed/cat cage seems to have been fitted with electric and lights up most evenings appearing to have a use which is more than a shed giving concerns regarding noise when used for social occasions  
Response: This is a matter for the Environmental Services team to address via their complaints procedure regarding light and/or noise pollution.

## **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 means in practice.
- 11.2 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposal does not accord with the development plan and that the application of policies within the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

### **Background Papers:**

Application web page:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90623>

Certificate of Ownership – Certificate A signed and dated 24<sup>th</sup> February 2019