Public Document Pack

Service Director – Legal, Governance and Commissioning
Julie Muscroft

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Wednesday 10 July 2019

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Hudawi Centre, Great Northern Street, Huddersfield, HD1 6BG** at **1.00 pm** on **Thursday 18 July 2019.**

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

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.

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	**Green**	**Independent**	**Labour**	**Liberal Democrat**
B Armer	K Allison	C Greaves	S Hall	A Munro
V Lees-Hamilton	S Lee-Richards		A Butt	A Pinnock
M Thompson			E Hill	J Lawson
R Smith			M Kaushik	
J Taylor			W Simpson	

Agenda
Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 6

To receive the Minutes of the previous meeting of the Sub-Committee held on 6 June 2019.

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.

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application No: 2019/90623

Erection of cat cage and garden shed to front (within a Conservation Area) at 22, Ottiwells Terrace, Marsden, Huddersfield.

(Estimated time of arrival at site – 9.55am)

Contact Officer: Emma Thompson, Planning Services

Wards affected: Colne Valley

8: Site Visit - Application No: 2018/94120

Erection of single storey outbuilding at Blackberry Farm, 27, Crosland Edge, Meltham, Holmfirth.

(Estimated time of arrival at site – 10.20am)

Contact Officer: Emma Thompson, Planning Services

Wards affected: Holme Valley North

9: Site Visit - Application No: 2019/90356

Erection of 7 dwellings at Land off Station Road, Meltham, Holmfirth.

(Estimated time of arrival at site – 10.45am)

Contact Officer: Adam Walker, Planning Services

Wards affected: Holme Valley North

10: Site Visit - Application No: 2019/90606

Erection of 9 dwellings (modified house types) at land at, Stoney Bank Lane, Thongsbridge, Holmfirth.

(Estimated time of arrival at site – 11.15am)

Contact Officer: Farzana Tabasum, Planning Services

Wards affected: Holme Valley South

11: Local Planning Authority Appeals

9 - 40

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: Teresa Harlow, Planning Services

Wards affected: Colne Valley; Ashbrow; Holme Valley North; Holme Valley South; Greenhead; Newsome

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Planning Applications

41 - 42

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 15 July 2019.

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

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

12: Application for a Definitive Map Modification Order

43 - 64

Application for order to divert public footpath Holmfirth 146 (part) at Upper Millshaw Farm. Upper Millshaw Lane, Victoria, Hepworth.

Contact Officer: Giles Cheetham, Public Rights of Way

Wards affected: Holme Valley South

13: Planning Application - Application No: 2019/90623

65 - 72

Erection of cat cage and garden shed to front (within a Conservation Area) at 22, Ottiwells Terrace, Marsden, Huddersfield.

Contact Officer: Emma Thompson, Planning Services

Wards affected: Colne Valley

14: Planning Application - Application No: 2018/94120

73 - 80

Erection of single storey outbuilding at Blackberry Farm, 27, Crosland Edge, Meltham, Holmfirth.

Contact Officer: Emma Thompson, Planning Services

Wards affected: Holme Valley North

15: Planning Application - Application No: 2019/90356

81 - 92

Erection of 7 dwellings at Land off Station Road, Meltham, Holmfirth.

Contact Officer: Adam Walker, Planning Services

Wards affected: Holme Valley North

16: Planning Application - Application No: 2019/90606

93 - 102

Erection of 9 dwellings (modified house types) at land at, Stoney Bank Lane, Thongsbridge, Holmfirth.

Contact Officer: Farzana Tabasum, Planning Services

Wards affected: Holme Valley South

17: Planning Application - Application No: 2019/91689

103 - 110

Erection of single storey extension at 52, Brockholes Lane, Brockholes, Holmfirth.

Contact Officer: Ellie Worth, Planning Services

Wards affected: Holme Valley North

Planning Update

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

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 6th June 2019

Present:
Councillor Terry Lyons (Chair)
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Donald Firth
Councillor Nigel Patrick
Councillor Bernard McGuin
Councillor Alison Munro
Councillor Aafaq Butt
Councillor John Lawson

Apologies:
Councillor Mohammad Sarwar
Councillor Paul Davies
Councillor Andrew Marchington
Councillor Anthony Smith

1 Membership of the Committee

Councillor Aafaq Butt substituted for Councillor Paul Davies.

Councillor John Lawson substituted for Councillor Andrew Marchington.

Councillor Alison Munro substituted for Councillor Anthony Smith.

2 Minutes of previous meeting

The Minutes of the meeting held on 18 April 2019 were approved as a correct record.

3 Interests and Lobbying

Councillors Ullah, Griffiths, Uppal, Homewood, McGuin and Sokhal declared they had been lobbied on Item 14 applications for four definitive map modification orders to add a public footpath to the definitive map and statement, Highfield/Clare Hill, Huddersfield.

Councillor McGuin declared an 'other interest' in item 14 on the grounds he knew the applicant.

Councillors Homewood, Uppal, Griffiths, Ullah and Lyons declared they had been lobbied on application 2018/91300.

Councillor Lyons declared he had been lobbied on application 2018/93717.

4 Admission of the Public
All items on the agenda were taken in public session

5 Deputations/Petitions
No deputations or petitions were received.

6 Public Question Time
No questions were asked.

7 Site Visit - Application No: 2018/93717
Site visit undertaken.

8 Site Visit - Application No: 2018/90391
Site visit undertaken.

9 Site Visit - Application No: 2019/90734
Site visit undertaken.

10 Site Visit - Application No: 2018/93326
Site visit undertaken.

11 Site Visit - Application No: 2018/91300
Site visit undertaken.

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).
Site visit undertaken.

13 Local Planning Authority Appeals
That the report be noted.

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).
The Committee considered a report that outlined details of applications for four definitive map modification orders to add a public footpath to the definitive map and statement, Highfields/Clare Hill, Huddersfield (Application references 208,209, 210 & 211).

The report outlined the context and background to the matter, information required to take a decision, next steps and officer recommendations and reasons.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Jonathan Adamson and Andy Dunlop.

RESOLVED – That the applications for the four definitive map modification orders (application references 208,209,210 and 211) to add public footpaths to the definitive map and statement Highfields/Clare Hill, Huddersfield be refused on the grounds that there is insufficient evidence to demonstrate that a public right of way is reasonably alleged to subsist.

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

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

Against: Councillors D Firth, McGuin and Patrick (3 votes)

Abstained: Councillors Lawson and Munro.

15 Planning Application - Application No: 2018/91300

The Committee gave consideration to 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.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Howard Belafonte, Robin Von Mickwitz (on behalf of Michael Hilton), Penny Weynberg, Margaret Lees, Christoph Von Mickwitz, Darrolynn Von Mickwitz (all objecting), Malcolm Sizer, Harnikh Singh, Jasbinder Kaur, Gurinder Atwar, Dr Tejinder Kaur-Desai and Sukhi Singh (all supporting).

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

The Committee considered that the public benefits of the development outweighed the harm to the significance of the designated heritage asset.

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

Vote 1 – Motion to support the officers recommendation to refuse

For: Councillors Homewood, Lawson and Munro (3 votes)

Against: Councillors Butt, D Firth, Griffiths, Lyons, Patrick, Sokhal, Uppal and Ullah (8 votes)

Abstained: Councillor McGuin.

Vote 2 – To approve the application.

For: Councillors Butt, D Firth, Griffiths, Lyons, Patrick, Sokhal, Uppal and Ullah (8 votes)

Against: Councillors Homewood, Lawson, McGuin and Munro (4 votes).

16 Planning Application - Application No: 2018/93326

The Sub Committee gave consideration to Planning Application 2018/93326 Demolition of existing dwelling and erection of 5 detached dwellings with garages Corby, Birkby Road, Birkby, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Christopher Harden (objector) and Andy Rushby(on behalf of the applicant)

RESOLVED – That the application be refused for the following reasons outlined in the considered report:

(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.

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

For: Councillors Butt, D Firth, Griffiths, Homewood, Lawson, Lyons, McGuin, Munro, Patrick, Sokhal, Uppal and Ullah (12 votes)

Against: (0 votes).

17 Planning Application - Application No: 2018/93717

The Sub Committee gave consideration to 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.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Val Javin, Liz Oldfield (objectors) and Elaine Bedford (applicant).

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

The Committee considered that the scale of the proposed detached garage/store would be harmful to the visual amenity of the area.

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

Vote 1 – to support the officers recommendation to approve.

For: Councillors Homewood, Lawson, Munro and Uppal (4 votes)

Against: Councillors Butt, D Firth, Griffiths, Lyons, Patrick, Sokhal and Ullah (7 votes)

Abstained: Councillor McGuin.

Vote 2 – to Refuse the application.

For: Councillors Butt, D Firth, Griffiths, Lyons, McGuin, Patrick, Sokhal and Ullah (8 votes)

Against: Councillors Homewood, Lawson, Munro and Uppal (4 votes)

18 Planning Application - Application No: 2018/90391

The Sub Committee gave consideration to Planning Application 2018/90391 Erection of hot food take-away adj, 364, Meltham Road, Netherton, Huddersfield.

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

RESOLVED – That the application be refused for the following reasons outlined in the considered report:

(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.

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

For : Councillors D Firth, Griffiths, Homewood, Lawson, Lyons, McGuin, Munro, Patrick and Uppal (9 votes)

Against : (0 votes)

Abstained: Councillors Butt, Sokhal and Ullah.

19 Planning Application - Application No: 2019/90734

The Sub Committee gave consideration to Planning Application 2019/90734 Erection of front and rear extensions and alterations 38, Longden Avenue, Beaumont Park, Huddersfield.

RESOLVED – That the application be refused for the following reasons outlined in the considered report:

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.

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

For: Councillors D Firth, Griffiths, Homewood, Lawson, Lyons, McGuin, Munro and Patrick (8 votes)

Against: Councillors Butt, Sokhal and Ullah (3 votes)

Abstained: Councillor Uppal

20 Planning Application - Application No: 2019/90623

The Sub Committee gave consideration to Planning Application 2019/90623 Erection of cat cage and garden shed to front (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield.

RESOLVED - That consideration of the application be deferred to allow the Committee an opportunity to undertake a site visit.

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

For: Councillors Butt, D Firth, Homewood, Lawson, Lyons, Munro, Patrick, Sokhal, Uppal and Ullah (10 votes)

Against: Councillors Griffiths and McGuin (2 votes).

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed: …… **Dated: ……..**

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
(b) either -

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

Lobbying

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

Kirklees COUNCIL

Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)

Date: 18 JULY 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: Colne Valley; Ashbrow; Holme Valley North: Holme Valley South; Greenhead; Newsome
Ward councillors consulted: No

Public or private: Public

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1. Summary

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

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

2.1 2017/62/92937/W - Erection of detached dwelling (within a Conservation Area) adj, 1, Clough Hey, Manchester Road, Marsden, Huddersfield, HD7 6DW. (Officer) (Dismissed)

2.2 2017/62/91286/W - Change of use of land to domestic garden with formation of driveway adj to, 46, The Fairway, Fixby, Huddersfield, HD2 2HU. (Sub-Committee in accordance with officer recommendation) (Dismissed)

2.3 2018/62/93109/W - Erection of agricultural building, hardstanding and access track at land at, Bradshaw Road, Wilshaw, Holmfirth. (Officer) (Dismissed)

2.4 2018/58/90442/W - Prior notification for erection of agricultural building at Cliff Top Farm, Hall Ing, Honley, Holmfirth, HD9 6QY. (Officer) (Allowed)

2.5 2018/ClassQ/91842/W - Prior notification for change of use from agricultural building to one dwelling and associated operational development at Elysium Barn, Copthurst Road, Cartworth Moor, Holmfirth, HD9 2TS. (Officer) (Dismissed)

2.6 2018/70/93070/W - Removal condition 6 (permitted development rights) on previous permission 2016/90821 for erection of detached dwelling, demolition of existing dwelling and outbuildings and engineering works to create a retaining wall (modified proposal) at Drop Down, Horn Lane, New Mill, Holmfirth, HD9 7HG. (Officer) (Dismissed)

2.9 2018/44/93540/W - Discharge conditions 4,5,6,7,8 and 9 on previous permission 2018/90191 for change of use and interior alterations to former solicitors to form 11 apartments at 72 , New North Road, Huddersfield, HD1 5NW. (Officer) (Part allowed/part dismissed)

2.10 2018/62/92914/W - Erection of two storey rear extension (within a Conservation Area) at Delicious Desserts, 79, Trinity Street, Huddersfield, HD1 4DN. (Officer) (Dismissed)

3. Implications for the Council

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

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

4. Consultees and their opinions
Not applicable, the report is for information only

5. Next steps
Not applicable, the report is for information only

6. Officer recommendations and reasons
To note

7. Cabinet portfolio holder recommendation
Not applicable

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

9. Background Papers and History of Decisions
Not applicable

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The Planning Inspectorate

Appeal Decision

Site visit made on 16 April 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2019

Appeal Ref: APP/Z4718/W/19/3221578
Land adjacent to 1 Clough Hey, Manchester Road, Marsden, Huddersfield HD7 6DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs A Dale against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2017/62/92937/W, dated 21 August 2017, was refused by notice dated 8 August 2018.
- The development proposed is the erection of 1 No. dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, the Government has published its Housing Delivery Test results alongside the publication of an updated revised National Planning Policy Framework 2019 (the Framework). This makes minor revisions including an additional footnote to Paragraph 11. The Housing Delivery Test (HDT) outcome for the Council indicates that the delivery has been below the requirement over the last three years (at 75%) which results in a 20% buffer being required to be applied. The main parties have had an opportunity to comment on the significance of the changes. I have had regard to the comments received from the main parties, including confirmation that the Council has 5-year housing land supply, which includes the required 20% buffer, and the 2019 Framework in reaching my decision.

3. Since the Council made its decision on the planning application which is subject of this appeal, on 6 August 2018 the Kirklees Metropolitan Borough Council Local Plan (LP) was adopted on 27 February 2019. Consequently, the policies contained within the Kirklees Metropolitan Borough Council Unitary Development Plan have been superseded. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. The appellant has had an opportunity at the final comments stage to provide their views on the relevance of these new policies. This appeal has therefore been determined in relation to the policies contained within the LP.

4. For clarity, reference to the protected trees and their numbers in this decision have been taken from the submitted Tree Protection Plan[1] and Tree Constraints Plan[2].

[1] JCA REF: 14371-A/AJB – Appendix 5 Tree Protection Plan
[2] JCA REF: 14371-A/AJB – Appendix 6 Tree Constraints Plan

Main Issues

5. There is agreement between the appeal parties that the development does not create any adverse implications to the character and appearance of Marsden Conservation Area; living conditions of neighbouring occupiers or highway safety. Accordingly, the main issues for the appeal are:

   - the effect of the development on the character and appearance of the appeal site and surrounding area, including its effect on the Urban Green Space; and,
   - the effect of the development on protected trees; and,
   - the effect of the development on the biodiversity of the surrounding habitat network.

Reasons

Character and appearance

6. The appeal site is located adjacent to and north of Manchester Road. At the time of my visit, the site comprised an area of grassland with a number of trees and bushes located on and around the edges of the site. A low-level stone wall forms the southern boundary of the site that is in a reasonable state of repair. This incorporated an existing access from Manchester Road that had a barrier in place at the time of my visit. I noted that the area of hardstanding for the former garage was still present towards the adjacent dwelling, No 1 Clough Hey, which is the end property in a row of terraced houses. The topography of the site slopes downwards towards Clough Lea.

7. When viewing the site from the front, the row of terraced houses is to the left and an area of trees lies to the right. Opposite the site, across Manchester Road the topography rises and is enclosed behind a notable stone wall, with trees sited above and a dwelling and open countryside beyond. The area has a mixed character with residential properties and areas identified as open space land, including the appeal site. The site is allocated as 'Urban Green Space' in the LP, which is not disputed by the main parties.

8. LP Policy PLP61 requires development proposals that would result in the loss of urban green space to only be permitted where: a) an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or b) replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or c) the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.

9. In addition, Paragraph 97 of the Framework advises that open space should not be built upon unless an assessment has been made which clearly shows the open space in question to be surplus to requirements, and the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, amongst other things.

10. From what I have seen and read, there is no substantive evidence to indicate that any alternative open space land of equivalent size and quality forms part of the proposal. Furthermore, there is no assessment before me which indicates that the area of open space which would be lost as a result of the proposal is surplus to requirements for the area.

11. In addition, I find that the open space land which currently forms the appeal site makes a positive contribution to the character and appearance of the locality. Whilst the appellant asserts that the site is a brownfield site and in private ownership, it nonetheless has the appearance of being a semi-natural area of land. In my view, this forms the core of its intrinsic value to the locality where an area with such a rural appearance is situated amongst and adjacent to residential properties which provides a positive edge of settlement environment of mixed character and appearance. Furthermore, the open space land which forms the appeal site is recognised as a valued element of the streetscape and supported through its allocation as Urban Green Space in the LP.

12. The proposed development would result in the loss of a valued area of open space land which is allocated as such in the LP. Additionally, it would have an adverse visual impact on the character and appearance of the locality which would be contrary to local planning policy and the Framework. I note reference to a development at Ancion Court[3], but little detail has been provided to the planning background on this scheme.

13. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and surrounding area, including its effect on the Urban Green Space. Therefore, the proposal would not accord with the character and appearance aims of LP Policy PLP61 and paragraph 97 of the Framework.

Protected trees

14. Trees T1 and T2 on the appeal site are the subject of a Tree Preservation Order (TPO). Tree T1 (Sweet Chestnut) has a category 'A' rating with a life expectancy of 40+ years and tree T3 (Sycamore) has a category 'B' rating with a life expectancy of 40+ years. The appellant has highlighted that 3 trees (T2, T4 & T5) in total would be removed as part of the development, which are category 'C' trees, all of which are considered to have a low value in terms of amenity with an estimated remaining life expectancy of 10+ years in the case of T5 (Goat Willow), 20+ years in the case of T2 (Elder) and 40+ years for T4 (Goat Willow).

15. I note that there is no dispute raised by the Council to the categories applied to the trees in the Arboricultural Report[4] (the tree survey) submitted by the appellant. However, I note that the Council only raised concerns with regards to the effect of the development on the protected trees and not to the removal of the other trees covered by the TPO. It was noted in the Officer Report that significant landscaping works would be undertaken, planting woodland species on the sloped areas of the site to complement the adjacent woodland which would be acceptable in terms of visual amenity. I have no reason to disagree.

[3] Application reference 2009/93153
[4] Arboricultural Report to BS 5837:2012 - JCA REF: 1437/AJB dated 16 October 2018

16. I note the findings contained within the Arboricultural Method Statement[5] (AMS) that has been prepared to ensure good practice in the protection of retained trees during the development. I consider that the protected trees located at the appeal site would not experience any harmful effects to the detriment of their health, if the recommendations contained within the AMS were carried out during the construction phase of the development. This would include such methods as a no-dig method of construction in order to prevent damage to tree roots.

17. I note that the impact of trees on the proposed buildings, and vice versa has been considered in the tree survey and the AMS, including shade that may be cast by retained trees on buildings. However, in view of the close proximity of the access to the protected trees, I am concerned about possible post-development threats to their continued good health and longevity arising from pressure to fell or prune from future occupiers. Given the design and layout of the proposed hard standing indicated on the tree protection plan, I consider that it is likely that pressures would occur because of real householder concerns relating to, for example the potential danger from limbs falling onto parked vehicles. This is of particular concern regarding tree T3.

18. Whilst protection afforded by the TPO would enable the Council to control any future tree work, I consider it would be more difficult for them to refuse an application to cut back or even remove a tree that was threatening the safety of future occupiers or posing a nuisance. There can be no certainty that such pressures could be reasonably resisted. I have given consideration to prevent the parking of vehicles under the canopy of T3, but I find that it could not reasonably be controlled by condition.

19. I therefore conclude that the development would have a harmful effect on a protected tree. The proposal thus fails to accord with the amenity and environmental aims of LP Policy PLP33 and paragraph 170 of the Framework.

Biodiversity

20. The Government's Planning Practice Guidance states that an ecological survey will be necessary in advance of a planning application, if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. It also advises that ecological surveys should only be required where clearly justified, for example if there is a reasonable likelihood of a protected species being present. In addition, Circular 06/2005 states that 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted'.

21. The Framework, Guidance and Circular make clear the importance the government attaches to conserving and enhancing biodiversity. In the absence of any evidence to the contrary, I therefore find that in these specific circumstances the ecology findings in the appellants Preliminary Ecological Appraisal[6], are sufficient as they are supported by a season specific site investigation undertaken by a suitably qualified individual to demonstrate that there would be no significant ecological impacts resulting from the proposed

[5] Arboricultural Method Statement to BS 5837:2012 -JCA REF: 1437/AJB dated 16 October 2018
[6] Middleton Bell Ecology – Preliminary Ecological Appraisal dated 16 October 2018

development and to ensure the scheme maximises potential benefits to nature conservation. This is consistent with Natural England standing advice.

22. Accordingly, I conclude that the proposed development would not harm biodiversity of the surrounding habitat network. Therefore, it accords with LP Policy PLP30 and the provisions of the Framework, as supported by the Guidance, and the Circular, which amongst other aims seek to conserve and enhance the natural environment.

Other Matters

23. I acknowledge that the development would make some positive contribution to the Council's supply of housing sites and that it would bring some social and economic benefits to the area through the provision of a new house and during the construction phase of the development. Additionally, I note that it would provide an opportunity to improve drainage on the site. However, I find these benefits to be relatively limited and not sufficient to outweigh or alter the harm identified in respect of my conclusions on the main issues.

24. I note the appellant's comments about the way the Council handled the application. However, this matter is not material to the assessment of the appeal before me. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

25. I have found that the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area including its effect on Urban Green Space and to a protected tree. Whilst the proposal would not have a detrimental impact on the biodiversity of the surrounding habitat network, the character and appearance of Marsden Conservation Area; living conditions of neighbouring occupiers or highway safety these are matters of neutral consequence in the overall planning balance.

26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/Z4718/W/18/3213384
46 The Fairway, Fixby, Huddersfield HD2 2HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr Mohammed Anwar against the decision of Kirklees Metropolitan Borough Council.
- The application Ref: 2017/62/91286/W, dated 11 April 2017, was refused by notice dated 21 May 2018.
- The development proposed is proposed change of use of land to domestic garden with formation of driveway.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The new Kirklees Local Plan (2019) (LP) has been adopted since the Council issued its decision. This supersedes the Kirklees Unitary Development Plan. Accordingly, in my assessment of the proposal, I have regard to the relevant policy in the LP.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is a piece of land situated adjacent to residential properties and an electricity substation. Trees on the site are covered by Tree Preservation Order (TPO) No.8/1977. The proposal would increase the garden area and provide an additional driveway with parking space for No.46.

5. The trees on the site form the end part of an established linear woodland belt. The belt of trees is an important visual feature in the neighbourhood, which provides visual and spatial relief from built-up elements. The trees on the appeal site are visible from the pavement on Jilley Royd Lane, which it abuts, and from the junction with The Fairway. As such, the site has a particularly prominent role in the green corridor.

6. The incorporation of the appeal site into domestic garden, with a driveway with parking space, would add domestic paraphernalia, including cars, and activity to the site. This would erode the verdant character of this prominent end part

of the green corridor. Moreover, the proposed driveway would cause pressure for future thinning and removal of the trees due to potential leaf and branch fall onto cars below.

7. In combination, the factors described above would impair the character and appearance of the green corridor, which contributes to the distinctive character of the area. Moreover, likely future pressure on the trees, with attendant longer term risks to their vitality and retention, would exacerbate the proposed development's harm to this important green feature.

8. The appellant's argument that the proposal would 'regularise the status' of an 'isolated plot' in line with the other properties in and around woodland W1 of TPO No.8/1977 is noted. It is recognised that some of the woodland protected by the TPO is incorporated into gardens of other properties in the area. However, the appeal site is distinctive in that it is at the end of a green corridor of trees, facing onto Jilley Royd Lane, and, accordingly, has its own prominence. As such, I must assess the proposal on its own merits.

9. In conclusion, the proposal would harm the character and appearance of the area. As such, it would conflict with Policy PLP24 of the LP. This policy seeks to ensure that development respects and enhances local character and contributes towards enhancement of the natural environment.

Conclusion

10. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 16 April 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2019

Appeal Ref: APP/Z4718/W/19/3221330
Long Meadow Farm, Bradshaw Road, Wilshaw, Meltham, Holmfirth

- 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 Melvin Jebson against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2018/62/93109/W, dated 21 September 2018, was refused by notice dated 30 November 2018.
- The development proposed is the erection of an agricultural building, hardstanding and access track.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published the revised National Planning Policy Framework (the Framework) on 19 February 2019, which forms a material consideration in the determination of the appeal. The principle changes to the Framework relate to the Housing Delivery Test. Matters relating to housing delivery are not at issue in this appeal and the changes have no material bearing to the main issues before this appeal.

3. Since the Council made its decision on the planning application which is subject of this appeal, on 30 November 2018 the Kirklees Metropolitan Borough Council Local Plan (LP) was adopted on 27 February 2019. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. However, I note that wording of LP Policy PLP54 is consistent with the draft LP Policy PLP54 supplied by the Council with its questionnaire. Consequently, there has been no requirement to seek additional comments from the main parties.

4. For clarity and precision, I have omitted 'agricultural building' from the address in the banner which I have taken from the application form as no building currently exists at the appeal site, and I have taken the appellant's name from the appeal form as it is more precise than that given on the application form.

5. The Council have confirmed that LP Policy PLP57 has been cited on the decision notice in error. I have dealt with the appeal on this basis.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies; and

- the effect of the proposal on the character and appearance of the appeal site and surrounding countryside.

Reasons

Whether the proposal is inappropriate development in the Green Belt

7. With regard to the refusal reason on the Council's decision notice, I note that the Development Plan Policy cited does not specifically refer to the Green Belt. In light of the above, I will refer to the general provisions of the Framework on this matter, as appropriate.

8. The proposed development would involve the erection of a single storey building for agricultural use, an area of hardstanding comprising free draining hardcore in front of the door and an access track to Bradshaw Road. The building would measure 25.91m long, 12.19m wide and 4.27m high to the eaves and 6.12m high to the ridge. The appeal site is located within the Green Belt, and forms part of an 18-acre holding. The site is located off Bradshaw Road and the wider holding is located between Bradshaw Road, Wilshaw Road and Wilshaw Mill Road.

9. Paragraph 145 of the Framework provides that the construction of new buildings should be regarded as inappropriate subject to exceptions. Paragraph 145 a) of the Framework lists buildings for agriculture and forestry as an exception. It is clear from the appeal documentation that the appellant wishes to use the land for the breeding and keeping of livestock/agricultural purposes. Moreover, it is clear that the proposed development has been designed for the purposes of agriculture, specifically the housing of livestock, fodder and agricultural machinery. Therefore, the proposed development would be consistent with the general objectives of paragraph 145 a) of the Framework.

10. I find that the proposed development would not conflict with the overarching aims of the Framework with regard to construction of new buildings in the Green Belt. Therefore, the proposed development would not constitute inappropriate development in the Green Belt for the purposes of the Framework as it would comprise a building for agriculture. By its very nature, such development should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.

Character and appearance

11. The location of the scheme would be in a rectangular field enclosed by dry stone walls, which benefits from open views across the site, and is readily visible from the nearby roads. The scheme would be notable in scale, even when compared to the size of the holding, and it would be very noticeable in the landscape due to its exposed location.

12. Although, the materials proposed for construction in this instance would be agricultural in appearance it would nonetheless result in the building still being a noticeable feature in the landscape. However, whilst I note that the appellant asserts that the visual effect of the development could be reduced through hedge and tree planting along the road boundaries, I have my doubts as to whether any planting could suitably mitigate as any such planting would likely take a considerable amount of time to reach relative maturity.

13. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and the surrounding countryside. Therefore, the proposal would not accord with the design, character and appearance aims of LP Policy PLP54 and the Framework.

Other Matters

14. My attention has been drawn to the appellant's animal welfare obligations, and desire to store machinery and fodder securely on the holding. Additionally, I have had regard to various other matters raised by the appellant, including no objections being received from other statutory consultees, including Highways Development Management and Environmental Services. However, I have considered the development on its own merits and concluded there would be harm to character and appearance. A lack of harm associated with highways or amenity are neutral factors that weighs neither for nor against the development.

15. I note the appellant's comments about the way the Council handled the application. However, this matter is not material to the assessment of the appeal before me. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Conclusion

16. Although it would not constitute inappropriate development in the Green Belt, the proposed development would nevertheless harm the character and appearance of the appeal site and surrounding countryside. For the reasons given above, the appeal should be dismissed.

W Johnson

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 23 April 2019

by A Parkin DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/Z4718/W/19/3221688
Cliff Top Farm, Hall Ing, Honley, Huddersfield HD7 4JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr & Mrs G Brierley against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2018/N/90442/W, dated 8 February 2018, was refused by notice dated 31 August 2018.
- The development proposed is erection of agricultural building.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for erection of agricultural building at Cliff Top Farm, Hall Ing, Honley, Huddersfield HD7 4JB in accordance with the application Ref 2018/N/90442/W, dated 8 February 2018, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 6, Class A.

Application for costs

2. An application for costs was made by Mr & Mrs G Brierley against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application form did not contain a description of the proposed development and I have therefore used the description on the Council's decision notice, which matches that on the appeal form, amended so as to remove superfluous words.

4. The Council includes reference to Paragraph E14, Annex E of PPG7 in its officer report, which is said to advise *Local Planning Authorities to verify that the intended development does benefit from permitted development rights and does not require a planning application*. No copy of this paragraph has been provided by the Council, and furthermore, Annex E of PPG7 was superseded by Planning Practice Guidance (PPG) in 2014 and is not therefore relevant.

5. The Council states that the proposal is not permitted development under Schedule 2, Part 6, Class A of the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) (the GPDO). This is stated to be because the appellant has not provided sufficient information to demonstrate that the appeal building is *reasonably necessary for agriculture on that unit.*

6. The requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3(1), and that development which is constructed not in accordance with the terms or conditions of the permission would be at risk of enforcement action.

7. The prior approval procedure set out under Schedule 2, Part 6, Class A of the GPDO makes no provision for any determination to be made of these matters. Therefore, whether the proposal is permitted development falls outside the remit of my decision[1]. I am instead addressing the question of whether prior approval should be granted were the proposal to be permitted development.

Main Issues

8. Schedule 2, Part 6, Class A requires a determination of whether or not prior approval will be required as to the siting, design and external appearance of the building. Consequently, these are the main issues in my determination of the appeal.

Reasons

9. The appeal site is located within an area of land referred to as Cliff Top Farm, which contains some 9.9 hectares of predominantly grass fields, although to the west the land is woodland and slopes down towards a railway line.

10. The appeal site is located to the south of a dwellinghouse, stable block and manege, with associated areas of hardstanding. These are connected to Hall Ing Road to the north east by a small private road, which also serves another dwelling. A public footpath runs through Cliff Top Farm, passing next to the appeal site and manege.

11. The proposed development would be an L-shaped, pitched roof building, open on the northern and eastern elevations. It would have a length of some 18 metres, a breadth of some 14 metres, with a ridge height of some 5 metres. The walls would be constructed of timber cladding and the roof by pantile effect sheets. The building would be used to store hay, together with agricultural machinery.

12. From the evidence, the Council has not raised concerns regarding the siting, design or external appearance of the proposed development other than in respect of whether the design and scale would be reasonably necessary for the purposes of agriculture. To a large extent this concerns whether the proposal would be permitted development, which as set out above, is outside the remit of my decision.

13. The proposal would be located close to the cluster of farm buildings and manege and the external appearance and design are consistent with a barn. For these reasons, I find the siting, design and external appearance of the proposed development to be acceptable in its context.

[1] With reference to *R (oao Marshall) v East Dorset DC & Pitman [2018] EWHC 226 (Admin)*

Other Matters

14. The Council's decision notice states that 'approval of details of the works is formally withheld' rather than 'refused'. In this case, the consequences are effectively the same, hence the planning appeal. Section F of the appeal form confirms the basis for the appeal.

Conditions and Conclusion

15. Any planning permission granted under Article 3(1) and Schedule 2, Part 6, Class A of the GPDO is subject to the conditions at paragraph A.2, which specify that, amongst other things, the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details approved and be carried out within a period of 5 years from the date on which the application was submitted to the local planning authority.

16. For the reasons given above I conclude that the appeal is allowed.

Andrew Parkin

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2019

Appeal Ref: APP/Z4718/W/19/3220953
Elysium Barn, Copthurst Road, Cartworth Moor, Holmfirth HD9 2TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Tim Kirk against the decision of Kirklees Metropolitan Council.
- The application Ref: 2018/91842, dated 1 June 2018, was refused by notice dated 16 August 2018.
- The development proposed is the prior notification of change of use from agricultural building to one dwelling and associated operational development.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above is taken from the decision notice, as it is more precise than that in the application form.

Main Issue

3. There is no dispute that the proposal meets the requirements of Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and so is permitted development under Class Q, subject to the prior approval of certain matters. Under Class Q(a) and Q(b), and Paragraph Q.2(1) of the GPDO, prior approval of specified elements of development is required.

4. The main issue is whether the location or siting of the building would make it impractical or undesirable for the building to change from agricultural use to a dwellinghouse.

Reasons

Background

5. I have had regard to the planning history of the site, specifically the application for conversion of an existing agricultural barn to form a single dwelling in 2016, which was refused, and the subsequent appeal decision Ref: APP/Z4718/W/17/3170589. Given the relatively recent nature of this decision on the same site as the proposed development, I afford it substantial weight.

Location and siting

6. The appeal building is a barn constructed from stone with a pitched roof. It is accessed via single track Copthurst Road and Cartworth Moor Road, which are unsurfaced. The proposal would provide an additional dwelling.

7. The Planning Practice Guidance (PPG) advises that, because impractical or undesirable are not defined in the regulations, the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgement. Impractical reflects location and siting which would 'not be sensible or realistic' and undesirable reflects that which would be 'harmful or objectionable'. The PPG goes on to advise that location of an agricultural building where the local planning authority would not normally grant permission for a new dwelling, is not sufficient reason for refusing prior approval. There may, however, be circumstances where impact cannot be mitigated.

8. The East Hertfordshire case[1] clarifies that the bar in relation to the test of unacceptable inaccessibility is significantly higher in such a prior approval case than it would be for an application for planning permission.

9. The proposed dwelling would be accessed via a substantial length of unsurfaced road. Access to the appeal building from White Gate Road is as follows: Cartworth Moor Road, which is an unsurfaced road adopted by the Council, makes up around two thirds of the length of the access route; and Copthurst Road, which is an unsurfaced, unadopted road, makes up approximately the other third.

10. The appeal site is in a remote, high altitude, hillside location on a north facing slope. The Met Office figures show weather event averages for Holmfirth between 1971 and 2010. These figures do not cover the more recent period from 2011 and may not account for potentially different snowfall on the high altitude moorland area around Holmfirth. Nonetheless, the 1981-2010 figures indicate an average incidence of ground frost on around a third of days during April and November, and around half the days of the month between December and March. In addition, an annual average of approximately 29 days with snowfall is shown. Accounts from local people report that ice and snow have impaired access to the site over a number of years. These factors, in combination, indicate that the appeal site is susceptible to periods of inclement weather.

11. It is noted that the appellant considers that the appeal building would 'fare no differently' to other properties in similar positions in the Holme Valley. The appellant's citing of Elysium Farm and other nearby properties which 'manage to access their properties over winter months' is noted. However, there is not substantive evidence before me of the practicality of accessing those properties during severe winter weather, and the appeal site has its own setting. As such, I must assess the proposal on its own merits.

12. The appellant provides evidence of employment of a contractor to 'clear snow as required' for access to forestry operations in the area. However, there is not detailed contractual specification and record of this service before me, to illustrate its contribution to delivering practical access to the appeal site in

[1] 1. East Hertfordshire District Council v Secretary of State for Communities and Local Government and Tepper [2017] EWHC 465 (Admin) (9 March 2017).

severe winter weather conditions. Moreover, such a service could not necessarily be relied on in perpetuity, and would not be secured through planning condition as the access route to the appeal site is not on land wholly owned by the appellant. In addition, the evidence of the Council's Street Scene department is that Cartworth Moor Road, which makes up much of the access route to the appeal site, is seldom ordinarily gritted. Taking the above together, I find that the proposed development would be substantially vulnerable to impaired accessibility during snow and ice conditions.

13. It is accepted that it is possible to reach the appeal building by car for the majority of the year. The appellant's view, as set out in their Highway Statement, that even if improvements to the access road surface were undertaken, these are unlikely to bring about changes in relation to snow clearing or gritting, is noted. It is also noted that they consider that the proposed dwelling may be attractive to a 'home worker', schools can close during severe weather, and locals in rural areas often carry out their own snow clearing. However, future occupants of the proposed dwelling would be likely to require frequent access to goods, services and facilities, including during the winter. As such, I find that the site's vulnerability to severe winter weather conditions, as described above, weighs significantly against the proposal in terms of practicality.

14. In conclusion, I find the location and siting of the building would make it impractical, in respect of access arrangements, for the building to change from agricultural use to a dwellinghouse.

Conclusion

15. For the reasons given above, the appeal is dismissed.

William Cooper

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2019

Appeal Ref: APP/Z4718/W/19/3221269
Drop Down, Horn Lane, New Mill, Holmfirth HD9 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Higgs against the decision of Kirklees Metropolitan Council.
- The application Ref: 2018/70/93070/W, dated 18 September 2018, was refused by notice dated 23 November 2018.
- The application sought planning permission for erection of one detached dwelling, demolition of existing dwelling and outbuildings and engineering works to form retaining walls (modified proposal), without complying with a condition attached to planning permission Ref: 2016/62/90821/W, dated 27 June 2016.
- The condition in dispute is No.6 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order with or without modification) no extensions or outbuildings included within Classes A to E of Part 1 or renewable energy equipment included within Part 14 Class A, B, H, I, of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.*
- The reason given for the condition is: *So as to control any further extensions and outbuildings and renewable energy equipment in the interests of preserving the openness of the Green Belt and to accord with national advice within the National Planning Policy Framework: Protecting Green Belt Land.*

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above, is taken from the decision notice which granted planning permission in respect of application Ref: 2016/62/90821/W, as it is more accurate than that in application Ref: 2018/70/93070/W.

3. The new Kirklees Local Plan (2019) (LP) has been adopted since the Council issued its decision. This supersedes the Kirklees Unitary Development Plan (2007) (UDP). Accordingly, in my assessment, I have regard to the relevant policy of the LP. The wording of Policy LP57 of the LP is as per the modified version of Policy PLP57 of the Kirklees Publication Draft Local Plan (2016, as modified), the latter of which was confirmed to the appeal by the Council. The site remains in the Green Belt, as defined in the LP.

Background and Main Issue

4. The appeal site comprises a recently constructed, large, stone-built, detached dwelling in a hillside location.

5. Paragraph 145 of the National Planning Policy Framework (the Framework)[1] sets out a small number of exceptions to inappropriate development in the Green Belt. One such exception is the 'extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.

6. The development plan comprises the LP. Policy LP57 of the LP requires, amongst other things, replacement buildings to not be materially larger than the building it is replacing. As such, LP57 is broadly consistent with the Framework.

7. Paragraph 017 of the Planning Practice Guidance (PPG) sets out that 'conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances…blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity'.

8. Central to the appeal is the matter of whether any future additional extensions or outbuildings at the appeal property would be disproportionate to the original building, and, if so, be harmful to the openness of the Green Belt, so as to constitute exceptional circumstances to justify retention of condition No.6. The **main issue** is whether the condition is necessary and reasonable, in the interests of maintaining the openness of the Green Belt.

Reasons

9. How much the building on the appeal site has increased from its original size is a matter of dispute between the main parties. The Council considers that the built form has increased in volume by approximately 48%, and the appellant by approximately 25%.

10. The main parties are broadly in agreement about the volume of the current building being in the region of approximately 1184 to 1187 cu.m, and I have no reason to disagree. However, the size of the original building is a matter of dispute. The Council considers it to be approximately 800.83 cu.m, whilst the appellant's figure is approximately 947.99 cu.m. The Council states that as application Ref: 2018/70/93070/W, was not 'supported by historical plans or drawings', they 'have used information supplied under application 2011/93408 and…planning permission 2016/90821' to calculate the original building size. The appellant considers that the size of the original built form was confirmed as part of the 2011/93408 grant of permission to extend the property. However, the Council's view is that 'not all outbuildings were included on the existing plans' with application Ref: 2011/93408. In respect of the latter point, there is not evidence before me which leads me to disagree with the Council's finding.

11. The full detail of the previous applications is not before me. However, the factors described above indicate that the building has increased from its

[1] Published on 19 February 2019.

original size by at least approximately a quarter, and, quite possibly, by almost half. This being so, I find that there is a significant possibility that any further enlargement, even if modest, would result in an increase of more than half the volume of the original building. As such, there is a substantial risk that future additional extensions or outbuildings at the appeal property would result in disproportionate additions over and above the size of the original building.

12. For the above reasons, the appeal site would not fall within the exceptions listed in paragraph 145c) of the Framework. Accordingly, in this respect, the proposal would be inappropriate development in the Green Belt and would conflict with the Framework and Policy LP57 of the LP. Together the policies require strict control over inappropriate development in the Green Belt.

13. The appellant's view that the site is 'largely self-contained and built in to a hillside. Extensions or outbuildings would not cause harm to the neighbours' is noted. It is accepted that the landform above the site, along with walling and trees in the local landscape go some way to contain it visually. However, the dwelling has an elevated, hillside position, with open fields around it, and abuts Horn Lane. Accordingly, the dwelling has prominence in the Green Belt. Having regard to all the above, it is considered that the proposal would result in harm to the openness of the Green Belt. With regard to the effects on the aim and purposes of including land within the Green Belt, the proposal would encroach into the countryside. As such, the proposal would conflict with Green Belt policy, as set out in paragraphs 133 and 134 of the Framework.

14. The appellant's citing of the appeal dwelling's size, in terms of footprint, is noted. However, volume is particularly appropriate in assessing proportional impact, as it more fully reflects the overall scale of the development. The appeal decisions for other developments, which are cited by the appellant, are noted. However, the appeal proposal has its own particular mass, scale and setting and, as such, I assess it on its own merits.

15. The proposal would result in inappropriate development in the Green Belt which is, by definition, harmful. There would also, in my judgement, be a substantial risk of loss of openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt.

16. Having regard to all the above, it is considered that condition No.6 remains necessary, relevant to planning and the development, and reasonable, in order to preserve the openness of the Green Belt. As such, exceptional circumstances are deemed to exist, to justify retention of the condition.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 4 June 2019

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2019

Appeal Ref: APP/Z4718/W/19/3222798
72 New North Road, Huddersfield, West Yorkshire, HD1 5NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Richard Shaw (Premier Properties Ltd) against Kirklees Metropolitan Borough Council.
- The application Ref: 2018/93540 dated 24 October 2018, sought approval of details pursuant to condition Nos 4, 5, 6, 7, 8 and 9 of a planning permission Ref: 2018/62/90191/W granted on 10 October 2018.
- The development proposed is change of use and internal alterations to former solicitors to form 11 No apartments.
- The details for which approval is sought relate to conditions 4, 5, 6, 7, 8 and 9 as follows:
- (4) Details of the forecourt landscaping (including confirmation that existing hard surfaces would be removed, and details of the gravel and stone paving to be used) shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- (5) Details of storage and access for collection of wastes from the development shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- (6) Details of secure, covered and conveniently-located cycle parking (for use by residents of the development hereby approved) shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- (7) Details of painted "in" and "out" ground markings or arrows shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
- (8) Details of measures to prevent and deter crime and anti-social behaviour shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning

Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

- (9) One electric vehicle charging point shall be provided within the rear car park of the development hereby approved within three months of the date of this permission. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps.

Decision

1. **The appeal is allowed in part** and the details submitted pursuant to conditions Nos 4, 6, 7 and 8 attached to planning permission Ref: 2018/62/90191/W granted on 10 October 2018 and the plans submitted with it are approved.

2. **The appeal is dismissed in part** and approval of the details submitted in pursuance of condition No 5 attached to planning permission Ref: 2018/62/90191/W dated 10 October 2018 and the plans submitted with it is refused.

Procedural Matters

3. On 10 October 2018 the Council granted planning permission for the change of use of this solicitors' office to form 11 No apartments (Ref:2018/62/90191). A corresponding Listed building consent was also granted on 10 October 2018 (Ref: 2018/62/90190). The appeal before me concerns the Council's failure to give notice within the prescribed period to approval of details required by conditions of the planning permission.

4. In terms of the details required by condition No 9 (electric vehicle charging points) and following a review of the scheme by the Environmental Health Officer, the Council has now informed the appellant that these details are now acceptable, and the condition is discharged[1].

5. The Kirklees Local Plan (LP) now comprises the development plan for Kirklees. It was adopted on 27 February 2019 and its policies replace those of the former Kirklees Unitary Development Plan.

Reasons

6. No 72 New North Road is a detached, two-storey building. It is Grade II listed building within the Greenhead Park/New North Road Conservation Area.

7. I turn first to those conditions which are not in dispute and for which the Council finds the details acceptable.

8. Condition No 4: This condition requires details of the forecourt landscaping. The Council is satisfied that the details shown on the appellant's drawing NNR/2017/11 Rev D and clarified by subsequent correspondence are acceptable. I find no reason to disagree and am satisfied that the details submitted would preserve the special architectural and historic interest of the listed building and the character and appearance of the conservation area. There would be no conflict with LP Policies PLP24, PLP32 and PLP35.

9. Condition No 7: This condition concerns 'in' and 'out' markings to the car park. The Council has no objections to the details shown on the appellant's drawing

[1] Email dated 16 January 2019

NNR/2017/11 (received on 14 January 2019) and earlier drawings. These are also acceptable to the Council's Highways Development Manager. I find no reason to disagree and I am satisfied there would be no ham to highway safety interests. There would be no conflict with LP Policies PLP21 and PLP22.

10. Condition No 8: This condition concerns measures to deter crime and anti-social behaviour. The appellant's proposals are detailed in various correspondence[2] and drawing NNR/2017/11 Rev D (received on 14 January 2019). I find no reason to disagree and am satisfied that the details meet the requirements of LP Policy PLP24.

11. I turn now to the disputed conditions, Nos 5 and 6. I consider the main issues here are the effect of the proposal on the special architectural and historic interest of the Grade II listed building and on the character and appearance of the Greenhead Park/New North Road Conservation Area.

12. The *Planning (Listed Buildings and Conservation Areas) Act 1990* requires special regard to be given to the desirability of preserving a listed building and any features of architectural or historic interest it possesses.

13. Paragraphs 193-194 of the *National Planning Policy Framework* (the Framework) say when considering the impact of new development on the significance of a listed building (including development within its setting), great weight should be given to its conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 196 says where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

14. LP Policy PLP35 reflects National planning policy in the Framework and says proposals affecting a designated heritage asset should preserve or enhance the significance of the asset.

15. Condition No 5: This condition concerns details for waste storage and collection and is the subject of extensive correspondence and discussion between the appellant and the Council. The revised drawing (NNR/2017/11 Rev D) shows the proposed bin store located close the road frontage, well forward of the front elevation of the building. By virtue of its height, the low frontage walls, and the generally open nature of the surroundings, I agree with the Council that in this prominent location the bin store would be highly visible and would detract from the setting of the listed building and the character and appearance of the conservation area. The small area of landscaping between the bin store and the frontage wall would not adequately screen the structure or mitigate its visual impact. Also, much of the positive effect of the forecourt's restoration would be countered if the bin store were to be erected in this location.

16. It not disputed that the bin store cannot be located at the rear of the site due to turning restrictions; and the maximum dragging distance (25m) for the collection of 660 litre bins would also be exceeded. I also note that the Council's Cleaning Services Division would prefer the bin store to be located as close to the kerb as possible. However, the Council suggests that the bin store

[2] Appellant's letter dated 24 October 2018, RNS Electrical and telecom Services Ltd letter dated 24 October 2018, 3 No hand-annotated Autell Security sheets received on 11 January 2019, and appellant's emails dated 25 January 2019 and 26 February 2019 confirming CCTV camera colours and dimensions.

could be provided to the side of the listed building approximately 11m back from the kerb (so it would not project forward of the front elevation), and where its visual impact on the building's setting would be much reduced. Although this would not be the Cleaning Services Department's preferred location, a balance needs to be struck in terms of practicalities and heritage and aesthetic considerations. Should a revised drawing be submitted in these terms the Council says it would not object to the approval of these details pursuant to condition No 5.

17. In the absence of such a revision in the details before me, I conclude that the proposed bin store in the location indicated would harm the setting of the listed building and would fail to preserve the character and appearance of the conservation area. As such it would conflict with LP Policy PLP35 which requires that proposals affecting a designated heritage asset should preserve or enhance the significance of the asset, and with paragraphs 193, 194 and 196 of the Framework.

18. Condition No 6: This condition requires details of secure, covered, and conveniently located cycle parking. The Council is satisfied that the details of the proposed cycle store are acceptable insofar as its location, capacity and materials are concerned (as shown on the appellant's drawings NNR/2017/12 Rev D and NNR/2017/11 Rev D). I find no reason to disagree. However, by reason of its height (1.8m), it says the structure would be large and obtrusive and would cause harm to the setting of the listed building.

19. Having taken the appellant's arguments into account I do not agree with the Council that the height of the cycle store would be excessive. In my view the height is reasonable to allow full access and to enable the bikes to be stored and secured in a practical manner. Although visible from the adjacent footpath I consider that the location of the store to the rear of the site would not unacceptably detract from the setting of the listed building and would preserve its special architectural and historic interest. It would also preserve the character and appearance of the conservation area. As such I find no conflict with the policies of the Framework and LP Policy PLP35.

Conclusion

20. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed in part and the details approved insofar as they are in pursuance of condition Nos. 4, 6, 7 and 8; and the appeal dismissed in part and the details refused insofar as they are in pursuance of condition No 5.

Nigel Harrison

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 1 May 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/Z4718/W/19/3222714
Delicious Desserts, 79 Trinity Street, Huddersfield HD1 4DN

- 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 Mohammed against the decision of Kirklees Council.
- The application Ref 2018/62/92914/W, dated 5 September 2018 was refused by notice dated 18 January 2019.
- The development proposed is an extension to a commercial property (within a conservation area).

Decision

1. The appeal is dismissed.

Procedural Matter

2. It is noted that the Reasons for Refusal in the Council's Decision Notice cited Saved Policies D2, BE1 and BE5 of the Kirklees Unitary Development Plan 2007 (UPD). During the appeal process, the Kirklees Local Plan (LP) has been adopted by the Council on 29 February 2019 which supersedes the policies of the UDP. I have therefore only referred to the adopted policies of the LP in this decision.

Main Issue

3. The main issues are the effect of the development on:

   - The character and appearance of the host property and greater locality, with particular regard to the Greenhead Park and New North Road Conservation Area (CA); and
   - The living conditions of neighbouring residents at Nos 69 and 81 Trinity street, in regard to outlook and light.

Reasons

Character and appearance

4. Whilst the CA does not have an appraisal or management plan, the significance of the CA in my opinion appears to focus around the creation of the Greenfields Park, which is a Victorian pleasure ground constructed in the mid-late nineteenth century. The appeal property appears to date from prior to the establishment of the park, but was extended during the late nineteenth century with the addition of a pitched roof behind the main pitched roof. Whilst the building is now in commercial use on the ground floor, it contributes to the historic character of the area in terms of its materials and design, which reflect

its former form and function as a residential dwellinghouse. Buildings along Trinity Street appear to have grown organically with a variety of designs, however maintain the same setback from the street and having a domestic scale in terms of their grain and fenestration and the utilisation of local materials. This residential scale of buildings fronting Trinity Street is further reflected at the rear of the properties where many of the buildings maintain a rear wing, and later extensions, albeit subservient to the form of the host buildings. This, amongst other considerations in my opinion, informs the character and appearance of the CA.

5. During the mid-late twentieth century a new residential flatted development was constructed to the rear of the appeal property along Queen Elizabeth Gardens, which provides access to the rear of the appeal property and opens the rear of properties along Trinity Street to the public realm. The appeal property is rather simplistic in form and appearance, being a building constructed of stone with a dual pitched roof which has been re-clad in fibre cement tiles and a small single storey extension to the rear.

6. Whilst I acknowledge comments in the Appeal Statement and Heritage Statement with regards to the variety of alterations and extensions to the rear of the dwellinghouses along Trinity Street, I disagree that the rear does not have any character. The extensions are reflective of the style of building constructed which has grown organically and contributes to our understanding of the development and growth of the area which in my view is part of the CA's significance. Unlike the surrounding development, the proposed extension would be almost the full width of the property and instead of presenting a subservient appearance, would be more akin to a front façade of a dwellinghouse. This would result in an extension that has an increased status to the rear of the dwellinghouse that would be an unduly prominent and discordant feature when seen in the context of surrounding properties. Consequently, the proposed extension would be harmful to the architectural integrity and authenticity of the host property and the character and appearance of the locality.

7. Therefore, the scheme is contrary to Policy PLP24 of the LP (which amongst a number of principles to reinforce good design, seeks to ensure extensions are subservient and reflect local character, heritage assets and townscape); and PLP35 of the LP (which seeks to ensure proposals retain those elements of the historic environment which contribute to the distinct identity of the area).

8. I therefore disagree with the Appellant's Statement that the scheme would have a positive effect on the CA. Although serious, the harm to the heritage asset in this case would be 'less than substantial', within the meaning of the term in paragraph 196 of the Framework. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.

9. The benefits of the scheme would contribute to the promotion of an effective use of land and the extension of floorspace for an existing business, each of which are important planning policy objectives. However, these circumstances would not justify the harm I have identified.

10. I therefore find that there are no public benefits that would outweigh the harm to the CA. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation … irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'

11. I therefore conclude that the proposed extension would cause detriment to the character and appearance of the host property and greater locality, and cause less than substantial harm to the Greenhead Park and New North Road Conservation Area (CA). As such, the scheme is contrary to Policy PLP24 and PLP35 of the LP and the relevant provisions of the Framework.

Living conditions of neighbouring residents

12. No69 Trinity Street shares a party wall with the appeal property and is a three storey building comprising a number of apartments with their principle windows facing either to the front or to the rear of the building. Due to the topography of Trinity Street, No69 has a lower ground floor level than the appeal property. The rear façade of No69 contains a 6 window range across each of the three floors with a two storey rear wing with a lean-to roof in between windows 4 and 5 (when viewed left to right) which has a projection of approximately 4 metres. To the side of the rear wing in front of windows 1 to 4 is a small amenity space which contains vegetation as well as a washing line.

13. I note comments with regard to the removal of the outbuilding located along the boundary between the appeal property and No69. This structure is noticeably different in height and proportion with the proposed walls of the extension being over double in height and width, the impact of which would be accentuated by the hipped roof. Whilst there is some restriction to outlook via the two storey rear wing to the windows of No69, the proposed extension would present a considerable bulk and mass to the rear which would be within a few metres of the principle windows of apartments on ground, first and second floor of No69.

14. Given the existing open and partly restricted outlook to the principle windows of apartments at the rear of the building, the proposed extension would enclose the outlook of the apartments from the opposite side via the introduction of a dominant rear projection that would cause an unacceptable loss of light and outlook from the principle windows of apartments on each of the levels of No69. Whilst the proposed extension would contain a small setback from the boundary, this in my opinion does not compensate for the detriment caused as a result of the size and bulk of the proposed extension. The proposed extension would also enclose this amenity space, reducing the current level of light, particularly in the afternoon and evening once the sun passes a westerly direction.

15. On the opposite side of the appeal property is No81 which appears to be of a similar date to the appeal property and also retains a similar height and design. According to the Council, Nos81 and 83 are back to back properties resulting in No81's outlook and principle windows being solely to the rear of the property. To the opposite side of No81, No87 contains a historic single storey rear extension that projects almost the entire depth of the garden along the side boundary, enclosing No81 at one side along the ground level. Whilst I note comments regarding similar extensions existing to the rear, many of these are historic and do not justify the proposed extension which needs to be assessed

against current planning policy. The proposed extension would project along the side boundary of No81, enclosing the remaining side where there is currently an open aspect in this direction which gains some morning sun and light once the sun passes a southerly direction.

16. Due to the above reasons, I conclude that the extension would be detrimental to the living conditions of occupiers of No81 and No69 with regard to outlook and light from principle windows to these rear elevations. This would be contrary to Policy PLP24 (b) which requires a high standard of amenity to be provided to neighbouring occupiers, including maintaining appropriate distances between buildings.

Other Matters

17. I note that the Framework encourages the development of small sites and making effective use of urban land. Whilst this favours the scheme it does not outweigh the harm I have identified.

18. The Appellant considers that, as no neighbour representations have been received, it can be deduced that the development would be appropriate. This would be speculative and I have not given weight to the lack of representation response in this decision but based my decision on the planning evidence before me.

Conclusion

19. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR

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

PLANNING POLICY

The statutory development plan 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 27th 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 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 54 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

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

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

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

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

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

Kirklees COUNCIL

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

Date: **18 July 2019**

Title of report: **Application for order to divert public footpath Holmfirth 146 (part) at Upper Millshaw Farm. Upper Millshaw Lane, Victoria, Hepworth. Highways Act 1980, section 119.**

Purpose of report: **Members are asked to consider** an application for an order to divert part of public footpath Holmfirth 146. The public footpath route to be extinguished, and the proposed diversionary route to be created are shown on appended plans. **Members are asked to make a decision** on making the order and seeking its confirmation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	**Not applicable** .
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	**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 Director & name **Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?** **Is it also signed off by the Assistant Director (Legal Governance and Commissioning)?**	**Karl Battersby 28 June 2019** **Yes: James Anderson, on behalf of Eamonn Croston 28 June 2019** **Yes: Julie Muscroft 27 June 2019**
Cabinet member portfolio	**N/A**

Electoral wards affected: **Holme Valley South**

Ward councillors consulted: Cllrs. Davies, Firth & Patrick.

Public or private: Public

1. **Summary**

1.1 The council received an application from Mrs M C Whitaker for an order, to divert part of public footpath Holmfirth 146, under section 119 Highways Act 1980, which the applicant states is made in the interests of the landowner to facilitate the development and renovation of Upper Millshaw Farm and to provide security and privacy to the occupants of the new property. The application papers also identifies that the proposed diversion would be a safer, more convenient route for walkers.

1.2 The Council may make and confirm a diversion order under section 119 of the 1980 Act if it considers that it is expedient to do so when the following criteria are met:-

1.2.1 The diversion must be in the interests of the owner, lessee or occupier of the land involved or in the interest of the public

1.2.2 The alternative path to be provided should not be substantially less convenient for the public

1.2.3 The point of the junction of the alternative path with other highways must not be altered unless the alternative path still ends on the same or a connected highway and it is substantially as convenient to the public.

1.2.4 Any temporary circumstances preventing or diminishing the use of the path shall be disregarded.

1.2.5 When seeking confirmation, the council must have regard for the effect which the diversion would have on public enjoyment of the path as a whole.

1.2.6 When seeking confirmation, the Council must have regard for any material provision of any Rights of Way Improvement Plan ("ROWIP") for the area.

1.3 The effect of the proposal is shown on the appended Plan 1. The route to be diverted is shown by the bold solid line between points A & B, and the new route to be created is shown by the bold dashed line between points B & C. A pedestrian kissing gate for stock-keeping purposes is proposed in the application at point D on Plan 1. A pedestrian gate to British Standard BS 5709:2018 is already authorised on Holmfirth 146 immediately south of the proposed diversion by point B, and does not form part of this proposal. The Land Registry title plan for the land is shown at App A, the land north of point D is not registered, but the applicant has stated that it is under their control to the centreline of the track, which is called Mill Shaw Lane and carries the public bridleway Hol/134. The applicant landowner states that this unregistered land has been managed by them and their predecessors for many years.

1.4 The existing footpath through the yard at Upper Millshaw Farm would be affected by the development of new buildings and retaining walls. The proposed diversion would take the public footpath away from the immediate curtilage of the new house

development and would avoid the current necessity to negotiate a particularly steep slope to the rear of the yard to access the bridleway to the north. Land concerned is generally shown in photos appended at App D, this is a relatively remote rural path across farmland.

1.5 Any further ground works to provide a new public footpath are to be undertaken by the applicant to the satisfaction of the council.

1.6 Consent to the diversion proposal from owners and occupiers of the registered land have been provided to the Council. The Council may make an order affecting the proposed route over unregistered land north of point D, providing it gives appropriate notice. The applicant landowner has undertaken to indemnify the council against any claim for compensation relating to the application and/or order.

1.7 A preliminary consultation has been held on the proposal, the details are listed in section 4 of this report.

1.8 If members approve the making of an order under section 119, it would be advertised and if any objections are made and not withdrawn, the council could not confirm the order. Opposed orders could only be confirmed by the Secretary of State at DEFRA, which may involve a public inquiry.

2. Information required to take a decision

2.1 Section 119 of the Highways Act 1980 gives an authority the power to divert or footpaths, bridleways or restricted byways if it is satisfied that the relevant criteria are satisfied.

2.2 Account must be taken of the effect of the order on the rights of the public as described above at 1.2.

2.3 Circular 1/09 is guidance published by DEFRA for local authorities regarding PROW matters. Section 5 deals with changes to the public rights of way network.

2.4 A location plan is appended at App B.

2.5 An extract of the executive summary of the ROWIP is appended at App C.

2.6 Option 1 is to decide to refuse the application to make the order.

2.7 Option 2 is to authorise the Service Director, Legal, Governance & Commissioning to make an order under section 119 of the Highways Act 1980 **and only to confirm it if unopposed**, but to defer its decision on sending any opposed order to the Secretary of State at DEFRA. (See 5.4 below).

2.8 Option 3 is to authorise the Assistant Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 119 of the Highways Act 1980. This would authorise confirmation of the order by the council if

unopposed, or seeking confirmation of an opposed order by forwarding it to the Secretary of State to confirm.

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 receives applications to change public rights of way, in this case to facilitate development already granted planning consent.

3.5.2 The Council may make orders which propose to change public rights of way and may recharge its costs of dealing with applications and making orders, as appropriate.

3.5.3 Any person may make an objection or representation to the order.

3.5.4 The council may choose to forward an opposed order to the Secretary of State at DEFRA ("SoS") to determine or may abandon it. If an order is forwarded, any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order. The council recharges the costs of applications to the applicant as appropriate, but the council may not recharge the costs incurred by it in the process of determination of an opposed order by DEFRA. The council would have to cover its own costs of forwarding the order to DEFRA and its costs associated with that decision process, potentially including a public inquiry.

3.5.5 If the council confirms its own order, or after an order has been confirmed by the SoS, the council may recharge its costs of concluding the order process, including bringing an order into force.

3.5.6 Development proposals, including those given planning consent, may depend on the making and coming into force of public path orders, such as those changing or extinguishing public rights of way. Without such PROW orders, development may well be delayed, prevented or rendered unviable, with the subsequent effects on matters such as the local economy and provision of homes.

4 Consultees and their opinions

4.1 The public rights of way unit undertook an informal preliminary consultation which included notices posted on site and maintained for 4 weeks, and correspondence with statutory consultees, interested parties including utility companies and user groups, as well as ward councillors.

4.2 In addition to that earlier consultation process, officers have consulted Cllr Davies, who was recently elected. Cllr Davies considered the diversion proposal footpath reasonable but that if the gate and footpath condition need to be improved then this should be a condition of the diversion. To date, Cllr Firth and Cllr Patrick have not expressed an opinion in favour or against the application.

4.3 Further to the original consultation, the applicants proposed minor changes to the proposed route to improve accessibility over the slopes up to the bridleway 134 at points C - D.

4.4 After this, there were no outstanding objections to the diversion proposal, however Peak & Northern Footpath Society ("PNFS"), which had stated, "*The response from the consultants is satisfactory, and we have no further comments at this stage*.", has since clarified that it intends to oppose the diversion proposal due to the condition of public footpath Holmfirth 146 at the site and the condition of the gate that has already been authorised by point B on the existing Holmfirth footpath 146. PNFS is not satisfied with the steps that the landholders have taken to protect the existing public footpath.

4.5 No other objections were received at this informal stage from any PROW statutory consultees or user groups, which would be consulted if an order is made.

4.6 **Officers would note** that officer delegation powers may not be exercised where there is objection to a proposal at preliminary consultation stage. The PNFS opposition appears to be based on dissatisfaction about current ground conditions and a gate just before the start of the Order routes. The applicants have addressed

concerns raised in the PNFS's response to the preliminary consultation, amending the route to PNFS satisfaction, and have undertaken improvement works on the ground. The new route of footpath 146 would need to be to an appropriate standard for it to be signed off for public use, much later in the diversion process. Officers will liaise further with the applicants about the existing gate at point B and it appears reasonable to put the question of proposed diversion to members at this time. PNFS is a statutory consultee on such orders.

4.7 The consultation process attracted replies from utility companies, with the applicants being asked to contact them regarding any proposed works where appropriate.

4.8 The Police Architectural Liaison Officer had no adverse comments.

4.9 Huddersfield Rucksack Club had no objection.

4.10 No response or no objection was received from Open Spaces Society, Auto Cycle Union, CTC, Byways & Bridleways Trust, Kirklees Bridleways Group, Huddersfield Ramblers, WY Police, WY Fire, WYAS, WYPTE, Atkins, MYCCI, Road Haulage Association, National Grid, KCOM, Yorkshire Water, BT, NTL, & YEDL.

4.11 The applicants were asked for their observations on the preliminary consultation replies. The applicants sought to improve the proposed footpath around points C – D, reducing the gradient of the slope and confirming their ground works to improve the surface.

5 Next steps

5.1 If an order is made, it would be advertised and notice served.

5.2 If the order is unopposed the council may confirm it.

5.3 If any objections are duly made and not withdrawn, the council may forward the order to the Secretary of State at DEFRA seeking its confirmation. Alternatively, the council may decide to abandon the order.

5.4 If members decide to authorise the making of an order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:

- 5.4.1 any objections that are received, and
- 5.4.2 potential referral of the order (if opposed) back to the Secretary of State, or
- 5.4.3 abandonment of an opposed order.

5.5 If sub-committee refuses the application, the order is not made. There is no appeal right for the applicant against a refusal.

6. Officer recommendations and reasons

6.1 Officers recommend that members choose:

6.1.1 option 3 at 2.8 above and give authority to the Service Director, Legal, Governance and Commissioning to make and seek confirmation of an order under section 119 of the Highways Act 1980 to divert Holmfirth public footpath 146 (part) as shown in Plan 1, AND

6.1.2 for a pedestrian gate to British Standard 5709:2018 at point D to be included in the order, rather than the kissing gate described in the application.

6.2 On balance, officers consider that the relevant criteria within paragraphs at 1.2 above are satisfied, that the diversion would be in the interests of the landowner/occupier and that the relevant criteria regarding protection of public benefits of the immediate rights of way network are satisfied. Officers consider that a kissing gate would not be the least restrictive appropriate option, in accordance with British Standard 5709: 2018, but that a pedestrian gate is warranted for stock control purposes. Officers note PNFS' concerns about footpath and gate condition; PNFS' informal objection is one made 'in principle', and PNFS does not actually raise objection to the detail of the proposed change to footpath 146.

7. Cabinet portfolio holder's recommendations

7.1 Not applicable

8. Contact officer

Giles Cheetham, Definitive Map Officer, Public Rights of Way

9. Background Papers

9.**1** 872/6/Div/Hol146

9.2 Appendices

9.2.1 Plan 1 proposed diversion

9.2.2 App A Land Registry title plan

9.2.3 App B location plan (Post code: HD9 7TR)

9.2.4 App C ROWIP extract

9.2.5 App D photos of routes and gate/ground near point B.

10. Service Director responsible

Service Director: Commercial, Regulatory & Operational Services; Economy & Infrastructure Directorate

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Highways Act 1980, Section 119. Diversion of public footpath Holmfirth 146 (part) At Upper Millshaw Farm, Upper Millshaw Lane, Hepworth.

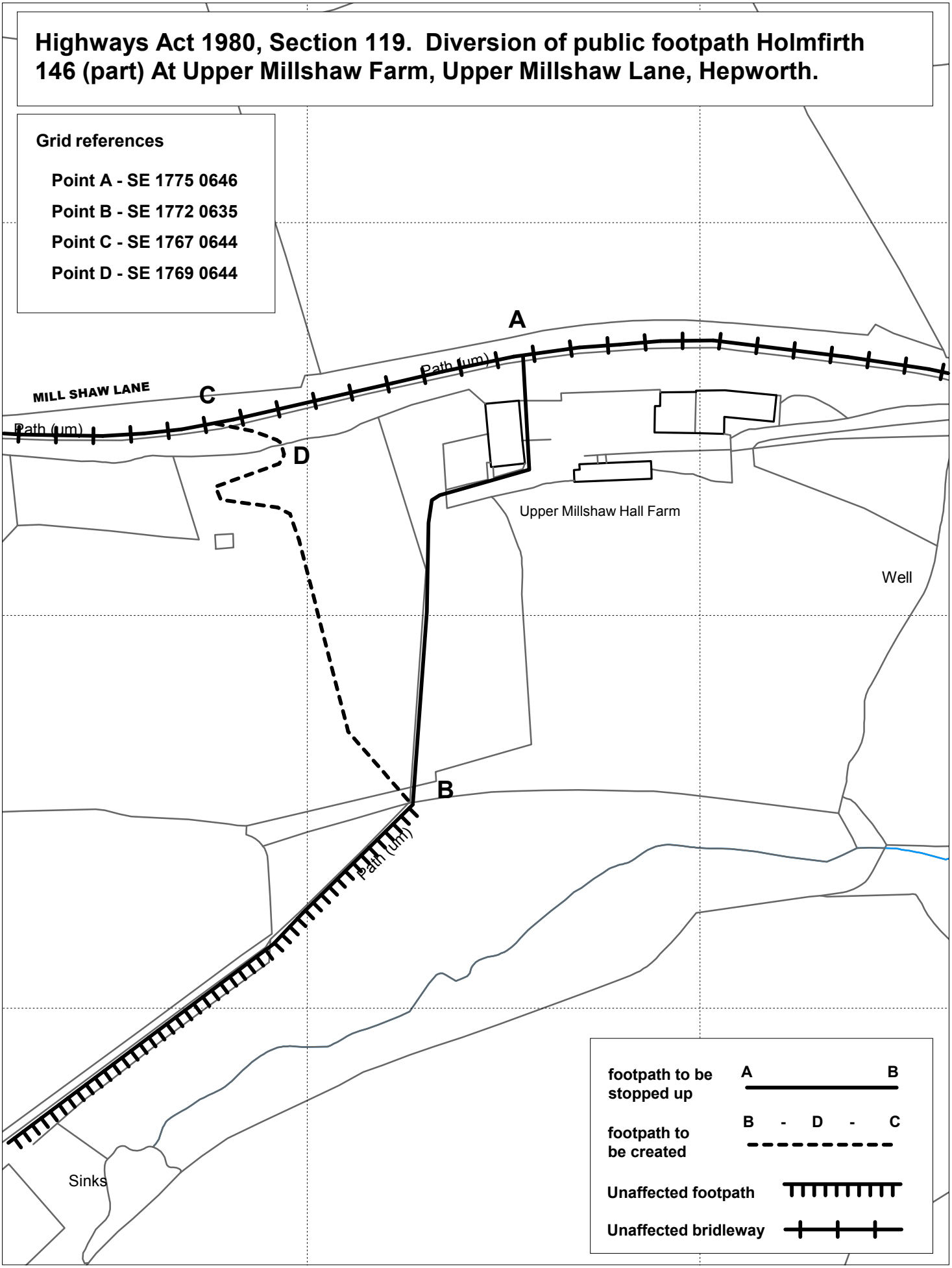
Grid references

Point A - SE 1775 0646

Point B - SE 1772 0635

Point C - SE 1767 0644

Point D - SE 1769 0644



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Ordnance Survey 100019241

Produced on 3 September 2018

Scale 1 : 1250

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Land Registry
Official copy of title plan

Title number **YY64717**
Ordnance Survey map reference **SE1706SE**
Scale **1:1250** enlarged from 1:2500
Administrative area **West Yorkshire: Kirklees**

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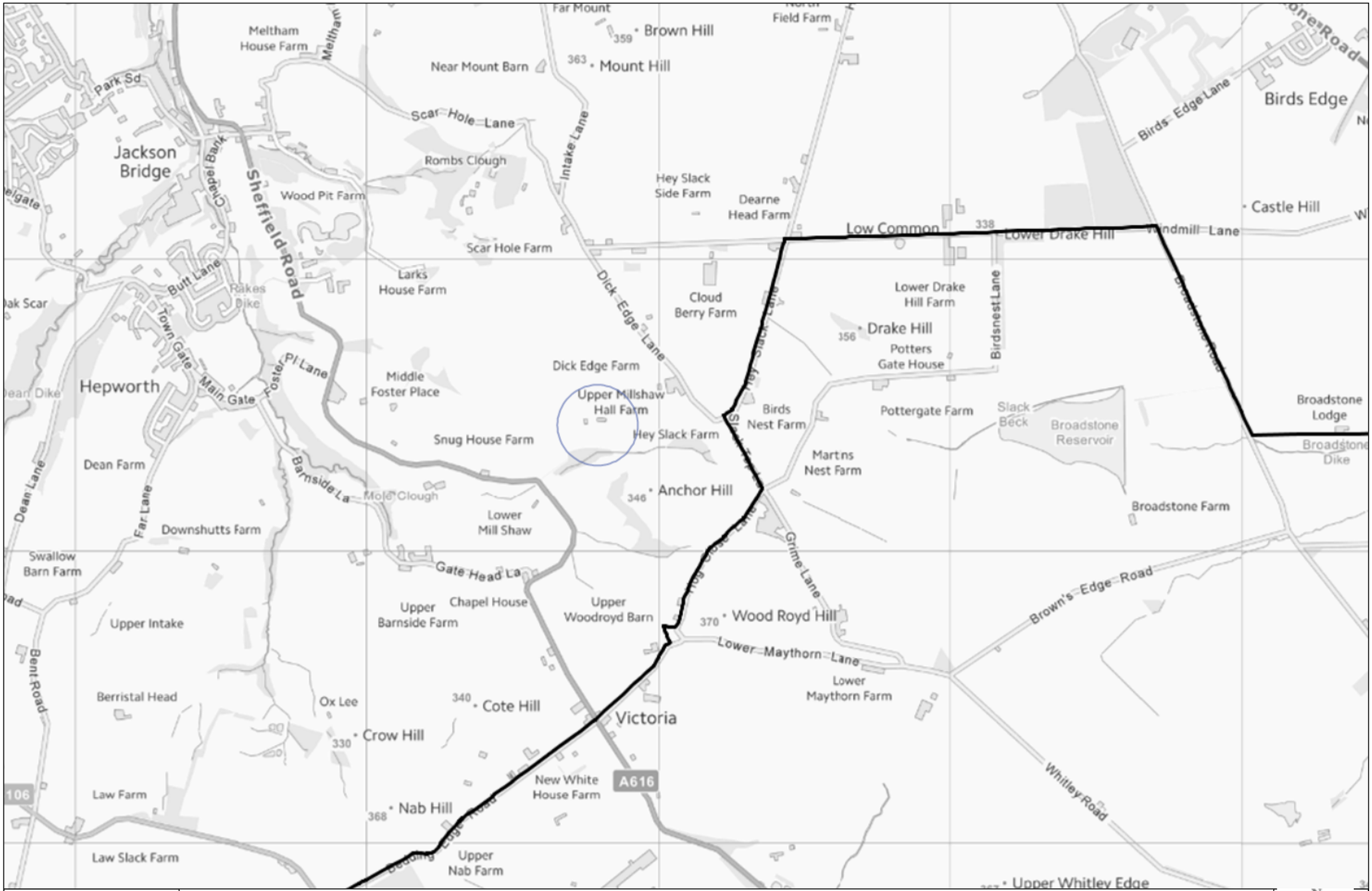
N

MILL SHAW LANE (Track)
Upper Millshaw Hall Farm
Dick Edge Farm
DICK EDGE LANE
Dyke Road
Hey Slack Cottage
The Barn
Hey Slack Farm
SLACK TOP LANE
Lower Mill Shaw
The Potting Shed
Martins Nest
GRANE LANE
HOG CLOSE LANE
Halleluya

This official copy issued on 12 July 2016 shows the state of this title plan on 12 July 2016 at 12:51:06. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
This title is dealt with by Land Registry, Durham Office.



Kirklees Council

Kompass
Kirklees Mapping Service

Tel: 01484 221757 (Internal 860 1757)E-Mail: maps@kirklees.gov.uk

Upper Millshaw Hall Farm, Location Plan

300 m

Scale = 12000

N W E S

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Executive Summary

The public rights of way network is a significant part of Kirklees' heritage and a major recreational resource. It enables people to get outdoors and away from increasing motor traffic and to enjoy the countryside which they would not otherwise have access - or simply to use it for fresh air and exercise. These rights of way are also important in the daily lives of many people who use them for travelling, particularly on short journeys, to shops, schools and other facilities as well as being an important link between neighbourhoods and settlements.

As part of Kirklees Vision, the Rights of Way Improvement Plan is to have a rights of way network; that is accessible for all, helps towards improving the health and well being of our residents, supports the economy through tourism and helps to reduce Kirklees' "carbon footprint". It aims towards improving sustainable transport with member authorities within West Yorkshire as well as working with other neighbouring authorities whose aims and objectives are the same or similar. The aims of the plan are to:

1. Protect, improve and develop the rights of way network as an important means of access both within urban areas and the wider countryside to meet with the present and future needs of the public.

2. Ensure the condition of the rights of way network is maintained and enhanced in keeping with the needs of local communities.

3. Afford opportunities for safe and sustainable travel and for access to work, schools, shops and other facilities and amenities as well as providing further opportunities for outdoor recreation and enjoyment of the area.

4. Improve the accessibility of rights of way for all members of the community in particular those from ethnic and deprived areas and especially for those with mobility problems or other impairments.

5. Identify opportunities to further improve public access in Kirklees by working with partners and volunteer groups in providing well-connected, well maintained, traffic free routes that are safe, attractive and well used by residents and visitors.

6. Enable and encourage people to enjoy the benefits of regular exercise whilst going about their daily business and to take advantage of the wide variety of countryside that exists within Kirklees.

7. Ensure the rights of way network contributes to the development of economic opportunities in Kirklees through tourism.

Each highway authority is required to prepare "A Statement of Action" for the management of its Rights of Way Network and for securing improvements to local rights of way, with particular regards to the matters dealt with in the criteria contained in the Countryside and Rights of way Act 2000.

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Originator: Laura Yeadon

Tel: 01484 221000

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 18-Jul-2019

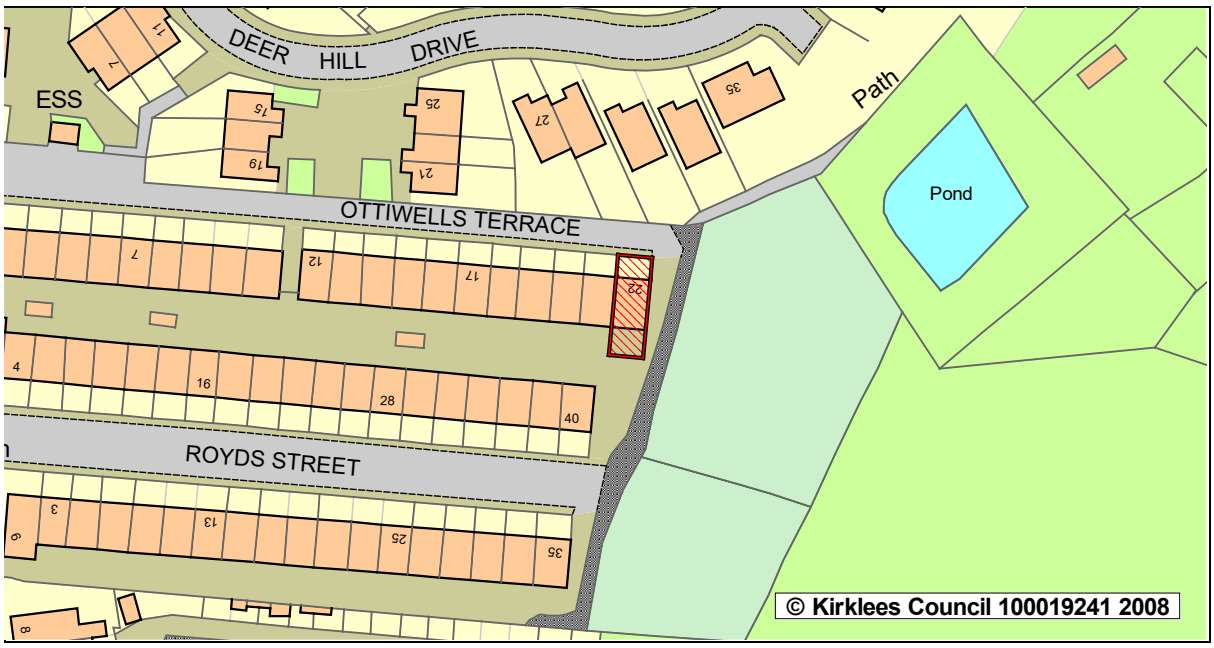
Subject: Planning Application 2019/90623 Erection of cat cage and garden shed to front (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield, HD7 6HB

APPLICANT
R Haworth

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
22-Mar-2019	17-May-2019	

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: **Colne Valley**

No

Ward Members consulted

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 was presented to Members at the Committee meeting on 6th June 2019 however was deferred for a site visit.

1.2 This application was originally 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."

1.3.1 The Chair of Committee 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 20th Century and they are typical of mill worker's housing of the late 19th and early 20th 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 from 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 27th 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 26th April 2019. 16 letters of representation have been received with 9 representations against the proposal, 7 representations in support of the proposal and 1 general comment in response to the representations from the applicant 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 a 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 detraction from the natural beauty of the area
- It is an end house with no view, it is not an eyesore
- Photographs demonstrating other structures within the area including hedges and sheds

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 form 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 if 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 Councils 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 16 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 24th February 2019

Kirklees COUNCIL

Originator: Emma Thompson

Tel: 01484 221000

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 18-Jul-2019

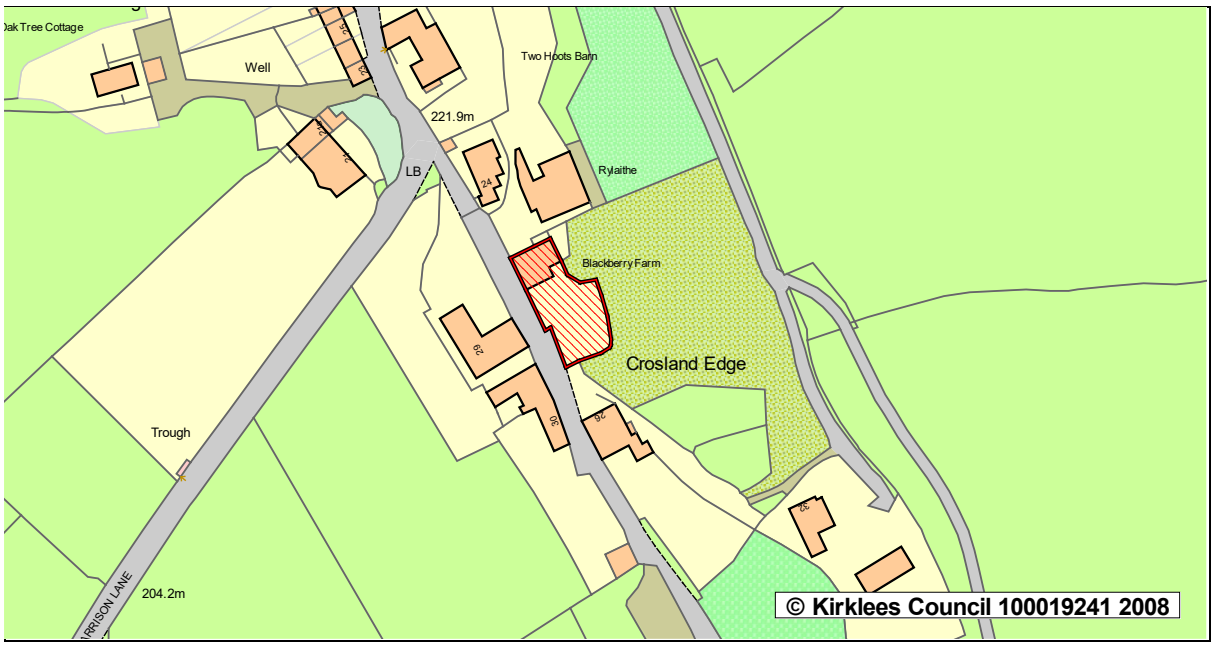
Subject: Planning Application 2018/94120 Erection of single storey outbuilding Blackberry Farm, 27, Crosland Edge, Meltham, Holmfirth, HD9 5RS

APPLICANT
Mr & Mrs Broad

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
21-Dec-2018	15-Feb-2019	

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley North

No

Ward Members consulted

RECOMMENDATION: REFUSE

1) The proposed garage, when considered cumulatively with the previous extensions to the host property, combined with its overall scale, siting and design, would result in disproportionate additions to the original dwelling and a detrimental reduction in the openness of the Green Belt and harm to visual amenity The proposed development would therefore represent inappropriate development within the Green Belt and no very special circumstances have been submitted to clearly outweigh the harm caused by reason of inappropriateness or other harm. The proposal would therefore fail to accord with the requirements of Policies LP24 (a) and LP57(a) of the Kirklees Local Plan and policies within the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application seeks permission for the erection of a detached single storey outbuilding.

1.2 The application is brought to Huddersfield Planning Committee for determination in accordance with the Council's Scheme of Delegation at the request of Councillor Lyons, for the reason outlined below:

"That the applicant is tidying up the garden area and would be using the store/garage for garden equipment, it would also be a repeat of the next door neighbour's garage, there will be a green roof, that would make it more sympathetic, adding to the surrounding green area and finally it would be a more secure place for their garden equipment, to deter any future thefts, as there has been recently, due to its location."

1.3 As Cllr Lyons is Chair of the Sub-Committee it is accepted that the 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 includes a detached two storey stone dwelling which has been extended to the side and rear. It is perpendicular to the access and in a prominent position elevated from the highway. It benefits from garden to the front and which is also at a higher level retained by a boundary wall.

3.0 PROPOSAL:

3.1 Erection of single storey outbuilding to provide log store, bike shed and garden store.

3.2 The materials proposed are natural stone to match the host property and the agent has confirmed that the development will incorporate a green roof.

3.3 An area of hardstanding is created adjacent to the building in addition to landscape works that includes planting around the building and between the highway and the building proposed.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2008/92090 – Erection of first floor extension – approved

91/03306 - Variation of condition 4 relating to roofing materials on previous permission (90/62/02580) for conversion of barn to dwelling with integral garage – approved

90/02580 – Conversion of barn to dwelling with integral garage - approved

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

5.1 Amended plans received after discussion regarding scale, a 600mm decrease in depth is achieved however it cannot be reduced in height due to the size of the bikes.

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 27th February 2019).

Kirklees Local Plan (2019):

6.2 The site is allocated as Green Belt on the Local Plan

6.3 Relevant policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP57** – The extension, alteration or replacement of existing buildings.

National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, the Planning Practice Guidance Suite (PPGS)

first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land

7.0 PUBLIC/LOCAL RESPONSE:

7.1 None received.

7.2 Meltham Town Council: Object to the application on the grounds that the construction of new buildings in the Green Belt is generally inappropriate unless one of the exceptions listed in the NPPF apply, which does not appear to the Council to be the case with regard to this application.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC Highways: No objections in principle (informative regarding stability of the retaining wall)

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The site is located within the Green Belt and therefore the principle of erecting a building within the Green Belt is to be considered. Chapter 13 of the NPPF states that the government considers the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the core characteristics of the Green Belt being its openness and permanence. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 145 or 146 of the NPPF.

10.2 The erection of an outbuilding to a dwelling can be considered as an "extension" to the host building if it is closely associated with that building and as such may be acceptable in accordance with paragraph 145 of the NPPF and Policy LP57 of the Local Plan. This is provided it does not result in disproportionate additions over and above the size of the original building. This takes into account the cumulative impact of the proposed development and previous extensions to the original building. Furthermore, in the event that the development is deemed inappropriate, consideration is given to other harm the development would have on the character and openness of the Green Belt.

10.3. The original building was a converted barn which has been extended significantly to the side and rear. When considered in isolation to these extensions the proposed building is small. When considered cumulatively with the previous extensions to the original building however, the building would be a disproportionate addition which, by definition, is inappropriate development in the Green Belt.

10.4 The scale and positioning of the outbuilding, being disconnected from the host dwelling, would have a detrimental impact on the openness and character of the Green Belt. The building would be in an elevated, open position close to the highway placed where there is currently no development. It would decrease the open space interspersed between developments along Crosland Edge which would have an urbanising effect on the sporadic development along the road. As a consequence of its detachment, scale and placement, it is considered that the resultant outbuilding would be an obtrusive structure to causing harm to the openness of the Green Belt.

10.5 The reasons the application has been brought to Sub-Committee for determination, set out in paragraph 1.2, are considered to be the special circumstances justify the erection of the building. Although these are noted they are not considered to be exceptional or very special. They are not considered to clearly outweigh the harm caused by reason of inappropriateness or other harm. As such the development is contrary to Policy LP57 of the Local Plan and Chapter 13 of the NPPF.

Urban Design issues

10.6. Policy LP24 of the Local Plan and guidance contained within Chapter 12 of the NPPF requires design to be taken into account in the assessment of development. The outbuilding proposed is set within the existing garden being separated from the host building in an open location and in an elevated positon. Whilst the design is reasonably sympathetic, appearing quite simplistic and utilising materials akin to the host building, the scale and height would appear obtrusive in its rural setting. The stone walling would increase the visual intrusion within the street scene which is currently a balanced mix of open spaces with built form. Whilst the introduction of a green roof may assist in reducing the impact the development it is not considered significant enough to overcome concerns regarding the ensuing built form. Furthermore, the additional hardstanding works and retaining wall structure would exaggerate concerns. The proposed planting would not be sufficient to address concerns. Additionally the section accompanying the application shows the building relative to the access set at a significant height appearing dominant where currently there is open space.

10.7 Notwithstanding the above it is considered that the materials proposed would be generally acceptable for this type of building as is the design but for the reasons provided the building cannot be supported in this instance. The development would be contrary to Policy LP24 of the Local Plan.

Residential Amenity

10.8 The outbuilding is shown to be located within the existing garden area of number 27. It is shown to be in an elevated position opposite the boundary wall to number 29. There are no windows proposed in the elevation facing the property opposite and as such there would be no loss to privacy. Whilst the section submitted does not extend to include land within the ownership of 29 it is considered to be a sufficient distance so as to avoid any concerns regarding appearing overbearing or overshadowing.

Highway issues

10.9 The application does not include any alterations to access or the highway and as such it is not considered there will be any detriment to highway safety.

Retaining Structure

10.10 Based on the cross-sectional details provided, it would appear that the existing retaining wall adjacent the highway is outside the influence zone of loading from the new building and as such there are no objections to the proposals as shown. The only concern regarding the impact of this proposal is during its construction when an excavator may be located at the top of the wall to excavate the footing for the new building. This could cause damage to the adjoining retaining wall and as such should be pointed out to the developer's designers to ensure that such occurrence (i.e. placing a plant above the wall) is prevented. A footnote could be imposed on any decision notice.

Representations

10.11 None received. The comments of Meltham Town Council are noted and have been assessed in the principle of development above.

11.0 CONCLUSION

11.1 It is considered that the development is inappropriate within the Green Belt. When considered cumulatively with the previous extensions to the original property, combined with its overall scale it would result in disproportionate additions over and above the original building.

11.2 Furthermore it is considered that the scale and location of the development would be harmful to the openness of the area introducing development where there currently is open space. This harm is exaggerated further by the prominent elevated position.

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

11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that the application of policies in the NPPF that protect land designated as Green Belt provides a clear reason for refusing the development proposed.

Background Papers:
Application and history files.
https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94120

Certificate of Ownership –Certificate A signed by the agent.

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Originator: Adam Walker

Tel: 01484 221000

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 18-Jul-2019

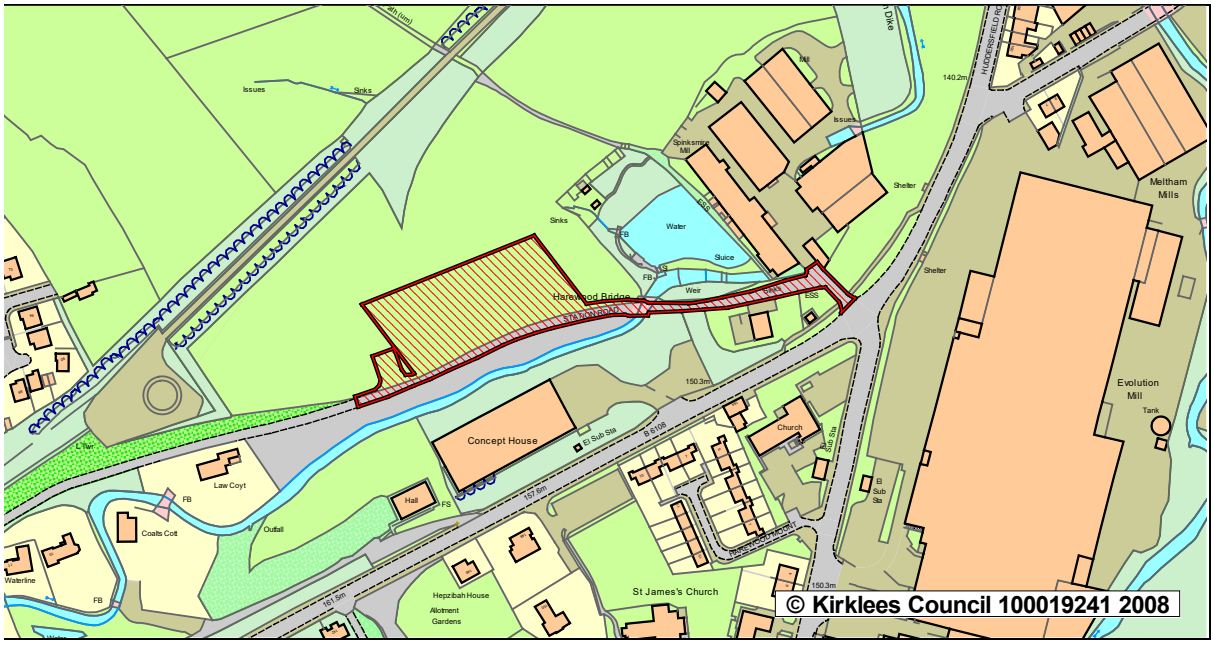
Subject: Planning Application 2019/90356 Erection of 7 dwellings Land Off, Station Road, Meltham, Holmfirth, HD9 4NL

APPLICANT
A Howarth, H3 Property Consultants Ltd

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
05-Feb-2019	02-Apr-2019	31-Jul-2019

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: **Holme Valley North**

No

Ward Members consulted

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

1.0 INTRODUCTION:

1.1 The proposals are brought forward to the Sub Committee for determination in accordance with the Council's Scheme of Delegation because the site is over 0.5 hectares in area.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to part of an area of grazing land which is situated on the northern side of Station Road, Meltham. The south eastern part of the site is largely flat with the remainder sloping up to form a hillock which sits within the larger area of grazing land.

2.2 To the east of the site is an industrial complex and mill pond that is accessed via Station Road. To the south of the site is an area of protected trees and a watercourse with a commercial building beyond. The land to the west of the site has planning permission for the erection of 2 pairs of semi-detached dwellings.

2.3 Station Road is a long, narrow, private access road off Huddersfield Road that serves a small number of dwellings.

3.0 PROPOSAL:

3.1 Full application for the erection of 7 detached dwellings.

3.2 The dwellings all front onto Station Road. Four of the dwellings are two storey properties and three of the dwellings are split level with a three storey frontage and two storeys at the rear. Each dwelling has a patio area and garden space to the rear although the majority of the gardens are steeply sloping because of the topography of the site.

3.3 Each of the dwellings either have an integral or detached garage associated with them and parking space towards the front of each house.

3.4 Facing materials are coursed natural stone and natural slate.

3.5 Access to the development is via Station Road. The existing level of Station Road is to be raised and the road widened where it runs to the front of the application site.

4.0 RELEVANT PLANNING HISTORY:

4.1 Two large detached dwellings have previously been approved on the site. The approved development included some additional land to the north of the current application site.

2014/91714 Erection of 2 dwellings and widening, surfacing and lighting to Station Road – Approved by the Sub Committee

2016/90103 Discharge of Conditions 3, 4, 9-13 and 20 on previous planning permission 2014/91714 for erection of 2 dwellings and widening, surfacing and lighting to Station Road - Approved

4.2 Planning permission for two pairs of semi-detached dwellings has been approved on the land to the west of the application site. The application site includes a turning head that was approved as part of this neighbouring development. This site is within the ownership of the applicant and the applicant's planning agent has stated that they consider that this permission has been lawfully implemented and is therefore extant.

2015/92638 Erection of 2 pairs of semi-detached dwellings (4 no. new dwellings) - Approved by the Sub Committee

2016/92857 Discharge of conditions 3 (materials), 4 (highways), 7 (materials), 8 (soakaway), 9 (land contamination), 22 (arboricultural method statement) on previous permission no.2015/92638 for erection of 2 pairs of semi-detached dwellings (4 no. new dwellings) – Approved

4.3 The following application for 8 dwellings on the site was withdrawn last year:

2018/93354 Erection of 8 no. dwellings – Withdrawn

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

5.1 The proposal has taken into account issues raised under withdrawn application 2018/93354 for 8 dwellings in terms of the quantum of development.

5.2 Negotiations have been undertaken in relation to the proposed roofing material and the surfacing of the widened access road. Instead of artificial slate tiles it is proposed to use natural slate and instead of resurfacing the access road in bitumen the road will be retained as stone setts.

5.3 The garage for plots 1 and 2 is to be set further back to increase the driveway length for these two plots and allow for tandem parking. Some additional widening of Station Road is also to be provided where possible. These changes are to be shown on a revised drawing. The applicant has advised that a visitor parking space can be provided to the west of the site within land that the applicant controls.

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 27th February 2019).

6.2 Kirklees Local Plan (2019):

LP1 - Presumption in favour of sustainable development
LP3 - Location of new development
LP7 - Efficient and effective use of land and buildings
LP21 – Highway safety and access
LP22 – Parking standards
LP24 – Design
LP27- Flood risk
LP28 – Drainage
LP30 - Biodiversity and geodiversity
LP33 – Trees
LP51 - Protection and improvement of air quality
LP52 - Protection and improvement of environmental quality
LP53 - Contaminated and unstable land

6.3 Supplementary Planning Guidance / Documents:

Draft Highway Design Guide SPD
Interim Affordable Housing Policy

6.4 National Planning Guidance:

Chapter 2 – Achieving sustainable development
Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Four representations have been received.

A summary of the comments is provided as follows:

- Concerns with the size of the development, especially when the approved development to the west for 4 no. dwellings is taken into account. 11 large family houses would disproportionately impact on the existing occupiers of Station Road.

- Lack of adequate parking on Station Road. If vehicles park on Station Road it will be difficult for emergency, refuse and service vehicles to access the houses further along Station Road.

- The amount of parking for the houses is inadequate, including for visitors.

- The proposed houses should be set back further into the site.

- The exit onto Huddersfield Road is very dangerous. The additional traffic associated with the development will increase the likelihood of an accident occurring.

- Widening of the junction with Huddersfield Road should be provided.

- Disruption from building work, including concerns that Station Road will be obstructed.

7.2 **Meltham Town Council –** Resolved "That the Council supported the application in principle but had not been provided with sufficient detailed information to make an assessment as to whether the width of the roadway and highway access was suitable. The Council would like to reiterate the importance of ensuring that the roadway in front of the houses is wide enough to accommodate parked vehicles and access by emergency vehicles. The Council are also concerned about the high speed limit of 40mph which it considers to be too fast given the number of access points along the road."

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC Highways Development Management – No objection subject to conditions

8.2 **Non-statutory:**

KC Ecology Unit – No objection subject to conditions

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The land is unallocated on the Local Plan and as such there are no specific constraints to developing the site for housing. Furthermore, planning permission for 2 large dwellings on the site was approved in 2014 which has established the principle of residential development on the land. Planning permission for 4 no. dwellings has also been approved adjacent to the site on land which forms part of the same overall area of grazing land.

10.2 The NPPF establishes a presumption in favour of sustainable development (paragraph 11). For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

10.3 The site does not include any areas or assets of particular importance as defined within the NPPF (footnote 6) and in this regard there are no specific constraints to developing the site.

10.4 Paragraph 68 of the NPPF recognises that "small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should…support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

10.5 In the 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 27th February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1st April 2013).

10.6 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 19th 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.

10.7 The site lies on the edge of the built-up part of Meltham/Meltham Mills with existing development towards the south, east and west. The site is therefore considered to be part of an existing settlement and therefore great weight should be given to the benefits of developing this windfall site.

10.8 Chapter 7 of the NPPF and LP7 of the Local Plan promote an efficient use of land. The proposal represents a much more efficient use of land than the previous permission and this weighs in favour of the development.

10.9 LP7 establishes a desired target density of thirty-five dwellings per hectare. At this measure, the site could accommodate 14 units when the access road is excluded. However, LP7 states this target should be 'where appropriate'. The topography of the land is a constraint to the development and the existing residential development along Station Road is very low density. The previous approval on the site was only 2 dwellings and so this proposal represents a much more efficient use of land than the previous permission. Taking all of these factors into account the proposed quantum of development is considered acceptable in principle. 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 issues

10.10 The eastern part of the site is generally flat and the western part is steeply sloping. The topography has therefore influenced the scale and design of the proposal, with the dwellings in the western part being heavily dug into the land which has resulted in a three storey frontage and two storey rear elevation (house type B). The amount of digging out required lessens towards the east which allows for two storey houses (house types A and C).

10.11 House types A and C are similar in appearance and are of a typical design for this type of property. House type B includes balconies and half dormer windows to the front and the design is comparable to the scheme for 4 dwellings that was approved on the adjacent land in 2016 i.e. 3 storey frontages and balconies.

10.12 Facing materials are natural stone and slate. The applicant has agreed to provide natural slate instead of artificial slate tiles that were initially proposed. The materials are consistent with those that have previously been approved on the site and for the permission for 4 no. dwellings on adjacent land to the west.

10.13 The dwellings are set back from Station Road and would generally be viewed against the backdrop of the hillock and trees that lie towards the rear. Views of the development from the Green Belt land further to the north would be very limited. A degree of openness is provided between the dwellings as a result of the garage in between plots 1 and 2 and where there is a marked change in levels between plots 4 and 5.

10.14 Stone walls are to be provided to the site frontage which will help to retain some of the established character of Station Road and parking to the front of the dwellings is largely broken up by parcels of soft landscaping which helps to soften the appearance of the development.

10.15 Station Road is a narrow access road paved in stone setts which contributes to the character of this area. It is proposed to widen and resurface a section of Station Road. It was initially proposed to replace the existing stone setts with a bitumen surface and stone sett rumble strips. However, following negotiations with the applicant it is now proposed to keep Station Road as stone setts. The widening works will use reclaimed and/or new natural stone setts and where any existing setts require replacing this will be done like-for-like. The proposals will therefore retain an important characteristic of the locale and are consistent with previously approved proposals to widen Station Road.

10.16 The level of Station Road is to be raised up slightly in front of the site and some additional street lighting is proposed but it is not considered that these works would significantly harm the overall character of Station Road.

10.17 The application is considered to comply with LP24 of the Local Plan and guidance in the NPPF.

Residential Amenity

10.18 The proposed development is not in close proximity to any existing dwellings. Planning permission has previously been approved for 4 no. dwellings immediately to the west of the site; the applicant owns this land and has indicated that they consider the permission to have been implemented and therefore extant. It is not considered that the proposals would prejudice the development on the land to the west.

10.19 A short distance to the east of the site is an industrial complex (Spinksmire Mill) that is an allocated employment site in the Local Plan. The existing mill/commercial buildings are separated from the application site by a mill pond and a parcel of open land. Environmental Services have not raised any objections to the proposal and there are not considered to be any potential noise issues for the future occupiers of the development or potential issues relating to the operational flexibility of this established commercial site. Furthermore, the principle of residential development on the land has previously been accepted.

10.20 The dwellings all front onto Station Road. There are trees and a watercourse on the opposite side of Station Road and a commercial property (Concept House) some distance beyond. The proposed dwellings are considered to be separated from this commercial property by an adequate distance to mitigate any potential impacts.

10.21 Given the topography of the site most of the rear garden areas are steeply sloping, even with the proposed alterations to the existing ground levels. It is only the two easternmost plots that have ‘useable’ rear gardens. Nevertheless all of the plots have reasonable sized rear patio areas and the 3 properties in the western part of the site also have front facing balconies. As such an adequate amount of amenity space is provided for each property.

10.22 The development is considered to comply with LP24 of the Local Plan and guidance in the NPPF.

Highway Safety

10.23 Station Road is a cobbled private cul-de-sac of approximately 4.5m wide with pinch points down to 3.6m to the east of the site and 3m to the west of the site. There are no pedestrian facilities or street lighting and the first 45m hosts a PROW MEL/23/60. Station Road provides access to 5 dwellings and the Spinksmire Mill complex which hosts about 7 individual occupant companies. Station Road joins B6108 Huddersfield Road at a priority junction approximately 150m to the east of the site.

10.24 The B6108 Huddersfield Road is a 40mph local distributor road of approximately 7.3m width with a right turn lane in to Meltham Mills Road, footways on both sides and street lighting present. The station Road arm of the junction is on the inside of a bend on Huddersfield Road and there is a grass verge between the highway and footway that improves visibility. The visibility splays from Station Road are slightly substandard for the 40mph posted speed on Huddersfield Road, however accident records at this junction show that the existing collisions didn't involve any vehicles entering/exiting Station Road.

10.25 There has been a previous permission for housing on the site and a permission for housing on the land to the west of the site and both of these applications involved improvements to Station Road, including localised widening of the highway, the incorporation of a footway to the front of the site, improved street lighting and a turning head for service vehicles.

10.26 The current application site includes the previously approved turning head and similar proposals for the widening and lighting of Station Road and the provision of a pedestrian footway to the site frontage. The applicant has been asked to review whether there is scope to provide some additional widening of the road to 4.8m and the applicant has stated that where possible this will be provided. A revised plan showing the additional widening is awaited and an update will be provided on this.

10.27 The applicant has sought to address comments from Highways Development Management in terms of the amount of parking provision. The garage for plots 1 and 2 is to be moved further back to increase the driveway length and allow for tandem parking for both plots in addition to the garage. An amended plan showing this change is awaited and an update will be provided on this.

10.28 The applicant has confirmed that a visitor parking space can be provided within the land to the west of the application site. The land is within the applicant's control. The visitor parking space would necessitate a minor alteration to the approved development for 4 no. dwellings under planning permission 2015/92638. Details of the visitor parking space can be secured by condition.

10.29 Highways Development Management do not consider that the development would result in any significant adverse highway safety impacts and the application is considered to comply with Policy LP21 of the Local Plan and guidance in the NPPF.

Ecology

10.30 The application is supported by an up-to-date ecology report. The council's Ecology Unit raises no objection to the application subject to conditions securing ecological enhancement, a lighting design strategy and a construction method statement. Subject to these conditions the application is considered to comply with Policy LP30 of the Local Plan and guidance in the NPPF.

Trees

10.31 There is an area of protected woodland on the opposite side of Station Road. The proposed dwellings are set back from Station Road and officers are satisfied that the development would not prejudice these trees. The application therefore satisfies Policy LP33 of the Local Plan.

Drainage issues

10.32 Kirklees Lead Local Flood Authority (LLFA) provided comments in November 2018 in respect of an application for 8 dwellings on the site that was subsequently withdrawn (2018/93354). No objections were raised at that time subject to a condition relating to detailed drainage design (for soakaways). It is considered that the LLFA's comments hold for this application for 7 dwellings and which is based on a very similar layout.

Planning obligations

10.33 The development does not meet the trigger for affordable housing and public open space contributions and is not of a sufficient scale to require an education contribution.

Other Matters

10.34 A phase II contaminated land report has been submitted with the application and is considered acceptable. A remediation strategy specific to the proposed development has not been provided and so conditions requiring a remediation strategy and validation report are considered necessary.

10.35 A condition requiring the provision of an electric vehicle charging point for each dwelling is considered necessary. This will help to mitigate the impact of the development on air quality and is in accordance with Policy LP24 of the Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy.

Representations

10.36 Four representations have been received. Concerns have been raised in relation to the size of the development, the amount of parking provided, the exit onto Station Road and disruption from building work including obstructing access to the existing houses down Station Road. A response is provided below:

10.37 *Size of the development:*

Officer response: The density of development is well below the council's target density as set out in Policy LP7 although in this case a lower density is considered to be appropriate. It is recognised that there would be a total of 11 new dwellings off Station Road when the adjacent permission is taken into account but the planning impacts of the proposal, as set out in this report, are not so significant so as to be unacceptable.

10.38 *Inadequate parking:*

Officer response: Amendments have been sought to increase the amount of parking for plots 1 and 2 (3 spaces per dwelling) and a condition is recommended to secure a visitor parking space. Additional widening of Station Road has also been sought.

10.39 *The exit onto Huddersfield Road is very dangerous*:

Officer response: The application has been assessed by Highways Development Management and it is considered that the existing access is suitable to accommodate the amount of traffic that would be generated.

10.40 *Disruption from building work, including concerns that Station Road will be obstructed:*

Officer response: A condition requiring a construction management plan is recommended to mitigate the impacts of the construction of the development. This is to include measures to ensure that access for the existing properties on Station Road is maintained during the construction period.

11.0 CONCLUSION

11.1 The principle of residential development on the site has previously been established and the proposal provides a more efficient use of land that will contribute to the council's housing delivery targets.

11.2 The appearance of the development would harmonise with the character of the area and the proposals would not result in any undue highway safety impacts.

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

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Approval of samples of materials
4. Remediation Strategy for contaminated land
5. Validation report in relation to the site remediation
6. Drainage design
7. Vehicle charging points
8. Details of visitor parking space in land to west
9. Details for waste collection
10. Turning head to be provided before occupation
11. Construction management plan, including measures to ensure access to existing properties is maintained
12. Surfacing of parking spaces
13. Details of highway and footway works including street lighting and surface treatment of Station Road
14. Lighting design strategy for biodiversity
15. Ecological construction method statement
16. Ecological design strategy

Background Papers:
Application and history files.

Website link:
https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90356

Certificate of Ownership – Certificate C completed. Notice served on:
A. Pogson, Abacus Stone Sales Ltd,
Woodhead Road, Holmfirth and Quarmby and Sykes (Holdings) Ltd, c/o Spencer Wilson & Co, 55 Pellon Lane, Halifax.
Notice published in the Huddersfield Examiner and London Gazette.
Public notice displayed.

Originator: Farzana Tabasum

Tel: 01484 221000

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 18-Jul-2019

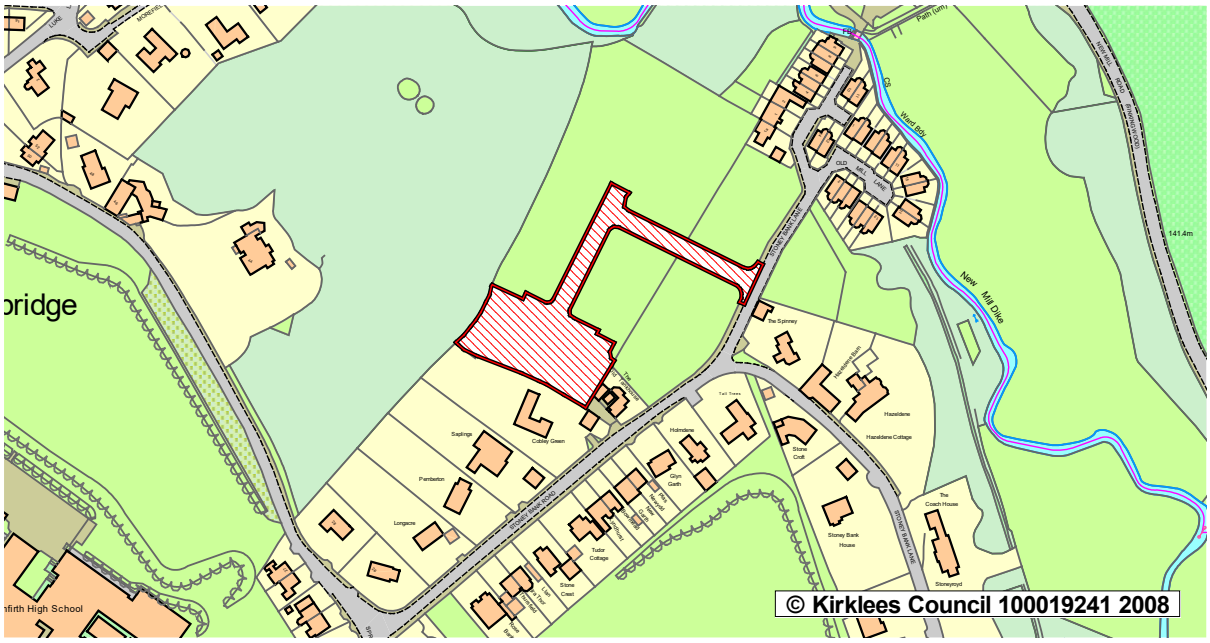
Subject: Planning Application 2019/90606 Erection of 9 dwellings (modified house types) Land at, Stoney Bank Lane, Thongsbridge, Holmfirth

APPLICANT
N Mannion

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
05-Mar-2019	30-Apr-2019	

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected:	**Holme Valley South**
Y	Ward Members consulted

RECOMMENDATION:
DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and secure a deed of variation to the previously approved Section 106 Obligations covering the wider site.

1.0 INTRODUCTION:

1.1 The application is brought to committee at the request of Cllr Nigel Patrick who has stated:

"I think the retaining wall is awful. Is there no such thing as good design in the Local Plan? I understood once the Local Plan was adopted there would be no opportunity for developers to do something like this. It is hideous, ugly and unnecessary. Then I wonder if the wall is going to hold up the land behind it – what engineering evidence have you that this wall is fit for purpose? Apart from the impact on the existing neighbouring properties, the houses they build at the foot of the wall be in the dark. The back gardens will be cold, wet and miserable"

1.2 The Chair has agreed to this application being brought to Sub-Committee for determination confirming Cllr Patricks' reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS:

2.1 The application site forms part of a larger residential development which has previously been granted planning permission for a total of 52 dwellings. The site generally slopes from south west to north east. At the top of the slope, and immediately adjacent to the site lies, Cobley Green and The Old Tankhouse (dwellings) in the south easterly and westerly corners of the site respectively. The site would be served off Stoney Bank Lane. This also carries a public right of way (PROW).

2.1 The application red line relates to a part of the overall site on the southern boundary of the previously approved site which involves 9 plots to accommodate one detached and four pairs of semi-detached dwellings.

3.0 PROPOSAL:

3.1 The application is for the erection of 9 dwellings. These are in effect a modified proposal from the previously approved scheme for 9 dwellings in this part of the site. Whilst this is a standalone new application, the dwellings are to be sited in the same position and of the same scale (3 storey) as that previously approved, albeit with some minor alterations, to be served off the internal access road as previously approved as part of the larger scheme on this site, under application no.2017/93053.

3.2 The alterations proposed in comparison to the previously approved scheme are principally to re grade and level the rear gardens areas of the 9 plots to which this application relates to. This would result in excavations of the areas previously shown to be raised gardens areas to the rear of these plots. To accommodate the further engineering works, the proposals would result in a larger deeper retaining wall, to be positioned internally within and along the rear boundary of these plots. The retaining wall is shown to be of gabion construction.

3.3 The development would also result in minor internal alterations to the house types to incorporate the change in levels. In addition the proposals seek to swap the house types between plots 16/17 and 18/19.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2014/93248 – Outline application for residential development – approved by Members of Strategic Committee, subject to conditions and S106 Agreement

2017/93053 – Reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – granted by Members of Strategic Committee with S106 April 2018

2017/93609 – Erection of 4 dwellings and change of use of land as domestic garden area and areas of public open space lane - granted by Members of Strategic Committee with S106 April 2018

2017/94225 – Discharge of conditions 1-25 on previous permission 2014/93248 for outline planning application for a residential development – decision issued

2018/91513 – discharge of condition nos. 1-9 (not including 8) on 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – decision issued

2018/91535 - Discharge conditions1-11 on previous permission 2017/93609 for erection of 4 dwellings and change of use of land as domestic garden area and areas of public open space – Pending consideration

2018/91538 - Discharge of condition 8. (public open space) on previous permission no. 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – Pending consideration

2018/92685 - Discharge condition 2 (materials) on previous permission 2017/93053 for reserved matters application pursuant to outline permission 2014/93248 for erection of residential development (48 dwellings) – decision issued

Enforcement History
COMP/19/0083- Major site monitoring, ongoing

It is acknowledged works are continuing on site in relation to the previous permissions. We are also aware that engineering works to form the retaining walls the subject of this application have commenced. The Compliance Team are in dialogue with the developer regarding this breach of planning control.

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

5.1 Requested additional sections to demonstrate the difference between the previously approved ground levels and building heights and for a deed of variation to be prepared pursuant to the terms of the original S106 Obligations. The sections were received and now form part of the submission documents. Confirmation regarding the deed of variation is awaited and will be reported to Members in the update.

6.0 PLANNING POLICY:

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

The site forms part of a larger housing site identified as no. HS189

Kirklees Local Plan (2019):

6.2 LP3 – Location of New Development
LP7 – Efficient and effective use of land and buildings
LP11 – Housing Mix and Affordable Housing
LP20 – Sustainable Travel
LP21 – Highway safety and access
LP22 – Parking
LP24 – Design
LP27 – Flood Risk
LP28 – Drainage
LP30 – Biodiversity and Geodiversity
LP32 – Landscape
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality

Supplementary Planning Guidance / Documents:

6.3 West Yorkshire Air Quality and Emissions Technical Planning Guidance
National Planning Guidance
National Planning Policy Framework

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in the press, by site notice and neighbour letters. Additional information has also been advertised. One representation has been received. The concerns of which are summarised below:

- Additional houses will add to the current disruption caused by construction traffic and volume of traffic along Stoney Bank Lane
- Highway safety concerns on the surrounding highway infrastructure

7.2 Holme Valley Parish Council – support the proposals

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC DM Highways – do not raise any concerns (see assessment below)

9.0 MAIN ISSUES

- Principle of development
- Urban design issues & impact on surrounding development
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Planning obligations
- Other matters (conditions & further justification)

10.0 APPRAISAL

Principle of development

10.1 The principle of development on this site has been established under outline planning permission ref no. 2014/93248. At that time the number of dwellings was not set. However, the planning permission established that this site was acceptable for the provision of housing. Subsequently a further two applications as listed in the 'relevant history' section of the report have been granted. This includes the reserved matters for 48 dwellings pursuant to the outline permission and a full application for a further 4 dwellings. Furthermore, since the adoption of the Kirklees Local Plan, the site is a housing allocation. In summary the principle of residential development is acceptable. The number of dwellings proposed would not increase the quantum of development already approved.

Urban design issues & impact on surrounding development

10.2 The scheme comprises of 4 pairs of semi-detached, three storey dwellings and one detached dwelling to provide accommodation on split levels. In terms of design, scale and materials the house types proposed are not dissimilar to the previously approved scheme for these plots under application nos. 2017/93053 and 2017/93609.

10.3 As stated above, in comparing the current proposals with that previously approved, the primary differences on the current scheme is the lowering of ground levels within the rear gardens of these plots and the depth of the retaining wall consequently required to accommodate these level changes.

10.4 Additional section drawings were requested during the course of the application. These demonstrate the proposed depth of the retaining wall in comparison to the previously approved retaining structure/wall. In comparing the two schemes, Officers are of the opinion the proposed retaining walls would have no more of an impact on the visual amenity of the surrounding development which would continue to integrate with the wider development of this site and surrounding area.

10.5 In summary, with the exception of the proposed ground levels within the rear gardens, the layout, design and external appearance of the dwellings and associated development on these plots as now proposed would largely remain as previously approved. Overall it is not considered that the development would cause unacceptable harm to the character and appearance of the surrounding area and accords with Policy LP24 of the Kirklees Local Plan and guidance in the NPPF.

Residential Amenity

10.6 Guidance in the NPPF indicates that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects on living conditions and the natural environment, as well as the potential sensitivity of the site of the wider impacts that could arise from the development. Policy LP24 of the Kirklees Local Plan requires developments to provide a high standard of amenity for future and neighbouring occupiers.

10.7 The two dwellings and most likely to be affected, lying in close proximity of these plots are Cobley Green and the Old Tank House. Firstly considering the impact on Cobley Green, as noted above proposed development involves reducing the land levels within the site by approximately 3-4m. Each of the proposed dwellings would be set approximately 4m lower than the garden area of Cobley Green. Consequently, each of the three storey houses would be set approximately 5m lower than the floor level of the existing dwelling at Cobley Green. Therefore, despite each dwelling being 3 storeys in height, the second storey windows would generally face the upper slope of the garden associated with Cobley Green and each dwelling would have a level rear garden and a retaining wall approximately 5m in height where it meets the garden of Cobley Green. The ridge height of the proposed dwellings would be slightly lower than the existing ridge height associated with Cobley Green. It would not be apparent from Cobley Green that the closest dwellings are 3 storeys in height.

10.8 With regards to the impact on The Old Tank House, a distance of 11m would be retained between the two properties and the scale of the dwelling on plot no. 13 (this being the nearest to The Old Tank House) would remain as previously approved. Other than a bathroom opening in the side elevation facing the Old Tank House, the gable would be blank.

10.9 The revised arrangements for the rear garden areas needs to take into account the amenity of future occupiers of the affected plots. The proposed retaining walls are up to around 5m in height at their deepest point. The rear gardens are around 12 metres in length and south facing. The previously approved proposed included a level garden area of 4m in length from the ground floor of the properties followed by a stepped change in level of 2m created by the first section of retaining wall. Although the depth of retaining walls is increased by this revised scheme, so has the useable garden areas. The level of light into the rear of the properties would be increased by removing the first section of retaining wall and by providing a single retaining feature at the very end of the garden.

10.10 The proposals are considered to ensure that existing occupiers retain sufficient standards of residential amenity and that future occupiers of the plots concerned would have a good standard of amenity. Consequently the application is considered to comply with Policy LP24 of the Kirklees Local Plan and guidance within the NPPF.

Highway issues

10.11 Highways matters were fully considered at outline stage (2014/93248) and this included the point of access. Therefore, whilst it is acknowledged that there are a number of objections relating to impacts on the surrounding highway network, the impact on the highway network has previously been established and considered as part of the outline.

10.12 This proposal although a new application seeks alterations internally within the plots of nos. 13- 21. No alterations are proposed to the internal access road approved as part of development on the larger part of the site where these plots would be served off Stoney Bank Lane.

10.13 Each of the proposed house types would have two off-street parking spaces on driveways and a further parking space within an integral garage. These proposals are considered acceptable to Highways Development Management who raise no objections.

10.14 As the outline permission deals with the internal access road which would serve these plots and others within the larger part of the site it would not be necessary to impose conditions relating to the internal access road. It is however reasonable to condition that the dwellings only be occupied on completion of the internal access road (shown within the blue line) in accordance with the details approved pursuant to conditions on the outline permission. Although the outline permission addresses matters relating to storage and access for collection of waste together with electric vehicle charging points, as this would be a stand-alone application it is necessary to re-impose conditions on any forthcoming permission.

Drainage issues

10.15 Drainage of the whole of the site including the current application site has previously been considered at the time of the outline application, where a number of conditions were imposed and needed to be satisfied prior to development commencing on site. Consequently, the details were submitted under application no. 2017/94225, and considered appropriate for drainage proposals including the flow of surface water flow rates and attenuation.

10.16 In summary, it would be necessary to condition the development be completed in accordance with the approved drainage scheme/proposals pursuant to the outline permission, prior to occupation of any new dwelling, for the drainage matters to be dealt with appropriately and to accord with Policy LP28 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

Representations

10.17 Addressed in the preceding paragraphs.

Planning obligations

10.18 In this instance the proposals for nine dwellings would not trigger the requirement for any planning obligations. As the previous permission on the site as a whole, benefits from two S106 Obligations to address matters relating to affordable housing, education, public open space and highway improvement works, a deed of variation is now required as this is a stand-alone application. The agent was informed of this requirement at the outset of this application and agreed to submit this to form part of the submission documents for consideration by Legal Officers. This matter will need to be addressed should Members be minded to approve the current application.

Other Matters (conditions & further justification)

10.19 Other than the conditions referred to in the previous paragraphs, it would also be necessary to condition the external facing materials to be in accordance with the approved materials (natural stone) for the walls and roofs pursuant to the details previously approved for the larger part of the site.

10.20 In addition, it is considered necessary to withdraw permitted development rights for extensions/outbuildings and alterations to the roofs on all these plots to avoid over development of the plots and for the amenities of the future residents of the plots. Also for the dwellings to be completed in accordance with the finished floor levels and ground levels, as shown on drawing no. 4563-16-06-018. The finished floor levels shown on this drawings are consistent with those previously approved under discharge of condition details for these plots.

10.21 Turning to the structural stability of the proposed retaining wall, paragraph no. 178 of the NPPF states decisions should ensure that a site is suitable for its proposed use taking into account ground conditions and any risk arising from land instability. The NPPF also sets out clearly where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or land owner.

10.22 Further justification/evidence was requested in relation to the design approach in relation to the proposed retaining wall, particularly the additional element of retaining wall now shown within plot nos. 15 and 16, adjacent to the boundary with Cobley Green. The following justification is received:

"the proposed changes within this application were primarily centred around the removal of the bridge structures and consequently, the split rear access arrangement currently approved, in favour of larger and more accessible rear gardens to plots 14-21. The removal of the bridges allows us to lower the level of the rear gardens so that they can be accessed from the ground floor, and in addition allows more light to the ground floor rooms on the rear elevations, improving their amenity. This improved relationship is achieved via the introduction of a higher retaining wall to the rear of these properties.

With regards to the principles taken into account, our Structural Engineering Consultant has designed the retaining wall to provide structural stability to the land it is retaining, and allows the rear garden levels to be dropped to accommodate the much improved rear garden arrangement. The gabion provides a facing material to the structure which is in keeping with the area.

The additional walls illustrated within the gardens of plots 15 and 16 are required to facilitate the foul drainage route, which has been agreed with Yorkshire Water as part of a Section 185 agreement. This additional feature still ensures a sufficient garden size for each of the properties is provided"

10.23 In summary, officers consider the proposals would ensure the quality of the previously approved scheme is not materially diminished. Whilst, the retaining walls are to be deeper internally within the site, they would not appear higher than the previously approved retaining structures from outside the site. Furthermore, the proposed works would result in more usable external garden areas for the future occupants

11.0 CONCLUSION

11.1 The principle of development on this site has previously been granted and implemented on site. The layout, density, design and scale of the development proposed is considered to be acceptable given the site's context and would be largely consistent to that previously approved schemes. The changes to the ground levels of the rear gardens and the retaining wall to necessitate the change in levels in the rear gardens of these plots is also considered acceptable and would provide future occupiers with a good standard of amenity.

11.2 The layout provides acceptable separation to existing and new dwellings. The height of the three storey dwellings on this part of the site would sit relatively comfortably within this setting. The buildings respect the topography of the wider area which rises up from north to south.

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

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

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

1. Time limit
2. In accordance with approved pans
3. External facing materials as previously approved
4. Internal access road to be completed in accordance with details pursuant to outline conditions
5. Drainage scheme to be completed in accordance with details pursuant to outline conditions
6. Withdraw permitted development rights
7. Finished floor & ground levels in accordance with drawing no. 4563-16-06-018
8. Storage and collection of wastes
9. Electric vehicle charging points.

Background Papers:
Application and history files.
Website link to be inserted here
https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90606

Certificate of Ownership –Certificate A signed by agent

Originator: Ellie Worth

Tel: 01484 221000

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 18-Jul-2019

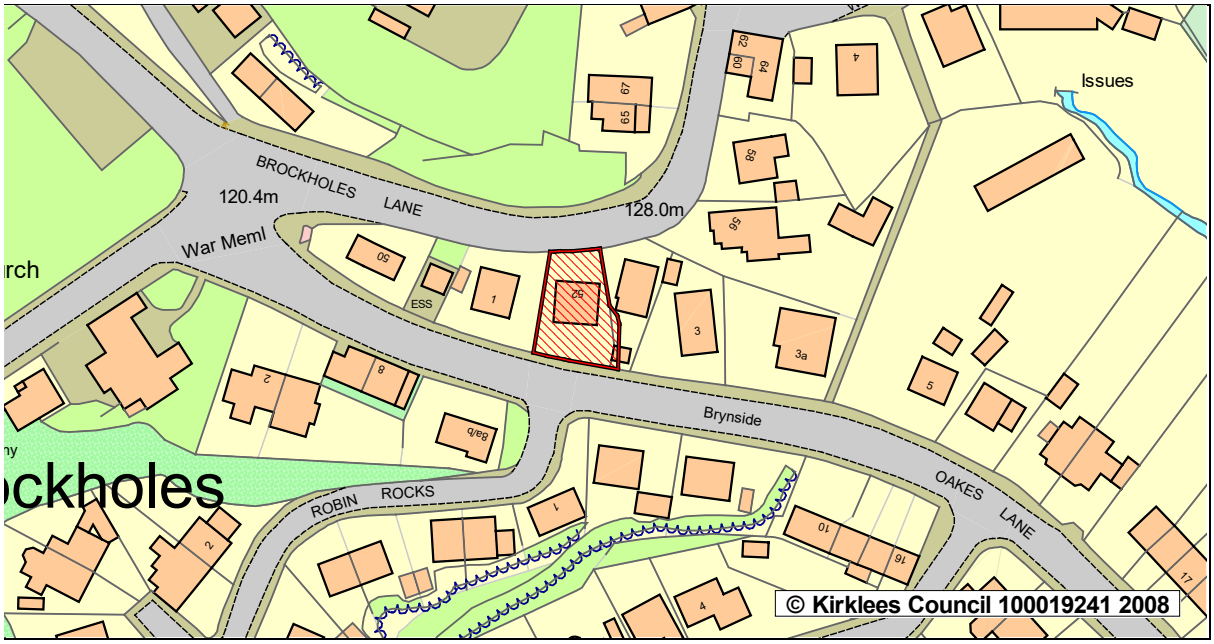
Subject: Planning Application 2019/91689 Erection of single storey extension 52, Brockholes Lane, Brockholes, Holmfirth, HD9 7EB

APPLICANT
S Kinder

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
21-May-2019	16-Jul-2019	

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: **Holme Valley North**

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application has been brought to Planning Sub Committee as the applicant is related to a member of staff of Kirklees Council Planning Service.

2.0 SITE AND SURROUNDINGS:

2.1 52 Brockholes Lane, Brockholes is a detached bungalow constructed from stone and partly faced in render with a concrete tiled roof. The property benefits from a gravelled area to the North and a grassed area to the South. At the time in which the site visit was undertaken it was evident that vehicular and pedestrian access can be taken from the southern boundary onto Oakes Lane and from the northern boundary onto Brockholes Lane. Boundary treatment consists of medium sized fencing and shrubs to the southern facing and side boundaries and low stone walling to the northern boundary.

2.2 The site and the wider area is predominantly residential, dwelling types vary in design and form. Land levels also fall within the wider area from East to West, however, within the application site, land levels are relatively flat.

3.0 PROPOSAL:

3.1 The application is seeking full permission for the erection of a single storey extension to the southern facing elevation for the purpose of providing a garden room with W.C facilities. Included in the application is the installation of a new door within the eastern facing side elevation.

3.2 The proposed extension would have a projection of 4m and a width of 4.2m. The height to the eaves would be 2.2m with an overall height of 3.8m.

3.3 Additional fenestration would also be inserted into the front elevation of the extension which would be in keeping with those that exist on the host property. Alongside this, composite double doors would be inserted into the western facing elevation.

3.4 The extension would be externally faced in render to the front elevation and stone to the side elevations to match the host property in its entirety. The roof would be tiled in concrete roof tiles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 No history at application site

4.2 Wider vicinity:
2004/93551 Erection of extension – Granted (54 Brockholes Lane)

2007/93063 Erection of conservatory – Granted (54 Brockholes Lane)

2018/93127 Demolition of existing dwelling and erection of replacement dwelling – Granted (54 Brockholes Lane)

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 The officer entered into discussions with the applicant as there were no existing elevation plans. These were received on the 24.06.19. However, no amendments were sought throughout the course of the scheme.

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 27th February 2019).

6.2 The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan

6.3 LP 1 – Achieving sustainable development
LP 2 – Place shaping
LP21 – Highway safety
LP22 – Parking
LP 24 – Design
LP30 –Biodiversity

National Planning Guidance

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

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

Chapter 12 – Achieving well design places
Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application was advertised by neighbour notification letters and a site notice. Final publicity expired on the 29.06.19. No representations were received.

7.2 Holme Valley Parish Council: - "Support subject to materials being in keeping with the surrounds".

8.0 CONSULTATION RESPONSES:

8.1: Statutory: None

8.2: None statutory: None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

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

Visual amenity

10.3 The proposed extension, by reason of its design, mass and scale would appear subservient to the host property. Nonetheless, there would be additional amenity space developed under this proposal. However, due to the size of the plot, it has been considered that the application would not result in the overdevelopment of the site and sufficient amenity space would be retained for future occupiers.

10.4 The design of the single storey extension would harmonise with the host building in terms of visual amenity, as the proposed materials would match those that exist on the existing dwelling. Nonetheless, the use of such materials would be conditioned to ensure visual amenity is protected in accordance with LP24 of the Kirklees Local Plan.

10.5 The proposed extension would have a dual pitched roof with a southern facing gable elevation. The proposed roof pitch will also follow through with the existing pitch on the host property and therefore will have an acceptable impact on visual amenity.

10.6 The submitted plans show openings to be inserted into the southern facing elevation and double doors to be inserted into the western facing elevation of the proposed extension. The size and design of the openings are considered acceptable from a visual perspective.

10.7 It is noted that there is no clear distinction between the front and rear elevations at the host property, as the application site fronts two highways. Historically, it appears that vehicular access was taken from the southern boundary onto Oakes Lane. At the time at which the site visit was undertaken, it was evident that the proposed extension could be perceived as being on the principal elevation of the dwelling house. However, it has been noted that within close vicinity, the properties along Brockholes Lane and Oakes Lane do not have uniformed frontages and therefore, the location of the extension has been considered on balance acceptable. Future vehicular access will be taken from Brockholes Lane.

10.8 Overall the proposed extension would be of a satisfied design quality and therefore for such reasons, would accord with LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Residential amenity

10.9 LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that 'extensions… minimise impact on residential amenity of future and neighbouring occupies'. This is also reiterated in Chapter 12 of the National Planning Policy Framework which states that development should seek a good standard of amenity for all existing and future occupiers.

10.10 *Oakes Lan*e is the neighbouring property to the west of the application site. It has been noted that the neighbours are situated on a slightly lower level than the application site due to changes in land levels within the wider area. The proposed extension would be approximately 7m inset from the shared boundary as a consequence it has been assessed that there would be no undue harm on overbearing and overshadowing. There is also sufficient boundary treatment in place along the western boundary which will be retained as part of this proposal.

10.11 The submitted plans show double doors to be inserted into the western facing side elevation facing no. 1 Oakes Lane. Taking into account the points already raised above it is considered that there would be no undue harm as a result of any potential overlooking.

10.12 *54 Brockholes Lane* is the neighbouring property to the east of the application site. It has been assessed that the harm on these neighbours amenity would be minimal as the extension proposed is single storey in height with a dual pitched roof. The extension will also be inset from the shared boundary by 5m and as a result there will be no impact from being overbearing or from overshadowing.

10.13 The submitted plans also show no additional openings to be inserted into the eastern facing side elevation, however, the existing boundary treatment would mitigate against any future harm.

10.14 *Sarnia House, 8A and 8B Oakes Lane* are the neighbouring properties adjacent to the southern elevation at the host property. Given the significant separation distance between these neighbours and the nature of the development, it has been assessed that there would be no detriment to any occupants due to being overbearing, overshadowing or any matters of overlooking.

10.15 In summary the application is considered to have an acceptable impact on residential amenity and therefore complies with LP24 of the KLP from this perspective

Highway safety

10.16 The submitted plans show two spaces to be retained as part of this application. As such, it has been assessed that there would be no highway safety issues, given that the proposal is unlikely to intensify the use at the application site.

Other matters

10.17 The application site lies within the bat alert layer on the Council's GIS system. As such, careful attention was paid when undertaking the site visit to look to evidence of bat roost potential. In this instance, the property appeared well sealed around the eaves and roof area and it was judged unlikely to contain roosting bats.

10.18 Even so, as a cautionary measure, a note could be added to the decision notice stating that if bats are found development shall cease and the advice of a licenced bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF

Representations

10.19 No representations have been received as a result of the above publicity.

11.0 CONCLUSION

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

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

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development and Master Planning)

1. Development within 3 years
2. In accordance with the approved plans
3. Matching materials

Background papers
Link to application:
https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91689

Certificate of Ownership. Certificate A completed on the application form

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