

Public Document Pack



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

Julie Muscroft

The Democracy Service

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Wednesday 14 August 2019

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Reception Room - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 22 August 2019**.

(A coach will depart the Town Hall, at 10.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00pm in the Reception Room at Huddersfield Town Hall.)

This meeting will be NOT be webcast.

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

A handwritten signature in black ink, appearing to read 'Julie Muscroft', on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Terry Lyons (Chair)
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Donald Firth
Councillor Paul Davies
Councillor Andrew Marchington
Councillor Anthony Smith
Councillor Nigel Patrick
Councillor Bernard McGuin

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

Substitutes Panel

Conservative

B Armer
V Lees-Hamilton
M Thompson
R Smith
J Taylor

Green

K Allison
S Lee-Richards

Independent

C Greaves

Labour

S Hall
A Butt
E Hill
M Kaushik
W Simpson

Liberal Democrat

A Munro
A Pinnock
J Lawson

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 approve the Minutes of the meeting of the Committee held on 18 July 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: 2019/91048

Change of use of land to domestic curtilage and erection fences to the sides (within a Conservation Area) 2, Garfield Place, Marsden, Huddersfield.

(Estimated time of arrival at site – 10.25am)

Contact Officer: Neal Bearcroft, Planning Services

Ward(s) affected: Colne Valley

8: Site Visit - Application No: 2019/90811

Erection of 10 dwellings Springfields, Mill Moor Road, Meltham, Holmfirth.

(Estimated time of arrival at site – 10.50am)

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Holme Valley North

9: Site Visit - Application No: 2019/92128

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

(Estimated time of arrival at site – 11.20am)

Contact Officer: Neil Bearcroft, Planning Services

Ward(s) affected: Holme Valley North

10: Site Visit - Application No: 2019/90085

Erection of 10 dwellings Land at, Lancaster Lane, Brockholes, Holmfirth.

(Estimated time of arrival at site – 11.35am)

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Holme Valley North

11: Local Planning Authority Appeals

9 - 42

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

Contact Officer: Mathias Franklin – Development Management Group Leader

Ward(s) affected: Almondbury; Lindley; Ashbrow; Greenhead; Golcar; Holme Valley North.

Planning Applications

43 - 44

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 19 August 2019.

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

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

12: Planning Application - Application No: 2019/90811

45 - 58

Erection of 10 dwellings Springfields, Mill Moor Road, Meltham, Holmfirth.

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Holme Valley North

13: Planning Application - Application No: 2019/90085 59 - 76

Erection of 10 dwellings Land at, Lancaster Lane, Brockholes, Holmfirth.

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Holme Valley North

14: Planning Application - Application No: 2019/92128 77 - 88

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

Contact Officer: Neil Bearcroft, Planning Services

Ward(s) affected: Holme Valley North

15: Planning Application - Application No: 2019/91048 89 - 100

Change of use of land to domestic curtilage and erection fences to the sides (within a Conservation Area) 2, Garfield Place, Marsden, Huddersfield.

Contact Officer: Neal Bearcroft, Planning Services

Ward(s) affected: Colne Valley

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 18th July 2019

Present: Councillor Terry Lyons (Chair)
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Paul Davies
Councillor Andrew Marchington
Councillor Anthony Smith
Councillor Bernard McGuin
Councillor Bill Armer

Apologies: Councillor Donald Firth
Councillor Nigel Patrick

1 Membership of the Committee

Councillor Bill Armer substituted for Councillor Donald Firth.

2 Minutes of previous meeting

The Minutes of the meeting held on 6 June 2019 were approved as a correct record.

3 Interests and Lobbying

Councillor Lyons declared he had been lobbied on application 2018/94120.

Councillor Griffiths declared she had been lobbied on application 2019/90623.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations were received. A petition objecting to application 2018/90623 was received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2019/90623

Site visit undertaken.

8 Site Visit - Application No: 2018/94120

Site visit undertaken.

Planning Sub-Committee (Huddersfield Area) - 18 July 2019

9 Site Visit - Application No: 2019/90356

Site visit undertaken.

10 Site Visit - Application No: 2019/90606

Site visit undertaken.

11 Local Planning Authority Appeals

That the report be noted.

12 Application for a Definitive Map Modification Order

The Committee considered a report that outlined details of an application for an order to divert part of a public footpath Holmfirth 146.

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

RESOLVED – That the Committee authorise 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 of the considered report and 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.

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

For: Councillors Armer, Davies, Griffiths, Homewood, Lyons, Marchington, McGuin, Sarwar, Sokhal, A Smith, Ullah and Uppal (12 votes)

Against : (0 votes)

13 Planning Application - Application No: 2019/90623

The 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.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Betty Oliver, Patricia Mann (objectors) Sue Haworth, Richard Haworth, Donna Bellamy (on behalf of Maggie Oddy) and Donna Bellamy (all in support).

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

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

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,

Planning Sub-Committee (Huddersfield Area) - 18 July 2019

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.

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

For: Councillors Davies, Griffiths, Homewood, Lyons, Marchington, Sarwar, Sokhal, A Smith, Ullah and Uppal (10 votes)

Against: (0 votes)

Abstained: Councillors Armer and McGuin.

14 **Planning Application - Application No: 2018/94120**

The Sub Committee gave consideration to Planning Application 2018/94120 Erection of single storey outbuilding Blackberry Farm, 27, Crosland Edge, Meltham, Holmfirth

RESOLVED – That the application be approved (contrary to the officers recommendation to refuse).

The Committee considered that in this specific case there were very special circumstances that outweighed the harm to the Green Belt by reason of inappropriateness and other harm. The Committee also considered that the siting of the garage would be an improvement to the appearance of the garden area and the proposed green roof would make it more sympathetic to the surrounding green area. In addition the Committee felt that the outbuilding would not harm visual or residential amenity.

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

For: Councillors Armer, Lyons, Sarwar, Sokhal, A Smith and Ullah (6 votes)

Against: Councillors Davies, Griffiths, Homewood, Marchington, McGuin and Uppal (6 votes).

Cllr Lyons used the chairs casting vote to approve the application.

15 **Planning Application - Application No: 2019/90356**

The Sub Committee gave consideration to Planning Application 2019/90356 Erection of 7 dwellings Land Off, Station Road, Meltham, Holmfirth.

RESOLVED – 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 the considered report including:

- (1) Time limit for commencement of the development (3 years).
- (2) Development to be 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

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

For: Councillors Armer, Davies, Griffiths, Homewood, Lyons, Marchington, McGuin, Sarwar, Sokhal, A Smith, Ullah and Uppal (12 votes)

Against: (0 votes)

16 Planning Application - Application No: 2019/90606

The Sub Committee gave consideration to Planning Application 2019/90606 Erection of 9 dwellings (modified house types) Land at, Stoney Bank Lane, Thongsbridge, Holmfirth.

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

RESOLVED – Delegate approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to:

- (1) Complete the list of conditions including those contained within the considered report including:
 - (i) Time limit for the development.
 - (ii) Development to be in accordance with approved plans.
 - (iii) External facing materials as previously approved.

Planning Sub-Committee (Huddersfield Area) - 18 July 2019

- (iv) Internal access road to be completed in accordance with details pursuant to outline conditions
- (v) Drainage scheme to be completed in accordance with details pursuant to outline conditions.
- (vi) Withdraw permitted development rights.
- (vii) Finished floor & ground levels in accordance with drawing no. 4563-16-06-018 8. Storage and collection of wastes.
- (viii) Electric vehicle charging points.

- (2) Secure a deed of variation to the previously approved Section 106 Obligations covering the wider site.

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

For: Councillors Armer, Davies, Griffiths, Homewood, Lyons, Marchington, McGuin, Sarwar, Sokhal, A Smith, Ullah and Uppal (12 votes)

Against: (0 votes)

17 **Planning Application - Application No: 2019/91689**

The Sub Committee gave consideration to Planning Application 2019/91689 Erection of single storey extension 52, Brockholes Lane, Brockholes, Holmfirth.

RESOLVED – 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 the considered report including:

- (1) Development within 3 years
- (2) Development to be In accordance with the approved plans
- (3) Matching materials

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

For: Councillors Armer, Davies, Griffiths, Homewood, Lyons, Marchington, McGuin, Sarwar, Sokhal, A Smith, Ullah and Uppal (12 votes)

Against: (0 votes)

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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

Lobbying

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

Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)

Date: 22 AUGUST 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: Almondbury; Lindley; Ashbrow; Greenhead; Golcar; Holme Valley North;
Ward councillors consulted: No**

Public or private:

1. Summary

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

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

- 2.1 2018/62/90356/W - Erection of one dwelling adj, Bankfield House, Almondbury Bank, Almondbury, Huddersfield, HD5 8HF. (Officer) (Dismissed)
- 2.2 2017/62/90723/W - Erection of detached dormer bungalow at Lowerhouses Road, Quarmby, Huddersfield, HD3 4DY. (Officer) (Dismissed)
- 2.3 2018/62/93117/W - Erection of detached dwelling and demolition of existing building at Birks Farm, Birks Lane, Fenay Bridge, Huddersfield, HD8 0LH. (Officer) (Dismissed)
- 2.4 2017/62/93544/W - Erection of 5 detached dwellings and garage ancillary to 33, Woodside Lane at 33, Woodside Lane, Fixby, Huddersfield, HD2 2HA. (Sub-Committee contrary to Officer recommendation) (Dismissed)
- 2.5 2018/62/94134/W - Erection of canopy and roller shutters to front elevation at Gohar Superstore, 13, Church Street, Paddock, Huddersfield, HD1 4TR. (Officer) (Dismissed)
- 2.6 2018/62/92381/W - Erection of 4 dwellings at plots 34-37, land off, Vicarage Road, Longwood, Huddersfield, HD3 4HJ. (Officer) (Appeal against non-determination of application allowed)

2.7 COMP/18/0111 – Unauthorised erection of rear extensions and timber outbuilding at 33, Wilshaw Road, Meltham, Holmfirth, HD9 4DZ. (Officer) (The appeal is dismissed and the notice is upheld with corrections)

3. Implications for the Council

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

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

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

6. Officer recommendations and reasons

To note

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer

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

9. Background Papers and History of Decisions

Not applicable



Appeal Decision

Site visit made on 27 March 2019

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 June 2019

Appeal Ref: APP/Z4718/W/18/3218142

Bankfield Lodge, Almondbury Bank, Almondbury, Huddersfield, HD5 8HF

- 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 A Sheikh against the decision of Kirklees Council.
 - The application Ref 2018/90356/W, dated 1 February 2018, was refused by notice dated 28 November 2018.
 - The development proposed is erection of new dwelling 'Bankfield Lodge'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form is Bankfield Lodge. This is the address of the proposed new dwelling and as such does not currently exist. For the purposes of clarification, the address of the appeal site is Bankfield House.
3. Since the application was determined the Kirklees Unitary Development Plan has been superseded and replaced by the Kirklees Local Plan (local plan). The appeal has been assessed against the relevant policies of the new local plan. Although the status of the local plan policies has changed from emerging to adopted, they are not new and they were referred to in the Council's decision notice. The appellant was therefore also clearly aware of them. Moreover, they have very similar aims to the policies they have now replaced. Consequently, neither main appeal party has been prejudiced by the changes to the policy position.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposed development on the setting of Bankfield House, a Grade II listed building;
 - whether the proposed development would provide satisfactory living conditions for future occupants with particular regard to noise, disturbance and odour from adjacent commercial premises; and
 - whether residential development of the site would compromise adjacent employment premises.

Reasons

Setting of the listed building

5. The appeal site forms part of the curtilage to Bankfield House, which is a mid-nineteenth century Grade II listed building. The building is currently used as a house in multiple occupation (HMO) and the curtilage comprises a substantial area of hardstanding, bound by a combination of stone walls and timber fencing. The existing vehicular access appears to be shared by the adjoining dwelling 'The Little House', which sits within the same curtilage boundary with no physical or visible sub-division being evident on site. There is a steeply sloping embankment, planted with trees, to the south of the site and there are commercial premises to the north east and north west. The site itself also slopes upwards, with the listed building being situated on higher ground than the appeal proposal.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
7. The significance of the listed building is considered to be its age and architectural interest. The large open frontage and the remaining stone pillars at the site entrance make a positive contribution to its setting.
8. It is proposed to construct a two-storey dwelling, which is intended to replicate the style of an old coach or gatehouse, in a prominent position adjacent to the site entrance. However, Bankfield House and its grounds do not appear to me to be large or grand enough to have required such a building and there is no evidence before me of any former buildings having ever been located on this part of the site. Moreover, the design of the proposal would not, in my view, achieve the aim of replicating an original or traditional small ancillary outbuilding.
9. The siting of the building, set in from the boundary, in between two vehicular access points and directly in front of the principal elevation to Bankfield House, appears awkward and untraditional, detracting from the open setting of the listed building. Furthermore, the design and detailing do not reflect that of the main dwelling and no reasoned justification for the design proposals is included within the submitted supporting statements.
10. I therefore conclude on this main issue that the proposal would be harmful to the open setting of the listed building and thereby the significance of the designated heritage asset. The harm would however be less than substantial.
11. Paragraph 196 of the Planning Policy Framework (the Framework) states that where a development would 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. In this case, the provision of a dwelling would be a public benefit however such a benefit is clearly very modest.
12. The appellant points out that the dwelling would block the view of the poor quality commercial buildings thereby enhancing the setting of Bankfield House and The Little House. Improving the outlook for existing residents would be a

benefit, albeit not a public one. Furthermore, as the appellant also points out, the adjacent commercial site is up for sale and it could potentially be redeveloped in the future. As such the short term benefit of improving the outlook from the existing dwellings would not outweigh the need to preserve the setting of the listed building for the benefit of future generations.

13. The proposal would therefore be contrary to the historic environment aims of the Framework and would conflict with Policy PLP 35 of the local plan which like the Framework, states that development resulting in harm to a designated heritage asset will only be permitted where the harm is outweighed by public benefits.

Living conditions

14. The proposed dwelling would be situated within the car park of the existing HMO, adjacent to a group of commercial premises comprising, amongst other things, a car repair garage and MOT centre, a printer manufacturer, a fire protection company, a car paint and body shop and a boxing club. I am not aware what, if any, restrictions, apply to these premises for example in terms of opening times, use or mitigation measures. I did observe on my site visit that the MOT garage and the paint and body shop were both working with their doors open.
15. I appreciate that this matter was only brought to the appellant's attention very late in the application process and that as such no assessments of things such as noise or odour have been undertaken. At the time of my visit I could hear some noise from the adjacent commercial buildings although this was at a relatively low level. I noticed a strong unpleasant odour, not of paint spraying, which was the Council's concern, but of burning. I also observed a number of comings and goings by small vehicles. I have no way of knowing whether the conditions I witnessed during my short visit were typical or not.
16. In the absence of a noise and odour assessment it is not possible for me to determine whether or not mitigation measures would be required, what these might be and whether or not they would be sufficient to make the proposal acceptable. Whilst it is relatively easy to protect the internal environment of a new dwelling from noise and odour with the windows and doors closed, it is not so easy to deal with these matters when windows are open or in gardens, although I note in this case there would not in any event be any private enclosed garden space for the future residents. I am also mindful of the fact that double glazing, air conditioning units and vents may not be considered appropriate within the grounds of a listed building.
17. Whilst the appellant states that the paint spray shop is little used I am not aware of any restrictions that would prevent this use from being increased. The appellant has agreed to fund improvements to the paint spraying business, but it is not possible for me to impose conditions requiring works to premises outside of the appeal site and outside of the appellant's ownership or control. I also note that the commercial site is up for sale and that these units may be removed in the future. However, I must make my decision based upon the current situation, albeit taking into account any intensification that may occur without the need for planning permission.
18. Based upon the evidence before me I am unable to conclude that future occupiers of the development would have a satisfactory standard of amenity.

19. For the above reasons, the proposal would be contrary to Policy PLP 24 of the local plan and paragraph 127(f) of the Framework, which seek to promote good design and high standards of amenity.
20. However, I do not find any conflict with Policy PLP 52 of the local plan, which relates to proposals that would generate noise, dust and odour as opposed to those that may be affected by existing sources.

Employment Impact

21. Paragraph 182 of the Framework advises that decisions should ensure new development can be integrated effectively with existing businesses. It goes on to state that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established.
22. I have not been made aware of any complaints being made to the Council by existing local residents, about noise or odour from the commercial site. However, the proposed dwelling would be located closer to these units than existing dwellings.
23. Given the constrained nature of the adjacent commercial units, physical expansion is unlikely. However, as I am unaware of any restrictions on these units, disturbance could occur as a result of changes such as new machinery, operations or increased working hours.
24. Based on the information before me it is not possible to say whether or not another dwelling in this location, would be likely to result in complaints that may prejudice future operations and flexibility of the established commercial use. As such this has not been a determining factor in my decision. In reaching this view I am mindful of the fact that any significant intensifications of use would affect other dwellings in the area, that are unlikely to benefit from built in mitigation measures and as such complaints would arise regardless of whether or not the appeal proposal goes ahead.

Other Matters

25. The appellant has raised concerns regarding the time taken by the Council to determine the application and the alleged indication that the Council was minded to grant planning permission, subject to amendments that were made, prior to the late involvement of a Councillor, who raised new issues that appear to have not been previously considered by the Council. However, whilst these points are noted, I have determined the appeal on its planning merits.
26. It has also been brought to my attention that planning permission has been granted for 6 dwellings to the rear of Bankfield House, which is also in the curtilage of the listed building. I am not aware of the full details or circumstances of that permission, however I understand from the Council's report that the permission referred to relates to the conversion of an existing building and is located further away from the commercial buildings. As such the two schemes are not comparable.
27. Concerns have been raised regarding potential adverse impacts upon trees and wildlife. I saw from my site visit that nearby trees are all outside of the appeal site, which as previously stated comprises a large area of hardstanding. I do

not consider that the proposal would result in the loss or harm to trees or wildlife.

28. The proposed dwelling would have its own access and parking and no objections have been raised by the local Highway Authority. I see no reason why the access, parking and turning for 'The Little House' would be affected. The private road to the site from Almondbury Bank serves numerous commercial and residential premises and the traffic generated by the proposal would therefore make a negligible difference.
29. Contamination and measures to minimise disturbance during construction, which would be minimal for a development of the scale proposed, could be adequately controlled by conditions had I been minded to allow the appeal.

Conclusion

30. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Rachael Bartlett

INSPECTOR



Appeal Decision

Site visit made on 25 June 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/Z4718/W/19/3220159

Lowerhouses Road, Quarmby, Huddersfield HD3 4DY

- 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 Dean Mate against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90723/W, dated 24 February 2017, was refused by notice dated 7 November 2018.
 - The development proposed is the erection of a dormer bungalow on a redundant garden site.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Kirklees Local Plan (the Local Plan) was adopted by the Council on 27 February 2019. This replaced saved policies in the 1999 Kirklees Unitary Development Plan (the UDP) cited in the Council's decision notice. Saved UDP Policies D2, BE1, BE3 and BE12 were replaced by Policy LP24 of the Local Plan on its adoption. I shall therefore consider the proposal against Policy LP24.
3. Having reviewed the Council's evidence, I conclude that their concern about harm to future occupiers of the proposed dwelling is with regard to overlooking.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, and;
 - living conditions for existing residents of neighbouring properties with particular regard to outlook, and for future occupiers with particular regard to overlooking.

Reasons

Character and appearance

5. The appeal site lies in a residential area of Huddersfield which has a variety of housing types within a dense development pattern. The site sits between small terraced dwellings on Lowerhouses Road and Reinwood Road, and provides

openness and separation between these closely-built houses. Two bungalows back on to the site to the south west and have a different character from the older terraces, and beyond these are other older bungalows fronting Quarmby Road.

6. The appeal proposal is for a detached dormer bungalow with detached garage. A development of this type would not necessarily be out of keeping with the bungalows on Quarmby Road. However, the design of the dwelling and its siting within the plot appear to have been driven largely by compliance with the dwelling separation distance requirements set out in Saved Policy BE12 of the now-superseded UDP. Consequently, its location and orientation would be unrelated to the established development pattern, and would encroach into the limited openness of its setting. The bland and unattractive appearance of the development would show little respect for or relationship with the character of the street of which it would nominally be part. In the context of the site's location between the opposing terraces it would appear incongruous.
7. I therefore conclude that the development would be harmful to the character and appearance of the surrounding area. As such it would be contrary to the requirements of Policy LP24 of the Local Plan which, among other things, seeks to ensure that in form, scale, layout and details new development respects and enhances the character of the townscape. It would also fail to accord with paragraphs 127 and 130 of the 2019 National Planning Policy Framework (the Framework), which seek to achieve well-designed places.

Living conditions

8. 182 Quarmby Road has a short rear garden which is separated from the appeal site by an open boarded fence. I appreciate that the development would be slightly offset from No 182. Nonetheless, the development's scale and siting would give notable enclosure to views from No 182 and its garden, and appear overbearing. This would result in a significant loss of outlook for the occupiers of that property.
9. Nos 5 and 7 Lowerhouses Road lie to the north of the appeal site, and their frontages would face the development's blank gable. Although the separation distance of around 12 metres would conform to the requirements of saved Policy BE12 of the UDP, in the context of the tight development pattern it would be a dominant and overbearing feature when viewed from either the habitable rooms or the gardens at the front of those properties. It would consequently mean a significant loss of outlook for the occupiers of those homes.
10. The development's rear garden would be overlooked from the first floor windows of the dwellings on Lowerhouses Road to the north. There would also be similar overlooking across a slightly greater distance from the dwellings on Reinwood Road. As a result, I find that the occupiers of the proposed new bungalow would not have the degree of privacy within their outdoor amenity space which they could reasonably expect. Even with boundary treatments I do not consider that this overlooking and consequent loss of privacy could reasonably be mitigated.
11. I accept that many of the existing dwellings in the area are closely set and have limited outdoor space. This is particularly so with the older properties nearby, where the space and privacy standards reflect the expectations of the

time they were built. However, the presence of those existing developments does not justify allowing the harm which would arise from this proposal.

12. Taking all of these points into account, I conclude that the proposed development would be harmful to the living conditions of occupiers of neighbouring properties, in particular 182 Quarmby Road and 5 and 7 Lowerhouses Road. It would also be harmful to living conditions of future occupants of the proposed bungalow with regard to overlooking. It would consequently be contrary to Policy LP24 of the Local Plan, which seeks to ensure that developments provide a high standard of amenity for future and neighbouring occupiers. For the same reasons, it would also fail to accord with the provisions of paragraph 127 of the Framework.

Planning balance

13. At the time the original application was made and determined it was common ground between the parties that the Council could not demonstrate a 5 year housing land supply. However, the Local Plan has subsequently and very recently been adopted, and there is nothing before me to suggest that I should not give the relevant policies in the Local Plan full weight. Consequently, the tilted balance set out in paragraph 11d of the Framework does not apply. In any event, even if it the tilted balance did apply, the adverse effects of the development would significantly and demonstrably outweigh the limited economic and social benefits that would arise if the appeal was allowed.

Conclusion

14. For the reasons given above, and having taken into account all other relevant matters raised, I conclude that the appeal should be dismissed.

M Cryan

Inspector



Appeal Decision

Site visit made on 20 May 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 9th July 2019

Appeal Ref: APP/Z4718/W/19/3222623

**Birks Farm, Arkenley Lane, Almondbury, Huddersfield, West Yorkshire
HD8 0LH**

- 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 Ms Prudence Louise against the decision of Kirklees Council.
 - The application Ref 2018/62/93117/W dated 26 September 2018, was refused by notice dated 28 November 2018.
 - The development proposed is the demolition of an existing barn and the erection of a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the proposed development is given as stated above on the application form. The Local Planning Authority (LPA), in its decision notice, gives the address as Birks Farm, Birks Lane, Fenay Bridge, Huddersfield HD8 0LH. I have used the address on the application form.
3. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the different parties involved.
4. The LPA, in its decision letter, refers only to the Framework and not to policies in the development plan for the area. However, its submission documents refer to policies in its Unitary Development Plan (UDP) and to those in its Local Plan, at Public examination stage at the time of the application decision. The appellant has likewise referred to these. On 27 February 2019, Kirklees Council adopted its Local Plan (LP). It has confirmed that policies in the earlier UDP have been superseded and have no effect. It considers that policy PLP59 (relating to infilling and redevelopment of brownfield sites in the Green Belt) and policy PLP24 (relating to design in general) are pertinent policies. The appellant has been given an opportunity to comment on the new policy situation. Therefore, I have determined the appeal based on policies in the LP and on the Framework.

Main Issues

5. The main issues in this case are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to relevant development plan policies, the Framework and the effect of the proposal on the openness of the Green Belt;
- the effect of the development upon the character and appearance of the area and
- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances required to justify the proposal.

Reasons

Site and proposal

6. The appeal site lies in open countryside within the Green Belt and is a roughly rectangular plot of land at a short distance south of Almondbury Village. It is situated on a sharp bend in the road where Birks Lane meets Arkenley Lane. The proposed and existing access is from Birks Lane, a rural lane with hedging and trees to the sides and no footpath. There is a scattering of mainly stone built, one and two storey dwellings along the lane and in the general vicinity, all within a rural setting.
7. The appeal site is a level area of land with hedgerows on the south-west, south-east and north-eastern boundaries, and sporadic trees along the rear or north-western boundary. The building can be seen through the hedging bordering the lane. The existing main building is near the western end of the site and has two storeys with a flat roof. It is constructed of timber with timber sheets to about 2 metres high (some covered with felting) and with vertical Yorkshire boarding above. Internally the ground floor has concrete partitions to provide stabling. The site also includes a small shed and some chicken coops but the main building is dominant on the site and appears as an isolated structure in the landscape. The north-eastern area of the site includes equestrian equipment.
8. The proposed detached dwelling would be constructed on the site of the existing building though the LPA and the appellant disagree whether the footprint would be greater or lesser than that of the existing building. It is agreed that the proposed dwelling would have a greater height than the existing structure. The exterior of the roof and walls would have timber cladding.

Whether inappropriate development

9. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, paragraph 145 lists certain categories of development which form an exception to the general policy of restraint. Part (g) of that paragraph relates to development involving the partial or complete redevelopment of previously developed land, whether redundant or in continuing

- use, (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development, or would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the LPA.
10. The appeal is not submitted on the basis of providing an affordable housing need. Furthermore, the proposed dwelling would not have other buildings immediately around it: it is not therefore an infill site which accords with policy PLP59 of the LP or a site which can be regarded as an exception to Green Belt policy in the Framework and which opposes new development.
 11. However, the existing building and the site is used for equestrian purposes. I agree with the LPA that it is previously developed land. However, paragraph 145(g) is dependent on the proposed development not having a greater impact than the existing development on the openness of the Green Belt.
 12. The LPA and the appellant disagree as to the size of the proposed footprint when compared to that of the existing building. The LPA concludes that the two would be virtually the same: the appellant maintains that the proposed new footprint would be smaller. I find that any difference would not be significant when assessing the impact on openness. However, the proposed building would be significantly taller than the existing building. I consider that this would have a substantially adverse impact on openness.
 13. In addition, the proposed development would involve the establishment of an area of hard standing. The appellant considers that this would not harm the openness of the Green Belt as there is already an access into the site and because the proposed development would include the use of Grasscrete for the access and parking. In addition, the appellant considers that, as the site is very well screened by hedging and trees, there would be no impact on openness.
 14. The proposed use of Grasscrete would be advantageous in retaining the character and appearance of the area but would be a neutral matter when assessing openness. However, the likely inclusion of domestic paraphernalia would give rise to a significantly adverse impact.
 15. The existing and proposed boundary hedging and trees would have a screening effect when seen from the adjacent road. However, the openness of the Green Belt has a spatial as well as a visual aspect: the absence of visual intrusion does not mean that there is no impact on the openness of the Green Belt. In any event, the proposed development would not be so comprehensively screened in the winter months. I therefore give only very limited weight to the visual impact of the proposed development on the openness of the Green Belt.
 16. The Framework states that 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. (para 133).
 17. On this basis, and for the reasons outlined above, I conclude that the proposed development would constitute inappropriate development in the Green Belt.

Any other harm - character and appearance

18. There is already an existing building on the site which is screened by hedging and trees. While the proposed building would have a greater height, and while I have concluded that it would adversely affect the openness of the Green Belt, I do not consider that, by its height and mass alone, it would significantly adversely affect the character and appearance of the area.
19. For this reason, I conclude that the building itself would accord with LP policy PLP 24 concerning the need for good design. However, I further conclude that the domestication of the site would have an urbanising effect which would adversely and significantly affect the visual character and appearance of this rural area, contrary to the provisions of paragraph 127 of the Framework which require proposed development to be sympathetic to their landscape setting.

Other considerations

20. The proposed extra planting would have some limited landscaping and ecological benefit.
21. The appellant considers that the design of the proposed dwelling is such as to be of an exceptionally exemplar design and would also be highly efficient in terms of the use of energy and other resources. However, I find that such efficient dwellings are not so rare as to result automatically in exemplar status, nor do I consider that the particular design of the building is so exceptional as to merit such a description. I thus give these matters only limited weight.
22. Whilst in a countryside location, the site is relatively close to services in Almondbury. However, access is, at least in part, along roads with no footpaths and the occupiers of the proposed dwelling would be largely reliant on car journeys to services. I therefore give the issue of its sustainable location only limited weight.
23. The LPA concedes that it cannot demonstrate a 5 year supply of housing land. I have no information before me as to whether or not this situation has changed in the light of the Government's advice on the calculation of housing need. However, the Framework is clear in stating in footnote 34 to paragraph 71, that meeting housing needs should not compromise the protection given to areas or assets of particular importance and which include Green Belts. In addition, while the proposed development would contribute an additional dwelling, it would make a very minor addition to the housing requirement.

Conclusion and planning balance

24. I have found that the proposal would be inappropriate development in the Green Belt as the harm to openness would be substantial and therefore contrary to the terms of the Framework. In addition, while I find that the proposed design of the building would not be out of place in its rural setting, the domestication of the site would lead to an urbanising affect which would significantly and adversely affect the character and appearance of the area.
25. In terms of other considerations, I attach moderate weight to the landscaping and ecological benefits of the proposed extra planting. I attach very limited

weight to the efficient nature of the proposed development and to its contribution to housing supply.

26. My overall conclusion is that these benefits do not clearly outweigh the identified, substantial harm to the Green Belt and do not amount to sufficient very special circumstances necessary to justify the appeal proposal.
27. For the reasons outlined above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR



Appeal Decision

Site visit made on 10 May 2019

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Appeal Ref: APP/Z4718/W/19/3223233

33 Woodside Lane, Fixby, Huddersfield HD2 2HA

- 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 M Mehat against the decision of Kirklees Council.
 - The application Ref 2017/62/93544/W, dated 13 October 2017, was refused by notice dated 22 August 2018.
 - The development proposed is erection of 5 detached dwellings and garage ancillary to 33 Woodside Lane.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the Council's Decision Notice in the banner heading above as this was agreed by the parties.
3. Since the application was determined by the Council, the Kirklees Unitary Development Plan has been replaced by the Kirklees Local Plan (February 2019). The policies relevant to this appeal have not altered substantively since the Publication Draft referenced in the Council's Decision Notice. I have therefore considered this case against the policies of the adopted Local Plan.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the host dwelling and surrounding area; b) highway safety; c) protected trees; and d) bats as a protected species.

Reasons

Character and appearance

5. The appeal site is formed of 33 Woodside Lane (No 33) a large detached house set in substantial grounds. No 33 and adjoining 25 and 27 Woodside Lane are characterised by large houses with spacious plots and a wooded setting. It is proposed to construct five new houses sited around No 33 and a detached garage for the existing house. This would inevitably reduce the size of the plot for No 33, and although it would still be set in the formal gardens, the siting of the proposed houses on three sides of No 33 results in the loss of its spacious character. No 33 would appear part of a new close knit cul-de-sac. This would both cause harm to its setting and be out of character with its surroundings.

6. Whilst I note that Nos 1 to 21 Woodside Lane have less substantial plots than No 33 they nonetheless have a spacious character and benefit from very generous front and back gardens. The proposed houses are large, set on comparatively small plots. The result of this for Plots 3, 4 and 5 are little or no gardens to the front and small gardens to the side and rear. This would be at odds with the prevailing character of Woodside Lane. Although due to the bend in Woodside Lane, the site is not visible within the street scene it would be visible from the bridleway in the adjacent woodland which is slightly elevated. From here, the development would appear cramped.
7. I recognise that the appeal site is close to development of higher or similar density to that proposed. However, I saw from my site visit that these developments, notably The Ghyll and Beechwood Grove, which are closest to the site, are quite different in character to Woodside Lane forming part of a larger housing development. In contrast, Woodside Lane is a single residential lane that adjoins woodland and is therefore quite separate from surrounding development. It is therefore appropriate to assess the proposal within its immediate character context, rather than this wider development.
8. To accommodate the proposed houses, around twenty trees would need to be removed. Although these trees vary in quality and the trees on the boundaries of the appeal site have been retained where possible, they nonetheless positively contribute to the wooded or Sylvan character of Woodside Lane. The loss of such a large number of trees would cause harm to that character.
9. For the reasons above, I find the proposed development would cause significant harm to the character and appearance of the host dwelling and surrounding area. It would therefore conflict with Policy LP24 of the Kirklees Local Plan (2019) (LP) because its scale and layout fails to respect and enhance the character of the townscape. Further, it would be contrary to guidance at paragraph 130 of the National Planning Policy Framework (the Framework) that development should take the opportunities available for improving the character and quality of an area.

Trees

10. There is a group of mixed trees, including Sycamore and English Oak, located just outside the appeal site between its boundary and the access to 25 Woodside Lane. These trees are subject of a Tree Preservation Order (TPO). They have a high amenity value and are particularly prominent from the bridleway in the adjacent woodland. The Arboricultural Impact Assessment submitted as evidence by the appellant shows the canopy spread of these trees extends a reasonable distance into the site. I also saw on my site visit a number of branches of these trees overhanging the boundary.
11. Plots 4 and 5 would be located close to the canopy spread of the protected trees and large parts of the gardens would be shaded by them, as well as others on site. The gardens are small relative to the size of the proposed houses and because of this and the likely shading, there would be pressure from occupiers to prune or fell the trees in the future to make the gardens more usable. This would cause harm to the wooded character I describe above.
12. Whilst I note that Plot 3 of the three house scheme approved by the Council (ref. 2018/93212) is in broadly the same location as Plot 4, it would benefit

from a substantially larger garden. It would be the equivalent in size to Plot 5 now proposed. The result of this is much more garden area unaffected by the tree canopies and therefore less pressure to prune or fell the protected trees on the boundaries.

13. For the reasons above, I find the proposed development would cause risk to the longevity of the trees subject of a TPO resulting in harm to the character and appearance of the area. The proposed development would therefore conflict with LP Policy LP33 because it would directly threaten trees or woodland of significant amenity value.

Highway safety

14. Access to the proposed houses would be from Woodside Lane, a quiet residential lane which is also the route of two bridleways. The Transport Statement submitted with the application assessed a six house scheme and demonstrated that there would be just five two-way trips associated with the development in the morning and evening peaks. In the absence of any contrary evidence, I have no reason to dispute these figures and I note that Highways Development Management had no objection to the principle of the development.
15. Even with an additional house, whilst there would be some intensification in use, the trip generation is low and given the good visibility along its length there would be no harm to the safety of pedestrians or vehicles using Woodside Lane. The proposed development would not therefore conflict with LP Policy LP21 or paragraph 109 of the Framework because it provides a safe and suitable access to the site.

Bats

16. The appeal site is adjacent to Upper Fell Greave Ancient Woodland connected to the site by hedgerows and mature trees. Transect Surveys, as part of the Ecological Impact Assessment (EIA), were undertaken on behalf of the appellant during September 2017 and August and September 2018. These identified common pipistrelle bats mainly foraging along the boundary tree canopies and hedgerows. Further, No 33 has a confirmed bat roost and the EIA advised that the development of Plot 4 would have an impact on existing flight lines without any mitigation.
17. The EIA recommended a number of mitigation measures including a buffer zone between the woodland and the nearest house; in this case Plots 4 and 5. It was recommended that the buffer zone covered the tree protection areas of the largest trees in order to retain the ecological function of the woodland edge. For the reasons I set out above, I have found the proposed houses would risk the longevity of the trees on the boundary with the woodland. I am not therefore persuaded on the evidence before me that the potential significant harm to bats, a European Protected Species, can be adequately mitigated in this case. As a consequence, the proposed development would conflict with LP Policy LP30 and paragraph 175 of the Framework which requires no significant loss or harm to biodiversity through avoidance, adequate mitigation or, as a last resort, compensatory measures.

Other Matters

18. The Council accepts that it is not able to demonstrate a 5-year supply of deliverable housing sites. This represents a housing shortfall. In such circumstances, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. I acknowledge that provision of five detached dwellings contributes to the supply of housing. However, the contribution in this case is modest and my finding is that the harm to the character and appearance of the area, protected trees and bats would significantly and demonstrably outweigh the tilted balance in favour of granting permission.

Conclusion

19. Although I find no harm to highway safety, I do find harm in respect of the other main issues. Therefore, for the reasons above, and having regard to all other matters raised, the appeal should be dismissed.

R. Jones

INSPECTOR



Appeal Decision

Site visit made on 20 May 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 25 July 2019

Appeal Ref: APP/Z4718/Z/19/3223512

Gohar Superstore, Church Street, Paddock, Huddersfield HD1 4TR

- 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 Abbah Hussain against the decision of Kirklees Council.
 - The application Ref 2018/62/94134/W dated 14 December 2018, was refused by notice dated 21 February 2019.
 - The development proposed is the formation of a canopy with roller shutters to the front of the shop.
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 1 July 2019.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issue in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the different parties involved.
3. On 27 February 2019 and after the refusal of the application, Kirklees Council adopted its new Local Plan. It has confirmed that policies in the earlier Unitary Development Plan have now been superseded. It has submitted copies of the newly adopted policies and the appellant has been given an opportunity to comment upon them. Therefore, I have determined the appeal based on policies in the Kirklees Local Plan 2019 (LP) and in the Framework.
4. The appellant has stated that he would be willing to negotiate with regard to the size, position and design of the proposed development. However, I have determined the appeal based on the submitted plans.

Main Issue

5. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

6. The appeal building is a two storey, stone built, detached Victorian property. There are no abutting buildings and there are highways both to the front and to the rear: it stands alone.
7. The area is generally characterised by a mixture of two storey, stone built, terraced, Victorian properties and more modern, brick built terraced residences including a high rise block. There are several commercial premises, mostly concentrated along Church Street, some of which have perforated roller shutters. Buildings are generally sited with an open area between their front elevations and the adopted pavement, and generally they have flat frontages with a general absence of additions or canopies, especially on Church Street. Properties directly opposite the appeal building are terraced dwellings with individually allocated grassed front amenity spaces.
8. The appeal property is set back from the adopted pavement and the intervening area is used for the display of goods for sale including items such as fresh fruit and vegetables.
9. The proposed development is described as a canopy but is a single storey extension with a roller shutter facing Church Street: it would provide protection for the goods on display. It would be a single storey canopy extending the full length of the building of some 9.5 metres and would project in front of the ground floor elevation by about 2.4 metres. It would have an eaves height of approximately 3 metres and an overall height of about 4 metres. It would be constructed with steel posts with a lean-to slate or tile roof. The front of the canopy, facing Church Street, would have a roller shutter and which the appellant suggests could be of a perforated form.
10. The appellant refers to similar canopies elsewhere in the area. However, I have no further details before me of such other canopies. In any event, I have considered the proposed development on its individual merits.
11. The proposed development, by reason of its position in front of the existing building, would be an incongruous feature in the street scene where such canopies and additions are absent. Moreover, its proposed size would have a significant, adverse visual impact when seen alongside the smaller commercial properties and dwellinghouses in the street scene. In addition, even though there are already roller shutters on properties in the immediate area they are not as large as the proposed roller shutter which would, as a result, have a substantial adverse effect on the character and appearance of the area.
12. I therefore conclude that the proposed development would be contrary to policy PLP24(b) of the LP which requires developments to respect and enhance townscape character, and with policy PLP25 (a and c) which requires that shop fronts should be consistent with the design of their existing buildings and with

the character of the locality. Furthermore, I conclude that it would be contrary to chapter 12 of the Framework which places great emphasis on the need for good design.

Conclusion

13. For the reasons outlined above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR



Appeal Decision

Site visit made on 11 December 2018

by **D Child BA BPL MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Appeal Ref: APP/Z4718/W/18/3213672

Plots 34 to 37, Land off Vicarage Road adjacent to No 311, Longwood, Huddersfield HD3 4HJ

- 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 planning permission.
 - The appeal is made by Mr Anthony Dann of I.E.S. Management Ltd against Kirklees Metropolitan Borough Council.
 - The application, Ref 2018/92381, is dated 19 July 2018.
 - The development proposed is erection of 4 dwellings on plots 34 to 37.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 4 dwellings on plots 34 to 37 at land off Vicarage Road adjacent to No 311, Longwood, Huddersfield HD3 4HJ, in accordance with the terms of the planning application, Ref: 2018/92381, dated 19 July 2018, subject to the conditions set out in the schedule below.

Procedural Matters

2. The appeal results from the Council's failure to reach a decision on the information submitted by the appellant. There is therefore no formal decision, as jurisdiction over that was taken away when the appeal was lodged. However, the Council has provided a statement which confirms it would have approved the application.
3. The Council has confirmed that on 27 February 2019 it adopted the Kirklees Local Plan (the Local Plan), replacing the saved policies of the Kirklees Unitary Development Plan (March 1999). I shall proceed to consider the appeal on this basis.
4. In their submission the Council refers to the National Planning Policy Framework published in February 2018. However, as policies of the Framework that are material to this case have not changed fundamentally, I have had regard to the revised Framework (the Framework) in reaching my decision.
5. From the evidence before me, there are no substantive grounds of dispute between the appellant and the LPA. But there is concern from a neighbour about the effect of the development on the privacy of the occupants of neighbouring dwellings, and, logically therefore, that of future occupants of the development, and this therefore forms the main issue to be considered.

Background

6. The appeal site forms part of a larger area of land that received outline planning permission for residential development in 1993¹. Following a subsequent approval², an access road has been partially constructed and a number of dwellings built out opposite the appeal site. Some groundworks involving importation and compaction of fill, and some drainage works, have also been carried out.
7. Planning permission was subsequently granted for the erection of four dwellings on the appeal site³. Conditions of that permission were the subject of an appeal⁴ under which they were varied. The application details describe an amended siting of dwellings on plots 36 and 37, in order to allow parking in front of the houses, and, so as not to impede the public footpath.

Main Issue

8. The main issue is the effect of the proposal upon the living conditions of the occupants of neighbouring dwellings and future occupiers of the proposed development, having particular regard to privacy.

Reasons

Living conditions

9. The Council has assessed the application in relation to the privacy of neighbouring residents, and, raises no objection. From the plans before me and what I saw during my visit, I see no reason to disagree. The nearest neighbouring dwellings are located to the southeast of the appeal site fronting Vicarage Road. Due to the slope of the land, the proposed layout and the separation distances between existing and proposed dwellings, the scheme would not cause any unacceptable harm to the privacy of the occupants of neighbouring dwellings, or future occupiers of the development.
10. Accordingly, the proposed development would comply with Policy LP24 of the Local Plan, which, amongst other things, requires that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers. It would accord with Paragraph 127(f) of the Framework, which states that planning decisions create places with a high standard of amenity for existing and future users.

Other Matters

11. A resident has commented that there is a public footpath adjacent to the site that needs to remain in place. From the plans before me, it would be retained. Planning permission does not alter the status of the footpath, any diversion of which would be through other statutory processes.
12. There are several mature trees above the site, to the north, beyond the adjacent footpath. The Council in its statement has not raised any objection in this regard. Due to the difference in land levels and the amount of physical

¹ Local Planning Authority reference 89/00587

² Local Planning Authority reference 94/93648

³ Local Planning Authority reference 2013/90795

⁴ Appeal Reference: APP/Z4718/A/14/2216452

separation between the trees and the nearest dwelling, the proposed development would not place any undue pressure on their health.

Conditions

13. I have considered the Appellant's comments on the Council's recommended conditions, and the earlier appeal decision.
14. A 3-year time limit for commencement condition is necessary, and, to provide certainty, the approved plans, which include those relating to levels, need to be specified. While I note the appellant's comments, I agree with the Inspector's earlier reasoning that conditions remain necessary to ensure that the development is appropriately drained, to prevent flooding and pollution, and to ensure that the site is free from contamination.
15. Conditions are necessary to require landscaping details and their implementation, and, in the interest of protecting the visual amenity of the area, conditions are necessary to specify the external facing and roofing materials and the boundary treatment to be used.
16. There is no clear justification for the removal of permitted development rights. However, to ensure the development accords with Local Plan Policy L24(d)(v) and Paragraph 110(e) of the Framework, I agree with the Council that a condition is necessary to require charging facilities for plug-in ultra-low emission vehicles.

Overall Conclusion

17. For the above reasons, the appeal should succeed, and planning permission should be granted subject to the specified conditions.

D Child

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: 'Site Layout and Location Plan' 701.H; 'Phase 2 Site Layout' 701/29HB; and 'Planning Drg. Modified House Types (Plots 34, 35, 36 & 37)' 2012/008/02 Rev A.
- 3) Development shall not begin until details of the proposed means of foul and surface water disposal have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in full before any of the dwellings are occupied, or in accordance with a phasing scheme agreed in writing by the local planning authority as part of the approved details.
- 4) Development shall not begin until a report of an investigation into potential contamination of the site, and of any imported fill material to be brought onto the site, along with any necessary remediation measures, has been submitted to, and approved in writing by the local planning authority. None of the dwellings hereby permitted shall be occupied until the approved measures have been implemented in full.
- 5) Development shall not begin until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained, and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s), or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to first occupation of any of the hereby approved dwellings an electric vehicle charging point shall be installed to serve one of the parking spaces to each of the dwellings. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle charging points so provided shall be retained.
- 8) The development shall not be brought into use until all areas indicated to be used for parking on the submitted plan 701/29HB have been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the use specified on the submitted plans and retained thereafter.

9) Details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls shall be approved in writing by the Local Planning Authority before any of the hereby approved dwellings are first brought into use. The approved walls/fences shall be erected before the development hereby approved is occupied or brought into use and shall be thereafter retained.

10) The external walls and roofing materials of the hereby approved dwellings shall in all respects match those used in the construction of 303-311 Vicarage Road, or, alternatively, samples of all facing and roofing materials shall be inspected on site and approved in writing by the local planning authority before the materials are first used, and the development shall be implemented using the approved materials.



Appeal Decision

Site visit made on 8 July 2019

by **D H Brier BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 July 2019

Appeal Ref: APP/Z4718/C/18/3218533 & 3218534 33 Wilshaw Road, Meltham, Holmfirth, HD9 4DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr & Mrs A Smith against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 2 November 2018.
- The breach of planning control as alleged in the notice is the unauthorised erection of rear extensions and timber outbuilding with two octagonal roofs linked with a dual pitched roof.
- The requirements of the notice are:
 1. Within 1 month of the date the notice takes effect wholly demolish the timber outbuilding with octagonal roofs linked with a dual pitched roof and within two months of the date the notice takes effect remove all resultant debris and material.
 2. Within 4 months of the date the notice takes effect demolish all extensions that project beyond the external walls of the original dwelling house and within 6 months of the notice taking effect remove all resultant debris and material.
 3. Within 6 months of the date the notice takes effect restore the land levels to those prior to the unauthorised development commencing.
- The appeal by Mrs L Smith (ref C/18/3218534) is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
- The appeal by Mr A Smith (ref C/18/3218533) is proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the notice is upheld with corrections.

Application for costs

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

Background

2. The appeal property is a detached house. It lies within both the Green Belt and the Wilshaw Conservation Area.
3. The planning history of the site is set out in the Council's appeal statement. Two items are of especial relevance to the current appeal:
 - Planning permission for the demolition of garage and erection of two storey and single storey rear extension with first floor balcony and detached

garage, granted in August 2017 (reference 2017/92124). Condition 5 of that permission states "*Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015¹ as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B, C, D and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.*"

- Application for planning permission for demolition of garage and erection of two storey and single storey rear extension with first floor balcony and attached lower ground garage with terrace over, refused in January 2018 (ref 2017/62/93405/W). A subsequent appeal under section 78 of the 1990 Act was dismissed in May 2018 (ref APP/Z4718/D/18/3197229).
4. The appeal property has been enlarged on the lines of the scheme approved in 2017, but as well as this, a further flat roofed single storey component has been added at the rear². This addition extends across the full width of the rear of the house (11.26m according to the plan approved in 2017³) and, according to the refused drawing, is 5.3m deep⁴. The detached garage shown on the approved scheme⁵ has not been built; instead, the additional extension accommodates an integral garage.
 5. The timber outbuilding referred to in the allegation has been removed. While this indicates that the notice may well have been complied with in part, as this structure is still a component part of the development being enforced against, my decision will encompass this matter.

Unilateral Undertaking

6. A planning obligation under the provisions of section 106 in the form of a unilateral undertaking has been submitted by the appellants. The nub of the obligation is that (subject to planning permission being granted), the property owners covenant "*Not to develop the land nor allow or permit the development of the land pursuant to the previous permission for the construction of a detached garage authorised by the previous permission (and to demolish any part of the detached garage that may have been already constructed)*".

The Enforcement Notice

7. Before proceeding to consider the individual grounds of appeal, I am concerned about a particular matter that arises from the parties' submissions in respect of the appeal on ground (f).
8. The enforcement action appears to have been prompted by the erection of the timber outbuilding and the single storey addition at the rear of the property. However, from the manner in which both the allegation and the second requirement are framed, the notice attacks not only the rear addition, but also the works carried out pursuant to the planning permission granted in 2017. The Council's justification for this approach appears to be twofold. Firstly, the view that the approved works were not substantially complete prior to the erection of the addition, so that the whole of the works do not benefit from any

¹ I take this to be an abbreviation of Town and Country Planning (General Permitted Development) (England) (Order) 2015.

² The appellants refer to this as additional terrace and undercroft garage.

³ Drawing no.17/06 02.

⁴ Drawing no.17/14 02.

⁵ Drawing no.17/06 03.

- extant planning permission. And, secondly, in these circumstances, if the requirement applied solely to the addition, and not to the rest of the works, the resultant underenforcement would mean that, unlike the approved scheme, the remaining structure would benefit from a deemed unconditional planning permission by virtue of the provisions of section 173(11) of the 1990 Act⁶.
9. In claiming that it is not unreasonable to require the full demolition of the extension, the Council also state that the appellants would continue to have the option to implement the 2017 planning permission. This may be so, but if this were to be carried through, it would effectively mean that a significant proportion of the works required to be demolished could be replaced on a like to like basis. To my mind, this approach would be perverse, absurd, disproportionate, and generally unreasonable.
 10. Having regard to condition 5 of the 2017 permission, I can understand why the Council are concerned about the possible creation of an unconditional planning permission. That said, no reason why the Council believe that the approved scheme was not substantially completed, and the works as a whole formed a continuous building operation, has been given. Indeed, this point is disputed by the appellants who indicate that the decision to create an undercroft garage with a terrace above was taken after the completion of the approved extension. In this respect, the appellants have drawn my attention to a letter from an individual who purports to be one of the builders involved. In the letter he states that "*the underground garage was added once the extension had been completed*".
 11. The appellants' claim is not backed up by any other documentary evidence, and the veracity of the builder's comments cannot be tested in an appeal determined by written representations. However, while this tends to reduce the weight to be attached to this part of the appellants' case, I am not inclined to attach a great deal of weight to the Council's unsubstantiated assertion either. What I do attach much more significance to though, is the 2018 appeal decision. In it, the Inspector observes that "*It was clear at my site visit that the construction of the permitted scheme is substantially complete*"⁷, but the additional work is referred to as "*proposed*"⁸. This strongly suggests to me that on the balance of probability the appellants' version of events is to be preferred to that of the Council.
 12. All this leads me to conclude that while the description of the application that gave rise to the section 78 appeal suggested a comprehensive scheme of works, there is a compelling case for viewing the flat roofed addition as a separate entity insofar as the enforcement action is concerned. The addition is not shown on the approved plans, and although it is attached to the main body of the extension, it did not appear to me to be an integral part of it. I regard it as potentially severable.
 13. In the light of the foregoing, and having regard to the works deemed acceptable by virtue of the 2017 planning permission, it seems to me that the circumstances of this case are such that a more pragmatic and equitable approach would be to correct the allegation so that it focuses on the flat roofed rear addition to the property and does not impinge upon the works approved in

⁶ The Council cite section 173(12), but this applies to the construction of a replacement building.

⁷ Appeal decision APP/Z4718/D/18/3197229 paragraph 8.

⁸ Ibid paragraph 14.

2017. I have the power to correct the notice, and I am satisfied that to do so in the manner indicated would not give rise to injustice to the parties. This measure would also necessitate consequent amendments to the requirements and the plan attached to the notice.

Appeal on Ground (c)

14. In order for the appeal to succeed on this ground it has to be shown that the matters alleged in the notice do not constitute a breach of planning control. Ground (c) is a legal ground of appeal, distinct from any planning merits. The Courts have held that the onus on proving it lies with the appellant(s).
15. As no case has been advanced in respect of the (now removed) outbuilding, and I have no information regarding it other than the description set out in the allegation, the onus that lies with the appellants in this respect has not been discharged. It has not been demonstrated that the erection of this structure did not constitute a breach of planning control.
16. The appellants' case includes an explanation of why the additional work was carried out. However rather than supporting the appeal on ground (c), the representations made in this respect are essentially directed at the merits of the development in question. They are not matters which carry weight in the context of the appeal on ground (c). And, given my conclusions in the previous section, the implications of the 2017 planning permission no longer have a direct bearing on the appeal on this ground either.
17. The appellants accept that the additional terrace and undercroft garage does not benefit from the 2017 permission. Nor, regardless of condition 5 attached to the 2017 permission, is it claimed that the addition constitutes permitted development under the provisions of the GPDO. Indeed, as the plans approved in 2017 indicate that the rear extension is 4m deep, the additional 5.3m attributable to the addition means that it would not fall within the parameters of Class A of Part 1 of Schedule 2 of the GPDO and so does not constitute permitted development.
18. In the light of the foregoing, in the apparent absence of any relevant planning permission, I find that the erection of the flat roofed rear addition constitutes a breach of planning control. Accordingly, therefore, the appeal on ground (c) fails.

Appeal on Ground (a) and the Deemed Application

19. The appeal is silent insofar as the merits of the (removed) timber outbuilding are concerned, nor has any information appertaining to this structure been put forward. Having regard to this, and as the reasons why enforcement action was taken against it have not been called into question, I see no basis for viewing it in a favourable light.
20. I consider the main issue is whether there has been any material change in the circumstances since the 1 May 2018 appeal decision.
21. No claim has been made that this is the case. I am mindful that since May 2018 the Kirklees Local Plan was adopted in February 2019 and prior to that a revised version of the National Planning Policy Framework (The Framework) was published in July 2018. Despite this, however, the approach towards development in the Green Belt, within Conservation Areas, and design has not

changed significantly. Likewise, judging from the previous Inspector's remarks, the main thrust of the current planning obligation remains the same. And, over and above all this, from what I saw at my site inspection, I see no reason to take issue with the findings of the previous Inspector, as set out in the section 78 appeal decision. My concerns are essentially the same and would not be overcome by conditions, including one on the lines of that suggested by the Council.

22. Two fallback positions have been identified by the appellant. The first concerns the backfilling and the erection of a detached garage related to the approved scheme. I accept that the approved freestanding garage would impact on openness to some extent, but as the mass of this structure is appreciably less than the flat roofed rear addition, I am unable to concur with the appellant's view that this fallback position amounts to a very special circumstance. It is not a matter to which I attach much weight.
23. The other fallback position concerns permitted development rights. As I have concluded that the flat roofed rear addition should be regarded as a separate entity, I consider that the rest of the extension at the rear of the house accords with the 2017 planning permission and, following on from that, condition 5, which effectively removes permitted development rights, still bites. In these circumstances I am not inclined to regard the second claimed fallback position as a weighty factor.
24. My overall conclusion is that there has not been any material change in the circumstances since the earlier appeal decision. Accordingly, therefore, the appeal on ground (a) fails and planning permission will not be granted on the deemed application.

Appeal on Ground (f)

25. This ground of appeal is directed at the requirement to remove the full rear extension. In the light of my findings regarding the extent of the notice, there is no need for me to consider this point further. Indirectly, therefore, the appeal on this ground succeeds to this extent.
26. I note that the appellants agree that if the notice is upheld, the only elements that should require removal are the rear terrace with undercroft garage and the timber outbuilding.

Appeal on Ground (g)

27. Although I propose to reduce the scope of the notice considerably, I appreciate that compliance with the notice will still have a disruptive effect on the appellants' home. However, while the personal circumstances that have been indicated are not matters I set aside lightly, I do not consider the 4 month compliance period insofar as the rear addition is concerned is unreasonably short. And, as noted above, the timber outbuilding has already been removed.
28. The appeal on ground (g) therefore fails.

Other Matters

29. I have taken into account all the other matters raised, but none are sufficient to outweigh the considerations that have led me to my conclusions.

Formal Decision

30. I direct that the enforcement notice be corrected:

A. In section 3 by the deletion of the allegation and its substitution by "The erection of a single storey flat roofed rear extension and a timber outbuilding with two octagonal roofs linked with a dual pitched roof."

B. In section 5 by the deletion of "demolish all extensions that project beyond the external walls of the original dwelling house (as hatched blue on the attached plan)" from the second requirement and its substitution by "demolish the single storey flat roofed rear extension".

C. By the deletion of the plan attached to the enforcement notice and its substitution by the plan attached to this decision.

D. By the deletion of "(shown in the vicinity of the area hatched black)" from the first requirement.

31. Subject to these corrections, I dismiss the appeal and uphold the enforcement notice. In the case of the appeal by Mrs L Smith (ref C/18/3218534), I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

D H Brier

Inspector



Plan

This is the plan referred to in my decision dated: 15 July 2019

by **D H Brier BA MA MRTPI**

Land at: 33 Wilshaw Road, Meltham, Holmfirth, HD9 4DZ

Reference: APP/ Z4718/C/18/3218533 & 3218534



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.

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Aug-2019

Subject: Planning Application 2019/90811 Erection of 10 dwellings
Springfields, Mill Moor Road, Meltham, Holmfirth, HD9 5JY

APPLICANT

Worth Homes (Holmfirth)
Ltd

DATE VALID

12-Mar-2019

TARGET DATE

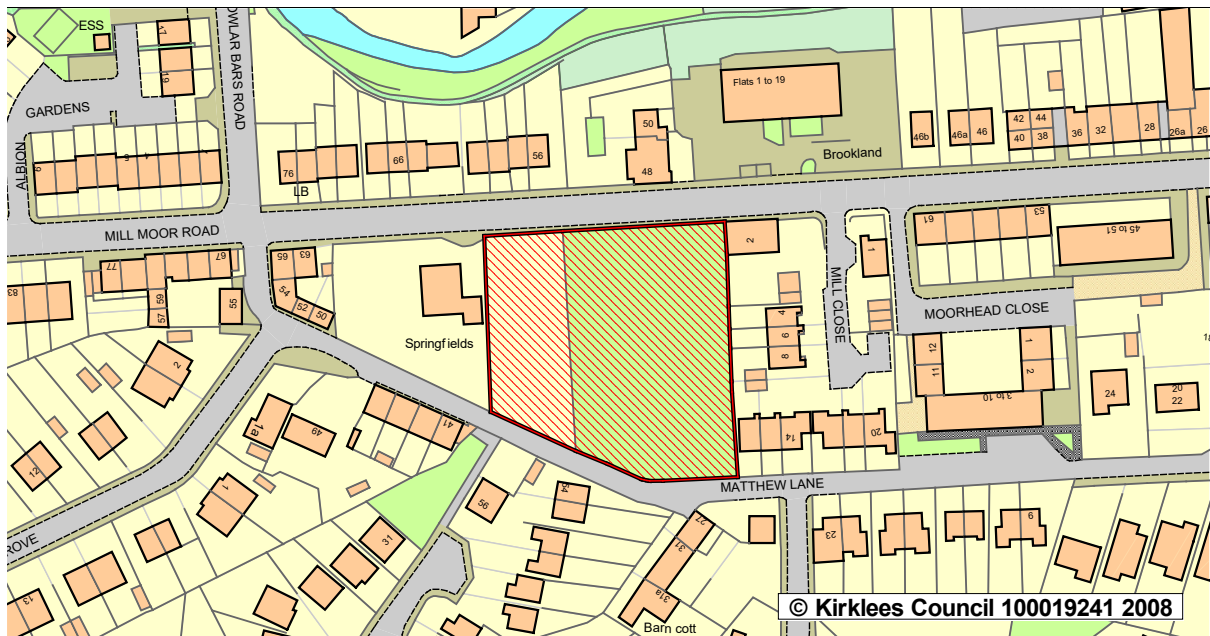
11-Jun-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley North

Yes

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 to secure a S106 agreement to cover the following matters:

1. Open space provisions comprising of an off-site commuted sum of £18,850.
2. Sustainable travel contribution (Metro Cards) - £5,000.
3. Arrangements for the future maintenance and management of surface water drainage infrastructure.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development and Master Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application is brought forward to the planning sub-committee for determination at the request of Councillor Charles Greaves. Councillor Greaves' reason for making the request is because of concerns with the impact of the scale and layout of the dwellings on the amenity of adjacent properties. The Chair of the committee has confirmed that Councillor Greaves' reason for making the request is valid having regard to the protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is a small area of grazing land that slopes up from Mill Moor Road towards Matthew Lane to the south. The land is subdivided into two fields and is predominantly bound by stone walls.
- 2.2 The site lies within a residential area and abuts Mill Close to the east and a detached bungalow known as Springfields to the west. There are houses on the opposite side of Mill Moor Road, some of which are set down from the roadside. There are also dwellings on the opposite side of Matthew Lane including a listed terrace.

2.3 The land is unallocated in the Local Plan.

3.0 PROPOSAL:

3.1 The application seeks full planning permission for the erection of 10 dwellings.

3.2 There are six dwellings located in the lower part of the site, consisting of two pairs of semi-detached houses and two detached dwellings. Four of these properties are accessed from a shared driveway off Mill Moor Road and the other two have an individual access off Mill Moor Road.

3.3 Four detached dwellings are located in the upper part of the site and each take access directly off Matthew Lane.

3.4 All of the dwellings are two storeys in height and would be faced in regular coursed natural stone with a blue slate roof.

4.0 RELEVANT PLANNING HISTORY:

4.1 2018/90941 Outline application for residential development – Approved by the Sub Committee 9/8/2018.

4.2 The above application includes the current application site plus some land to the west of the current site that includes the property known as Springfields. A point of access was approved off Mill Moor Road and all other matters were reserved. There was an indicative layout showing 23 terraced and semi-detached dwellings.

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

5.1 The parking for plot 7 has been relocated to the rear of the dwelling to lessen the amount of parking on the Mill Moor Road frontage. As a consequence plot 7 has been pushed closer to the roadside. Plot 5 has also been handed which has enabled the parking for plots 5 and 6 to be broken up by an area of garden, thus helping to mitigate the visual impact of the parking for these plots within the Mill Moor Road street scene.

5.2 Additional information has been provided in relation to drainage.

5.3 Windows have been added to the side of plot 8 to break up the expanse of walling on a roadside gable end.

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
LP11 – Affordable housing and housing mix
LP21 – Highway safety and access
LP22 – Parking standards
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 - Biodiversity and geodiversity
LP35 – Historic environment
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:

NPPF Chapter 2 – Achieving sustainable development
NPPF Chapter 4 – Decision-making
NPPF Chapter 5 – Delivering a sufficient supply of homes
NPPF Chapter 8 – Promoting healthy and safe communities
NPPF Chapter 11 – Making effective use of land
NPPF Chapter 12 – Achieving well-designed places
NPPF Chapter 15 – Conserving and enhancing the natural environment
NPPF Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by site notices, neighbour letters and press advert. 12 representations were received in response to this publicity.

7.2 A summary of the comments received is provided below:

- Too much development happening in Meltham
- Overdevelopment of the site/too many houses on the land
- Dwellings are too large
- Dwellings not in keeping with the character of the area (layout, scale, density, appearance)
- Dwellings too high and would be overbearing
- Bungalows more suitable for this site
- Number of houses needs reducing and the size of them made smaller
- Loss of green space
- No landscaping
- Land is a Conservation Area and not meant for building
- Overlooking/loss of privacy
- Ground should be levelled below Mill Moor Road to mitigate the height of the new dwellings

- Detrimental impact on residential amenity
- No structure to the site layout
- The required visibility splay for plot 1 cannot be provided without adjacent land
- Development will further restrict sightlines on Matthew Lane
- There is a watercourse running under the site and development could increase flood risk
- Increased risk of crime
- Impact on air quality
- Odours
- Light pollution
- Loss of light/overshadowing
- Impact from construction (dust, vibrations, noise, nuisance etc)
- Loss of views would affect residential amenity
- Adverse impact on visual amenity of the area
- Matthew Lane could not cope with additional traffic
- Visibility on Matthew Lane not good
- Traffic congestion and parking problems
- Increased risk of traffic accidents
- Impact on drainage infrastructure including existing sewer network
- Restricted discharge rate of 3 litres per second inadequate
- Would breach Human Rights Acts
- Archaeological benefits, such as old farming equipment, may be underground
- Mill Moor Road already unsafe
- Impact on local services – schools, doctors, dental surgeries
- Detrimental impact on tourism
- Site not suited to the type and number of houses proposed
- Houses not disability friendly
- Stone walls should be retained. There should be 1 access to preserve the walls
- Potential contamination from adjacent historic uses
- Houses will be too expensive and not meet local housing need
- Impact on ecology
- Bat survey should be repeated
- Inappropriate materials being used for construction (not environmentally friendly)
- Not enough road access to the site
- Development against local and national planning policies and guidance
- Previous proposals for developments of this size have been rejected
- No solar panels on the dwellings so not energy efficient
- There is pressure deep below the ground that will rise up when the land is disturbed and affect the foundations of the new houses and allow water ingress
- Comments made regarding publicity
- Concerns with the driveways off Mill Moor Road. Development should revert to access on previous application

7.3 Following the changes to the site layout the amended plans were advertised by neighbour notification letters. The publicity of the amended plans expires on 14th August 2019.

7.4 To date 4 representations have been received. A summary of the comments received is provided below:

- Amended plans do not address previous comments
- The drives onto Mill Moor Road will be dangerous because of the amount of traffic, vehicle speeds and parked cars
- Development should be designed as a cul-de-sac
- There should be a single access to the site from either Mill Moor Road or Matthew Lane
- Loss of drystone wall that gives the area its character
- Not enough room on Mill Moor Road for this type of development
- Driveway will be formed opposite where a neighbour parks their car. There is not enough room for cars to pull out when cars are parked.
- The driveways will reduce space for on-street parking on New Mill Road
- Additional demand for parking on New Mill Road from the new houses
- Plot 7 more likely to park on-street because of location of parking spaces at rear
- Houses too big and will not blend in
- Impact of construction
- Loss of green land
- Sightline for plot 1 still cannot be achieved without going over neighbour's land
- Increased traffic will cause highway safety problems
- No site traffic should use Matthew Lane because it is used by school children

7.3 Meltham Town Council - The Council supports the application but ask that the existing dry stone walls are preserved.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objections subject to conditions

KC Lead Local Flood Authority – No objections subject to conditions

8.2 Non-statutory:

KC Conservation & Design – The proposals would not harm the setting of the grade II listed terrace that is close to the site on Matthew Lane (numbers 41, 43, 45 & 47).

KC Ecology Unit – An Ecological Design Strategy should be provided.

KC Environmental Services – Recommend conditions in relation to contaminated land and provision of electric vehicle charging points.

Yorkshire Water – No objection subject to conditions

Police Architectural Liaison Officer – Would be in favour of plot 4 being re-orientated to face Matthew Lane; this would mean the rear boundary backs onto plot 5 behind, thus increasing the security of plot 5.

Plots 4, 5 and 10 have a side door leading to a utility room. It is unclear why this external door is required as it would create an additional unnecessary point of entry to the property.

None of the plots are showing restricted access from the front into the rear garden. I recommend that a 1800mm high lockable gate connected to the same height fencing is installed.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The principle of residential development on the land has already been established by outline permission 2018/90941. This extant outline permission includes the current application site plus the property known as Springfields to the west.
- 10.2 The land is unallocated in the Local Plan and therefore in principle there are no specific constraints to developing the site.
- 10.3 The proposal represents a windfall site for housing. 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”.
- 10.4 In the Local Plan the council has 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).
- 10.5 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 principle of development of this site for housing.

- 10.6 The site lies within the built-up part of Meltham and is surrounded by existing residential development. The site lies within an existing settlement and therefore great weight should be given to the benefits of developing this windfall site.
- 10.7 Chapter 7 of the NPPF and LP7 of the Local Plan promote an efficient use of land, with LP7 establishing a desired target density of thirty-five dwellings per hectare. At this measure the site could accommodate 12 dwellings. However, LP7 states this target should be 'where appropriate'. The topography of the site does pose somewhat of a constraint although officers consider that it would be feasible to add additional dwellings to the site by changing some of the house types, for example by including some terraced housing or increasing the amount of semi-detached dwellings. Terraced properties are found within the surrounding area including on Mill Moor Road and Matthew Lane and so would be appropriate given the site's context.
- 10.8 The applicant has sought to maintain the scheme at 10 dwellings and on balance officers consider the proposed quantum of development to be acceptable. The scheme provides a reasonable mix of house types split between detached and semi-detached properties and in this regard it is similar to other development within the surrounding area, particularly to the south of the site.

Urban Design and heritage issues

- 10.9 The site is essentially split into two distinct parcels of land separated by a retaining wall. Plots 1-4 are located in the upper part of the site and take access from Matthew Lane. Plots 5-10 are located within the lower part of the site with access via Mill Moor Road. The land levels are to be altered to create an upper and lower development plateaux.
- 10.10 All of the dwellings are two storeys in height and this is reflective of the typical scale of properties immediately surrounding the site. Residential development in the vicinity is of mixed age, type and design and within this context the appearance of the proposals would not appear out of keeping. The new houses would be faced in regular coursed natural stone with a blue slate roof which would help the development to harmonise with the predominant building material surrounding the site, including the listed terrace that lies to the south west of the site on Matthew Lane. The council's conservation and design team have not raised any concerns with the impact of the development on the setting of this listed terrace.
- 10.11 To reduce the amount of parking on the Mill Moor Road frontage the parking spaces for plot 7 have been relocated to the rear of the dwelling. Plot 5 has also been handed which has enabled the parking for plots 5 and 6 to be broken up by an area of garden. These changes have helped to lessen the visual impact of parking within the Mill Moor Road street scene.

- 10.12 Plots 5-8 are closest to Mill Moor Road and would be set up from the level of the adjacent highway. The properties are however set back from Mill Moor Road by 2.3m in the case of plot 8 and by as much as 6m in the case of plot 5. Within the immediate surroundings there are existing two storey properties directly abutting Mill Moor Road and other properties that are set up and back from Mill Moor Road, for example 1 Mill Close. The development would not therefore be out of keeping with the scale of the street scene in this regard.
- 10.13 Plot 8 has its side elevation facing onto Mill Moor Road. To break up the expanse of walling two small non-habitable windows have been added to this gable end. The property immediately opposite plot 8 is also side-on to Mill Moor Road and so this type of relationship would not be at odds with the existing street scene.
- 10.14 Matthew Lane is characterised by a mixture of property types. There is a row of listed cottages, a traditional stone-built terrace, some relatively modern development and older semi-detached properties. A small number of these properties are side-on to Matthew Lane. Given the variety that exists within the Matthew Lane street scene it is considered that plots 1-4 would harmonise with the character of the area.
- 10.15 There is an existing drystone wall to the Mill Moor Road and Matthew Lane site frontages. It is important that this is retained as the boundary treatment for the development in order to retain some of the established character of the site. A condition to this effect is recommended.
- 10.16 The site is to be separated by a retaining wall which is shown on the plans as a rockery. There would be glimpsed views of this feature from Mill Moor Road, especially along the private drive. Further details of the rockery/retaining wall have not been provided and a condition requiring details is therefore recommended in the interests of visual amenity.
- 10.17 The application is considered to comply with LP24 of the Local Plan and guidance in the NPPF.

Residential Amenity

- 10.18 To the north of the site are 56-62 Mill Moor Road which are a row of terraced houses which front onto and are set down from Mill Moor Road. Plots 5 and 6 face directly onto these neighbouring properties at a distance of slightly over 22m. Plot 7 has an indirect relationship with the nearest of these neighbouring houses (56 Mill Moor Road) and is separated by just over 21m.
- 10.19 Due to the topography of the site, which slopes up from south to north, a development plateau is to be created, upon which plots 5-10 would be formed. This means that the new dwellings are set up from Mill Moor Road. The submitted sections show that plot 5 is set up from Mill Moor Road by approximately 1.3m and plot 7 by closer to 2m.

- 10.20 The difference in levels between plots 5 and 6 and 56-62 Mill Moor Road increases the impact of the development on the amenity of the existing occupiers however on balance officers consider that the separation distance is sufficient to avoid an unacceptable impact. Plot 7 is slightly closer but this small reduction in separation distance is offset by the oblique relationship.
- 10.21 48 Mill Moor Road also lies to the north of the site. This property has a side elevation immediately abutting the highway. The side of no.48 contains a number of windows; there are 2 windows at street level and a secondary window within a projecting gable at the rear of the property. The nearest proposed dwelling is plot 8 which also has a gable end facing Mill Moor Road; the gable end contains two non-habitable windows serving a ground floor WC and the staircase. The separation distance is 13.1m between the respective gable ends and officers do not have any concerns with this relationship.
- 10.22 To the rear of the site are a number of properties that lie on the opposite side of Matthew Lane. These include 54 and 56 Moorland Rise and 27 and 41 Matthew Lane. 54 Moorland Rise has a gable end facing onto the site, 56 Moorland Rise backs onto Matthew Lane and both 27 and 41 Matthew Lane have an indirect relationship with the site. Plots 1-4 are closest to these properties and are either at the same level or slightly set down from Matthew Lane. Officers are satisfied that the separation distances provided combined with the respective orientation of the existing and new dwellings means that an acceptable standard of amenity would be provided/retained.
- 10.23 To the east of the site are 2-12 Mill Close. 2 Mill Close has a gable end directly abutting the site which contains a small secondary/non-habitable window in the upper floor. The window is 11.2m from the rear elevation of plot 8 and slightly off set from it. This relationship is considered to be acceptable.
- 10.24 Numbers 4, 6 and 8 Mill Close back onto the site with number 4 having been extended at the rear bringing it closer to the site boundary. Plot 10 lies to the rear of these properties. Plot 10 is at least 18.9m from 4 Mill Close and 22m from 8 Mill Close. The orientation of plot 10 is such that there is an oblique relationship with number 4 (i.e. the closest of these neighbouring properties). The separation and orientation of plot 10 in relation to 2-8 Mill Close results in an acceptable standard of amenity in officers' view.
- 10.25 12 Mill Close has a blank gable end close up to the site boundary. The property backs onto Matthew Lane and has a conservatory at the rear. Plot 1 is adjacent to 12 Mill Close and is set in from the boundary by around 3m. Plot 1 projects beyond the front elevation of 12 Mill Close. There are no significant concerns with this relationship.
- 10.26 Plot 4 would closely overlook a parcel of undeveloped land to the rear of Springfields. The development potential of this land is already significantly constrained because of the proximity of Springfields – which is a bungalow set down from this piece of land – as well as the proximity 41-47 Matthew Lane which front onto the undeveloped land on the opposite side of Matthew Lane. In the circumstances it is considered that the proposals would not materially harm the development potential of the parcel of undeveloped land.

- 10.27 To maintain acceptable separation distances between dwellings it is considered that permitted development rights for rear extensions should be removed on plots 1, 4, 8, 9 and 10.

Landscape issues

- 10.28 There is no open space provided within the site although given the site's size and topography it is unrealistic to expect open space to be provided.
- 10.29 There are garden areas abutting both Mill Moor Road and Matthew Lane which are shown as including some planting and this will help to soften the visual impact of the development.
- 10.30 It is recommended that a drystone wall is retained to the Mill Moor Road and Matthew Lane frontages. Details of the internal boundary treatment (including the proposed retaining wall within the site) and the treatment of the eastern and western boundaries can be secured by condition.

Highway issues

- 10.31 The proposed development consists of 4no. three bed semi-detached houses and 6no. four bed detached dwellings. One of the four bed detached houses, and two of the three bed detached dwellings front Mill Moor Road to the north. The two other semi-detached houses and one detached house will be served off a shared private driveway with access onto Mill Moor Road. The remaining four detached houses will face onto Matthew Lane to the rear of the site, each with a separate driveway onto Matthew Lane.
- 10.32 The application is supported by a speed survey on Matthew Lane.
- 10.33 Highways Development Management have assessed the proposals and are satisfied with the visibility splays onto Mill Moor Road and Matthew Lane. The level of parking and driveway gradients are acceptable and adequate bin storage and collection arrangements are provided.
- 10.34 No visitor parking is provided although it is accepted that this can be accommodated on-street given the relatively small number of dwellings proposed off Mill Moor Road and Matthew Lane.
- 10.35 A footway is to be formed to the Matthew Lane site frontage. This can be secured by condition.
- 10.36 The applicant has been asked to consider whether there is scope to provide a ramped access in place of some existing steps that are between numbers 41 and 56 Matthew Lane. The steps are within the adopted highway and provide a pedestrian connection between Moorland Rise and Matthew Lane. An update will be provided to Members on this matter.
- 10.37 The application is considered to comply with PLP21 of the Local Plan subject to conditions requiring a construction management plan, surfacing of car parking areas and visibility splays.

Drainage issues

- 10.38 There have been discussions between the applicant and Kirklees Lead Local Flood Authority (LLFA). Additional information has been provided by the applicant following these discussions.
- 10.39 It is proposed to discharge surface water to the combined public sewer in Mill Moor Road. Attenuation would be provided on-site to restrict the rate of discharge. The attenuation would be located under the shared private driveway serving plots 7-10.
- 10.40 There is an existing land drain within the site and water from this is to be collected at source within the boundary of plot 4 before being diverted around plots 4 and 5 where it will connect into an existing pipe within Mill Moor Road. An easement of over 6m has been provided for the majority of the land drain through the site although there is a pinch point between plot 5 and the existing Springfield bungalow where the easement reduces to 4m for a length of 3m.
- 10.41 The drainage proposals are accepted by Kirklees LLFA, subject to conditions for detailed drainage design and construction including the proposed land drain diversion. Yorkshire Water have not raised any objections to the connection to main sewer at a restricted rate of 3 litres per second.
- 10.42 Arrangements for the future maintenance and management of the surface water drainage infrastructure need to be secured. This can be achieved through condition or s106. The diverted land drain would fall within Riparian ownership.

Ecology

- 10.43 The site is principally grazing land and consequently it is considered to be of low ecological value, as was also confirmed by a Preliminary Ecological Appraisal submitted under the previous outline application.
- 10.44 It is considered that some ecological enhancement can be secured through an Ecological Design Strategy that focuses on planting/soft landscaping and the provision of bat and bird boxes. This can be conditioned.

Representations

- 10.45 The main thrust of the objections is that there are too many houses on the site and the size of them needs to be reduced.
- 10.46 The density of the development is slightly below what the council would normally be seeking on a site of this size based on Policy LP7 of the Local Plan and the quantum of development has been accepted by officers as being acceptable in this instance. The applicant has kept the scale of the dwellings to two storeys in height and given the topography of the land it has been necessary to form an upper and lower development plateaux on which to construct the houses. The scale of the dwellings has been given careful consideration and for the reasons set out in this report the scale of the houses is considered to be acceptable.

- 10.47 In response to the other main points raised, the principle of development has already been established and the residential and visual amenity impacts have been addressed within this report. The application is considered to be acceptable to Highways Development Management and there are no objections from Kirklees Lead Local Flood Authority or Yorkshire Water. Potential contamination issues are to be addressed by conditions.
- 10.48 Given the scale of development the impact on local services would not be at a level that would require any contributions.
- 10.49 Concerns with the impact of construction can be dealt with through a construction management plan and any construction site nuisances that arose, such as noise, odour and dust, can be addressed through Environmental Health legislation.

Planning obligations

- 10.50 The quantum of development is below the threshold for affordable housing and does not meet the trigger for an education contribution.
- 10.51 The site meets the 10 dwelling threshold for the provision of open space provision under Policy LP63 of the Local Plan. There is no realistic scope for this to be provided on-site and therefore an off-site commuted sum is sought (£18,850). Planning contributions must be directly related to a development and therefore the contribution is to be targeted within Meltham.
- 10.52 To promote sustainable travel a contribution is sought towards the provision of Metro Cards (£5,000).

Other Matters

- 10.53 Environmental Services have been consulted and have not raised any objections subject to conditions requiring intrusive site investigations and site remediation (as may be necessary). This is principally in relation to the potential for gas migration from backfilled quarries/mill ponds, as referred to within the submitted contamination report.
- 10.54 A condition requiring the provision of electric vehicle charging points is recommended to mitigate the impact of the development on air quality. This is in line with LP24 of the Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy.
- 10.55 The Police Architectural Liaison Officer has suggested that the security of plot 5 would be improved if plot 4 was re-orientated so that it faced Matthew Lane and its rear garden backed onto plot 5. Such a change would result in close overlooking between plots 4 and 5 and so such a change is not desirable on amenity grounds.
- 10.56 The side utility door to plots 4, 5 and 10 has been raised as a concern by the Police Architectural Liaison Officer because it would create an additional unnecessary point of entry to the property. The applicant is aware of the Police Architectural Liaison Officer's comments and so they have the option to consider whether they still wish to retain the utility door.

10.57 The Police Architectural Liaison Officer has also commented that none of the plots are showing restricted access from the front into the rear garden. It has been recommended that a high lockable gate is provided to the plots connected to the boundary fencing that is to be installed. This can be conditioned.

11.0 CONCLUSION

11.1 The principle of residential development on the land has already been established by the previous outline permission.

11.2 The proposed scale, layout and appearance of the development is considered to be in keeping with the character of the area, the impact of the development on existing occupiers of land and future occupiers of the dwellings has been assessed and found to be acceptable and the development is acceptable in highway safety terms.

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. Time limit (3 years)
2. Development in accordance with the approved plans
3. Approval of samples of materials
4. Intrusive site investigations and scheme of remediation and a validation report (as may be necessary)
5. Ecological Design Strategy including planting schedule and bat and/or bird boxes
6. Detailed drainage design including restriction of surface water discharge to 3 litres per second
7. Detailed design of diverted land drain
8. Details of boundary treatment including rockery/retaining wall
9. Drystone wall to Mill Moor Road and Matthew Lane site frontages
10. Details of lockable gates to prevent unrestricted access to rear of plots
11. Remove permitted development rights for rear extensions on plots 1, 4 and 8-10.
12. Surfacing of parking areas
13. Nothing to be planted or erected within 2m of the carriageway edges to maintain acceptable sightlines
14. Construction management plan
15. Footway to Matthew Lane
16. Electric vehicle recharging points

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90811>

Certificate of Ownership Certificate B – Notice served on 8th March 2019

Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Aug-2019

Subject: Planning Application 2019/90085 Erection of 10 dwellings Land at, Lancaster Lane, Brockholes, Holmfirth, HD9 7TL

APPLICANT

Eliston Homes Ltd

DATE VALID

14-Jan-2019

TARGET DATE

15-Apr-2019

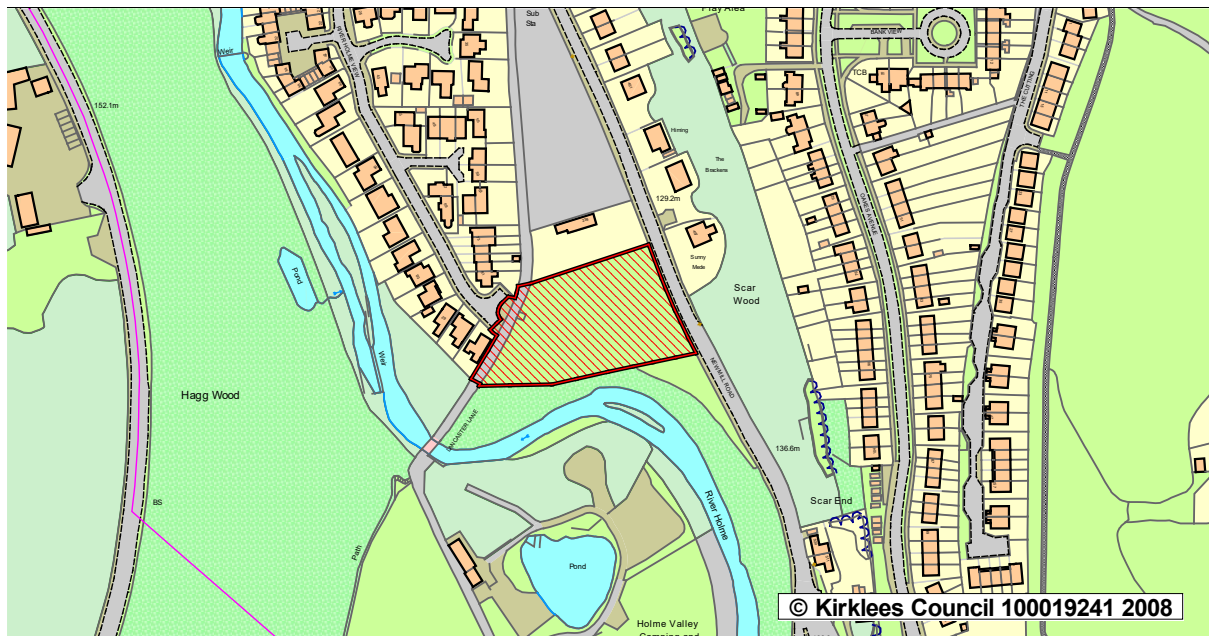
EXTENSION EXPIRY DATE

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

Yes

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 to secure a S106 agreement to cover the following matters:

1. Public open space provisions comprising of an off-site commuted sum (£18,850).
2. Metro Cards (£5,000)
3. Arrangements for the future maintenance and management of surface water drainage infrastructure within the site.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development and Master Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application is brought forward to the planning sub-committee for determination in accordance with the delegation agreement because the site area exceeds 0.5 hectares.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of land that lies at the end of River Holme View. The land slopes up steeply towards the east where it meets New Mill Road. Immediately to the west of the site is Lancaster Lane – an unmade track which forms a public right of way.
- 2.2 The site is flanked to the north by 238 New Mill Road which forms a large detached dwelling. To the south of the site lies Holme Valley Camping and Caravan Park and the southern boundary of the application site forms a boundary with the adjacent Green Belt land.
- 2.3 In the recent past the site has been used for keeping pigs but the land is currently unused and vegetation has re-established itself on the site.

2.4 The site comprises housing allocation HS173.

3.0 PROPOSAL:

3.1 The application seeks full planning permission for the erection of 10 dwellings.

3.2 There are 7 detached dwellings and 3 terraced dwellings. All of the properties have 3 storey frontages and are 2 storeys at the rear. Facing materials are natural stone and artificial slate.

3.3 There is an access drive off Lancaster Lane serving 5 properties towards the back of the site and the remaining 5 properties at the front of the site take their access directly off Lancaster Lane.

4.0 RELEVANT PLANNING HISTORY:

2016/90146 Outline application for the erection of residential development – Allowed on appeal following an appeal against non-determination

2014/93579 Outline application for erection of 14 dwellings – Refused on Urban Greenspace and Ecology grounds

2003/94593 Variation of condition 2 on previous outline planning permission for residential development, granted on appeal on 19 January 1999 (ref. 98/60/91665/W3) to allow application for approval of the reserved matters to be made to the Local Planning Authority before the expiration of six years from the date of this permission – Refused (and subsequent appeal invalid)

2002/93722 Erection of 2 detached dwellings with integral garages (plots 4 & 5) – Refused

2001/91485 Erection of 3 detached dwellings with integral garage and associated road (Plots 1 -3) – Refused

1998/91665 Outline application for residential development – Refused & Appeal Upheld

Also relevant to this application are the following applications. These relate to a separate parcel of land just to the north of the application site that would also take access off Lancaster Lane via River Holme View.

2016/90138 Outline application for the erection of residential development – Approved

2018/92589 Reserved matters application pursuant to outline application 2016/90138 for residential development – The Strategic Committee resolved to approve the application but the application is now subject to an appeal against non-determination

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

- 5.1 The scheme has been amended to improve the mix of dwellings on the site. It was initially proposed to have 10 detached dwellings but the scheme now includes 3 terraced properties.
- 5.2 A plot has been removed from the highest risk flood area within the site (Flood Zone 3).
- 5.3 A landscape buffer has been provided to the southern boundary to mitigate the impact on ecology.
- 5.4 Drainage information provided and scheme amended to address Highways Development Management comments.

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
LP11 – Affordable housing and housing mix
LP21 – Highway safety and access
LP22 – Parking standards
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 - Biodiversity and geodiversity
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:

NPPF Chapter 2 – Achieving sustainable development
NPPF Chapter 4 – Decision-making
NPPF Chapter 5 – Delivering a sufficient supply of homes
NPPF Chapter 8 – Promoting healthy and safe communities
NPPF Chapter 11 – Making effective use of land
NPPF Chapter 12 – Achieving well-designed places
NPPF Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
NPPF Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by site notices, neighbour letters and press advert. 11 objections and 2 letters in support were received in response to this publicity. A summary of the comments received is provided as follows:

Objections:

- Access to the site crosses Holmfirth Footpath 32. This is not mentioned in the application. There is no information as to how public access and the integrity of the path will be maintained during construction or how the path will be accommodated and kept safe and walkable after development.
- The layout does not conform with the identified constraints of the housing allocation
- Housing density is too high
- Impact of vehicle movements on users of the public footpath
- Impact on the sewer crossing the site
- Where will visitors park? Impact of on-street parking on access
- Larger homes have a greater impact than smaller homes
- Impact on local infrastructure
- Long history of refused applications on the site
- The ecology of the land will have recovered since the pigs were removed
- Multiple accesses off Lancaster Lane (as proposed) is not the same access arrangements that was approved at outline stage
- The local school is already oversubscribed
- Plots 1-4 at risk from surface water run-off
- Development within the south-west corner of the site (Flood zone 3) likely to result in increased flood risk to 66 River Holme View
- Impact on access to adjacent caravan and camping site
- Plot 1 infringes onto Lancaster Lane
- Query ownership of Lancaster Lane
- House type (100% detached) and scale of properties not in keeping with character of the area
- Impact of scale of houses on residential and visual amenity

- Overlooking/loss of privacy
- Detrimental impact on public footpath users
- Impact on stability of Lancaster Lane
- Impact on drains
- Development will increase surface water run-off and flood risk
- Increased risk of flooding from the River Holme
- Additional traffic – impact on highway network
- The houses are not suitable for affordable housing
- Impact on adjacent woodland and ecology
- Light pollution from new street lighting and noise pollution from use of Lancaster Lane
- Impact on a protected species
- Loss of biodiversity
- Use of soakaways inappropriate and will increase flood risk
- Overshadowing from 4 storey houses
- Limited facilities within Brockholes village
- Some existing dwellings on River Holme View affected by subsidence. Additional development could make this worse.
- Loss of open green space
- Infill development – village ‘creep’

In support:

- New houses are welcomed and needed in this area
- There is a lack of housing in this area
- Objectors are adopting a NIMBY attitude
- Development will have little impact on existing houses and infrastructure
- The houses will improve the look of the site which is a lousy old field with no positive attributes

7.2 Following the changes to the site layout the amended plans were advertised by neighbour notification letters. The publicity of the amended plans expires on 14th August 2019.

To date 1 objection has been received. This is summarised as follows:

- Latest proposal still hasn't addressed concerns with the safety of users of Lancaster Lane. There is not a 2m wide footway.
- 4 storey houses not in keeping with current housing and will be very imposing and affect privacy.
- Drainage scheme ties into existing infrastructure. Increased risk of flooding.
- The ecology of the site has recovered and is a valuable resource for ecology.

Ward Councillor Charles Greaves –

“Has the applicant submitted any new reports?
Has the presence of, and impact on, Protected Species been reviewed?
The submitted flood report from 2016 clearly contradicts the application as building above the flood line does not address all of the identified issues (surface run off and need for river over-flow zone) - a new expert report is essential.”

Councillor Greaves has subsequently provided comments on the amended plans as follows:

“I remain concerned about how much of Plots 1 and 2 will remain in the flood zone, and how the residents will safely leave their properties in bad weather.

It is unclear but there seems to be a high risk to any vehicles parked to the front of the properties. Will Kirklees and the developer be flagging up the flood risk to potential buyers and residents so they are aware of the risk to life and property? Will they be marking off on the ground the extent of the flood risk zone?

Building right up the banking will invade the privacy of the homeowners below, and I am concerned that the sloped banking will be difficult to drive and will result in drivers parking away from their property.

This proposal will generate a lot of traffic and no effective provision has been made for vehicles meeting vehicles, horses, cyclists and pedestrians.

Where is the large vehicle turning head for the existing estate and the new houses? How will refuse and other large vehicles access the higher properties?”

Home Valley Parish Council - Object to the application on the grounds of the impact it would have on access to the campsite and concerns of overlooking on neighbouring properties. Plot 1 is the main cause for concern.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objections subject to a Stage 1 Road Safety Audit and subject to conditions.

KC Lead Local Flood Authority – No objections to the proposed drainage scheme.

Environment Agency – Object on the basis of an inadequate flood risk assessment. Most of the site is shown to be in flood zone 1 however the south west area of the site has proposed buildings located in an area identified as flood zone 2 and 3. A sequential approach is recommended for the location of the proposed dwellings within the site so that they are located in the areas of the site within the lower flood risk. If parts of the development remain in flood zone 3 a scheme for compensatory storage should be submitted to mitigate loss of storage in flood zone 3.

Finished floor levels to be no lower than 600mm above the 1 in 100 year modelled flood level plus climate change.

If there are to be changes to the existing flood routes through the site as a result of altering land levels this must not increase flood risk off-site.

Flood resilience measures should be provided within the dwellings.

8.2 Non-statutory:

KC Ecology Unit – Additional on-site compensation required for the loss of lowland dry acid grassland. Concerns raised with the separation between plots 1, 9 and 10 and the adjacent woodland that functions as part of a larger Wildlife Habitat Network. The layout has been amended and so there should be a reassessment on the impact of the development on a protected species. Conditions required for Construction Environment Management Plan, Landscape and Ecological Management Plan, lighting scheme and invasive species management protocol.

KC Environmental Services – No objection subject to a condition regarding the reporting of any unexpected contamination and the provision of electric vehicle charging points.

Yorkshire Water – No objection subject to conditions

Police Architectural Liaison Officer – Concerns raised with plot 1 with it being directly adjacent a PROW. Limited natural surveillance of the frontage of plot 9 due to it being set back from plot 10.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Flood risk and drainage issues
- Ecology
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated for housing in the Local Plan (HS173) and therefore the principle of the development is accepted in accordance with the allocation.
- 10.2 Additionally, there is an extant outline consent for residential development on the site (2016/90146) which has previously established the principle of housing on the site.

Urban Design issues

- 10.3 The proposal would effectively form an extension of the River Holme View estate by infilling a wedge of land between River Holme View and New Mill Road, albeit the proposed development would be set higher up than the existing residential estate which occupies the flatter valley floor.
- 10.4 The layout of the site has been influenced by its topography, the south west corner of the site falling within a high risk flood zone and the presence of important ecological habitats.
- 10.5 The allocation comprises an area of 0.47ha but the developable area is identified as being 0.31ha as a result of the identified flood risk and ecological constraints.
- 10.6 The indicative capacity of the allocation is 14 dwellings which directly reflects the quantum of development as shown for indicative purposes under the extant outline permission (2016/90146). However, based on the net site area the capacity of the allocation would be 11 dwellings when applying the council's minimum target density of 35 dwellings per hectare as set out under Policy LP7 of the Local Plan.
- 10.7 The proposal is for 10 dwellings which equates to a density of 32 dwellings per hectare on the developable area. When looking at the allocation in its entirety the density equates to 21 dwellings per hectare.
- 10.8 Officers have calculated that the existing density of River Holme View is approximately 26 dwellings per hectare.
- 10.9 Under the previous application (2016/90146) the appeal inspector considered that 14 dwellings on the site would be reflective of the existing character and urban grain of River Holme View. 14 dwellings equates to just under 30 dwellings per hectare on the entirety of the allocation.
- 10.10 Taking into account the site's constraints, which have resulted in areas of undeveloped land to the east and west, and having regard to the character of River Holme View, it is considered that the proposed density of development is acceptable.

- 10.11 The layout provides a row of 3 terraced houses and 7 detached houses. The surrounding area has a mixture of house types including detached, semi-detached and terraced properties and in this context the proposals would be in keeping with the surrounding area.
- 10.12 The dwellings are all split level, being three storeys to the front and two at the rear, which reflects the topography of the site. Additional accommodation is provided in the roof space of each dwelling.
- 10.13 Adjacent development on River Holme View consists of traditional two storey dwellings and bungalows.
- 10.14 The new dwellings are generally set back within the site and from River Holme View they would be viewed against the backdrop of the valley side. From New Mill Road views of the development would principally be down onto the roofs of the new dwellings. As such officers are satisfied that the scale of the proposals would not be incongruous. Furthermore, it is worth noting that late last year the Strategic Planning Committee resolved to approve a similar scale of development for 9 dwellings on a separate piece of land off Lancaster Lane that lies a short distance to the north of the application site (2018/92589).
- 10.15 The general design approach is considered to be acceptable and is comparable to the appearance of the 9 dwellings as proposed on the separate piece of land to the north. The 3 terraced houses include a front balcony above the garage and whilst such balconies are not characteristic of the area their presence would not result in any significant harm to the visual amenity of the area in officers' opinion.
- 10.16 Facing materials are natural stone and artificial slate. These materials are considered acceptable subject to approval of samples.
- 10.17 In summary the development is considered to comply with Policy LP24 of the Local Plan and guidance in the National Planning Policy Framework with respect to design and appearance.

Residential Amenity

- 10.18 The proposed dwellings are generally well separated from the nearest residential properties. The nearest existing dwellings are 66 River Holme View, 81 River Holme View and 238 New Mill Road.
- 10.19 Plot 2 is 28m from the side wall of no.66 River Holme View which represents a generous separation distance to this existing property. Plot 1 is 34m away.
- 10.20 The balcony to plot 5, which projects forward from the main dwelling, is approximately 26m from the conservatory at the rear of 81 River Holme View. The balcony is off-set from the rear elevation of no.81. There is a distance of 15m from the balcony to the boundary of this neighbour's main private amenity space. The relationship is considered to be acceptable.
- 10.21 The side wall of plot 6 is 21m from the front of 238 New Mill Road and is around 2.5m from the boundary of this adjacent dwelling, which has an extensive curtilage. The separation distances are considered acceptable.

- 10.22 The separation distances involved combined with the orientation of the new dwellings are such that there would not be any significant harm caused to existing occupiers and a good standard of amenity would be provided for future occupiers of the proposed houses.
- 10.23 The application is considered to comply with LP24 of the Local Plan and guidance in the NPPF.

Landscape issues

- 10.24 Some small areas of landscaping are provided within the layout. These are in the south west corner of the site and along the eastern boundary with New Mill Road. There is also an undeveloped strip of land that provides a narrow buffer along the southern boundary. The presence of these areas helps to soften the visual impact of the development and provides scope for biodiversity mitigation and enhancement.
- 10.25 Details of the internal and external boundary treatment, including the gabion wall to the east of the site, can be secured by condition.

Highway issues

- 10.26 Access to the site is via River Holme View - a residential cul-de-sac with a 5.5m carriageway and footways and street lighting to both sides. There is a turning head at its southern end which abuts Lancaster Lane which provides access to a single dwelling to the north and leads on to the A616 New Mill Road and a camping / caravan park to the south before joining the A6024 Woodhead Road to the west.
- 10.27 At its northern end River Holme View forms a priority junction with Rockmill Road. The latter is about 7m wide with footways and lighting to both sides. Rockmill Road provides the main access to a small commercial estate known as Brockholes Business Park. Rockmill Road forms a priority junction with the A616 New Mill Road.
- 10.28 The site falls steeply from New Mill Road down to Lancaster Lane and structural engineering measures will be required to ensure that the public highway above is not compromised.
- 10.29 Ten large 4/5 bed roomed houses are proposed. The plots have substantial integral garages with additional parking on private driveways to their frontage.
- 10.30 The proposals include the extension of River Holme View with the provision of a new larger turning head to replace the existing turning head.
- 10.31 Plots 1 and 2 are served off a shared driveway directly off Lancaster Lane. Plots 3-5 have individual driveways off Lancaster Lane. Plots 5 to 10 have access via a steep shared private driveway with a maximum gradient of 1 in 8.
- 10.32 A bin collection point together with a dry riser inlet cabinet are shown adjacent to plot 5. Internal turning for a refuse or emergency vehicle is not therefore considered necessary for the proposed shared private driveway serving plots 5-10.

- 10.33 The applicant has shown 3 no. visitor parking spaces within the existing adopted turning head. This is considered acceptable because a replacement turning head will effectively be formed on Lancaster Lane.
- 10.34 Highways Development Management consider the revised site layout to be acceptable.
- 10.35 The PROW officer has raised concerns that pedestrian provision on the public footpath (Lancaster Lane) is secondary to the requirements of vehicles where there is to be a new turning head and various points of access for the new dwellings.
- 10.36 It is acknowledged that there will be an intensification of vehicular activity on the public footpath. However, on balance, the amount of vehicular activity generated by this development is unlikely to significantly prejudice the safety and amenity of footpath users. This remains the case when taking into account any development on the separate parcel of land to the north of the application site that will share the same point of access from River Holme View. It is considered that the proposals provide an acceptable shared surface arrangement and it is noted that the layout plan shows a footway to much of the site frontage that would provide some refuge for footpath users if necessary. It is also to be noted that outline permission for 14 dwellings has previously been approved on the site and so the proposal is for a less intensive quantum of development.

Flood risk and drainage issues

- 10.37 The western part of the site contains land that falls within higher risk flood areas on the Environment Agency's Flood Risk Map. The south west corner of the site is at the highest risk of flooding (Flood Zone 3) and there is an area of land surrounding this that is at a lower risk of flooding (Flood Zone 2). The remainder of the site is in Flood Zone 1.
- 10.38 The applicant has amended the scheme to remove a dwelling that fell entirely within Flood Zone 3 and so there is no residential development within the part of the site that is at the highest risk of flooding.
- 10.39 Plot 1 and most of plot 2 fall within Flood Zone 2. A small proportion of plot 3 also falls within this Flood Zone along with some of the driveways to plots 4 and 5. The remainder of the development (plots 5-10) is within Flood Zone 1.
- 10.40 Comments have been sought from the Environment Agency on the revised site plan and further information on flood risk will be provided to Members within the written update. Flood risk mitigation can nevertheless be provided for by ensuring the finished floor levels are in line with the advice already given by the Environment Agency. In addition, the lower ground floors of the properties within Flood Zone 2 only contain non-habitable accommodation (garage, utility, WC) which provides some flood resilience. Further measures could be provided within the construction, such as having raised electrical sockets.
- 10.41 Some re-profiling of the ground within Flood Zone 3 is proposed and advice from the Environment Agency has been sought in terms of the potential impact on flood routes. An update will be provided on this matter.

- 10.42 Additional information has been provided in relation to drainage. It is proposed to discharge surface water to public combined sewer. A connection will be made to the sewer that crosses the south-west corner of the site. Attenuation is to be provided within the site to restrict the rate of discharge (to 3 litres per second). Surface water run-off from the adoptable turning head will be directed to road gullies in River Holme View.
- 10.43 Kirklees Lead Local Flood Authority has assessed the drainage proposals and consider them to be acceptable. A condition relating to detailed drainage design is recommended. It has been indicated that the new drainage infrastructure will be in private ownership and arrangements for the future maintenance and management of the system are to be secured under a s106 Agreement.
- 10.44 Yorkshire Water have not raised any objections to the application. They have commented that there are two public sewers crossing the site, these are in the south west corner. The dwellings provide acceptable stand-off distances to the sewers although the detailed soft landscaping scheme (to be required by condition) will need to take the sewers into account to ensure no trees are located over or adjacent to the sewers.

Ecology

- 10.45 The site forms part of a designated Wildlife Habitat Network.
- 10.46 The main ecology concerns relate to the loss of lowland acid grassland which is a habitat of principal importance. This requires mitigation to avoid significant ecological harm. The recreation of an area within the site layout to compensate for the loss of this habitat can be provided for within the undeveloped south west corner of the site and the layout has also been amended to include a 1-1.5m buffer along the southern boundary which is shown as lowland dry acidic grassland. The southern boundary is particularly sensitive because it is adjacent to an area of trees which will act as a foraging network and a connective feature for the movement of wildlife and so the buffer is an important feature. There is also a landscape buffer to the eastern boundary which provides additional ecological mitigation. Details of the landscaping of the site are to be secured by condition.
- 10.47 The Ecology Unit has raised concerns with the proximity of plots 1, 9 and 10 to the woodland to the south of the site and the potential impact on the use of the woodland by wildlife. The trees are not protected and on balance it is considered that an acceptable separation distance is provided such that the long term viability of the trees are unlikely to be unduly prejudiced. Furthermore, the separation between the dwellings and the woodland now includes an undeveloped strip of land immediately adjacent to the trees that falls outside of the residential curtilage of the plots. Further mitigation on the woodland can be provided through a lighting design strategy.
- 10.48 A condition for a Construction Environmental Management Plan is recommended. This will help to mitigate the impact of construction on the River Holme which is a habitat of principal importance and local Biodiversity Action Plan habitat. In particular mitigation is required in relation to water run-off.

- 10.49 Japanese knotweed and Himalayan balsam have been recorded on site. A protocol to ensure eradication within the site and prevent the spread outside of the site can be secured through condition.
- 10.50 A condition is also recommended to ensure vegetation clearance takes place outside of the bird breeding season.
- 10.51 The impact on a protected species has been assessed and is accepted by the Ecology Unit. The assessment is however based on the original iteration of the scheme and so further information has been sought on the basis of the scheme as amended. An update on this will be provided to Members.
- 10.52 Subject to the provision of the compensatory grassland habitat as described and the aforementioned conditions the application is considered to comply with LP30 of the Local Plan and guidance in the NPPF.

Representations

- 10.53 A response to the objections is provided below:

- Access to the site crosses Holmfirth Footpath 32. This is not mentioned in the application. There is no information as to how public access and the integrity of the path will be maintained during construction or how the path will be accommodated and kept safe and walkable after development.

- Detrimental impact on public footpath users

Officer response: A condition regarding the construction of the access/turning head is recommended. The impact on users of the footpath has been assessed within this report.

- The layout does not conform with the identified constraints of the housing allocation

Officer response: The scheme has been amended to remove development in Flood Zone 3 and to provide ecological mitigation. The layout is now considered to comply with the constraints identified in the allocation, subject to comments from the Environment Agency in relation to development in Flood Zone 2.

- Housing density is too high

Officer response: Housing density has been discussed earlier in this report.

- Impact of vehicle movements on users of the public footpath

Officer response: Discussed earlier in this report.

- Impact on the sewer crossing the site

Officer response: Discussed earlier in this report.

- Where will visitors park? Impact of on-street parking on access

Officer response: Discussed earlier in this report. Scheme amended to provide visitor parking within the existing turning head.

- Larger homes have a greater impact than smaller homes

Officer response: The size of the houses is considered acceptable.

- Impact on local infrastructure
- The local school is already oversubscribed

Officer response: The scale of the development does not warrant contributions towards local services.

- Long history of refused applications on the site

Officer response: There is an outline permission on the site and the land is allocated for housing.

- The ecology of the land will have recovered since the pigs were removed

Officer response: Agreed. Ecology issues discussed within this report.

- Multiple accesses off Lancaster Lane (as proposed) is not the same access arrangements that was approved at outline stage

Officer response: This is a stand-alone application for full planning permission. The access arrangements are considered acceptable to officers as discussed in this report.

- Plots 1-4 at risk from surface water run-off
- Development within the south-west corner of the site (Flood zone 3) likely to result in increased flood risk to 66 River Holme View

Officer response: The dwelling in this part of the site has been removed. Advice sought from the Environment Agency on re-grading of the land in relation to increased flood risk off-site.

- Impact on drains
- Development will increase surface water run-off and flood risk
- Increased risk of flooding from the River Holme
- **Officer response:** Discussed earlier in this report.

- Impact on access to adjacent caravan and camping site
- Plot 1 infringes onto Lancaster Lane

Officer response: Plot 1 was encroaching onto Lancaster Lane but this has been removed. The development would not obstruct access.

- Query ownership of Lancaster Lane

Officer response: There is nothing to indicate that the incorrect ownership certificates have been supplied.

- House type (100% detached) and scale of properties not in keeping with character of the area

Officer response: Scheme amended to include some terraced houses. Scale discussed within this report.

- Impact of scale of houses on residential and visual amenity
- Overlooking/loss of privacy
- Overshadowing from 4 storey houses

Officer response: Residential amenity issues discussed earlier in this report.

- Additional traffic – impact on highway network

Officer response: 14 dwellings has previously been found to be acceptable on the site and the land is now allocated for housing. The traffic impacts have therefore been assessed as acceptable.

- The houses are not suitable for affordable housing

Officer response: The development does not trigger a contribution towards affordable housing.

- Impact on stability of Lancaster Lane
- Light pollution from new street lighting and noise pollution from use of Lancaster Lane

Officer response: As the site is accessed directly from the existing turning head at River Holme View the impact on the stability of Lancaster Lane and the impact of new street lighting and vehicle movements is not considered to be significant. These impacts have previously found to be acceptable (subject to conditions) under the application for housing slightly further to the north that involves vehicles driving up Lancaster Lane behind existing houses.

- Impact on adjacent woodland and ecology
- Impact on a protected species
- Loss of biodiversity

Officer response: Ecology issues addressed within this report.

- Use of soakaways inappropriate and will increase flood risk

Officer response: Accepted that soakaways inappropriate. Drainage to connect to main sewer.

- Limited facilities within Brockholes village

Officer response: The site is considered to be a sustainable location.

- Some existing dwellings on River Holme View affected by subsidence. Additional development could make this worse.

Officer response: The dwellings are well separated from existing development and subsidence is not considered likely.

- Loss of open green space
- Infill development – village ‘creep’

Officer response: The site is allocated for housing.

Planning obligations

- 10.54 The development does not meet the trigger for affordable housing or education contributions.
- 10.55 The site meets the 10 dwelling threshold for the provision of open space provision under Policy LP63 of the Local Plan. There is no realistic scope for this to be provided on-site and therefore an off-site commuted sum is sought (£18,850). Planning contributions must be directly related to a development and therefore the contribution is to be targeted within the local area.
- 10.56 A contribution is sought for Metro Cards to promote sustainable travel (£5,000).

Other Matters

- 10.57 The application is supported by an intrusive site investigation report that has been reviewed by Environmental Services. The report is satisfactory and no objections are raised subject to a condition regarding the reporting of unexpected contamination.

10.58 To mitigate the impact on air quality it is recommended that an electric vehicle recharging point is installed within the garage of each dwelling. This is to accord with LP24 of the Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy.

11.0 CONCLUSION

11.1 The principle of development is established in accordance with the land's allocation.

11.2 The development is considered to be in keeping with the character of the area and the residential amenity and highway safety impacts have been assessed as being acceptable. Drainage and ecological matters have been satisfactorily resolved.

11.3 Comments from the Environment Agency are awaited on the revised layout and subject to flood risk matters being resolved the application is considered to be acceptable.

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 approved plans
3. Approval of samples of facing materials
4. Reporting of unexpected contamination
5. Detailed design of the access/turning head
6. Surfacing of parking spaces
7. Details of the internal and external boundary treatment, including the gabion wall to the east of the site
8. Details of soft landscaping scheme (to take account ecology matters and presence of sewers within the site)
9. Detailed drainage design
10. Construction Environment Management Plan
11. Landscape and Ecological Management Plan
12. Lighting design strategy
13. Invasive species management protocol
14. Electric vehicle charging points
15. Vegetation clearance outside of bird breeding season
16. Construction management plan
17. Finished floor levels set to satisfaction of Environment Agency
18. Scheme to ensure stability of New Mill Road

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90085>

Certificate of Ownership – Certificate A signed.

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Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Aug-2019

Subject: Planning Application 2019/92128 Erection of extensions and alterations to dwelling, erection of detached garage and related landscape works (within a Conservation Area) Eastwood House, 14, Green Cliff, Honley, Holmfirth, HD9 6JN

APPLICANT

Mr & Mrs Bedford

DATE VALID

24-Jun-2019

TARGET DATE

19-Aug-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: 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 applications is brought to Sub-Committee for determination at the request of Cllr Lyons, as this application is a modified proposal from application 2018/93717 which was determined by Sub-Committee on 6th June 2019.

2.0 Site and Surroundings

2.1 Eastwood House, 14 Green Cliff, Honley is a substantial, two storey, detached dwelling faced with coursed natural stone walls and a concrete tiled roof. The property, granted permission in 1992, is set within a large curtilage of approximately 1,480m². The property benefits from a detached garage to the north of the site, as well as a large garden which wraps around the south and east of the site. The land in to the south west of the application site is steeply banked and is difficult to access. Land within the application site is designated as part of a Tree Preservation Order (TPO) which stretches towards no.16 Green Cliff and into the Green Belt. The site is also located within the Honley Conservation Area.

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

3.0 PROPOSAL

3.1 The application seeks permission for the erection of extensions and alterations to the dwelling, erection of detached garage and related landscape works. The extensions to the dwelling are the same as those proposed on application 2018/93717 whilst the garage is smaller in scale. The extensions are to both side elevations of the dwelling and the detached garage is to the south east of the site. The landscape works are to form space for the garage and see the part of the bank to the south west of the site excavated and a driveway formed.

- 3.2 The larger extension to the dwelling is to be two storey and on the north-west facing side elevation. It shall see the existing garage demolished and an extension built on a similar footprint. This extension would project 5.5m from the main dwelling which is the same distance as the side elevation of the existing garage. The width of this extension is 6m, with a maximum 6m with the eaves at 3.8m.
- 3.3 The smaller extension on the south east side will see the existing utility roof removed and the extension incorporate this footprint. The extension is to be two storey also. It has a projection of 2.6m, the same as the utility room; a width of 5m with a maximum height of 6.4m which would see the dwellings ridge height maintained, with the eaves at 4.6m.
- 3.4 The proposed garage is to be a single storey, double garage with a pitched roof. The footprint is 6.7m wide by 7.7m long which creates a 6m x 7m internal footprint. The maximum height of the garage is 5.2m above the existing driveway level with the eaves at 2.6m above ground level. The ridge height is 1.3m below the height of the garage proposed under the previous application.
- 3.5 The materials of the extensions and garage are all to match the existing property in its entirety with natural coursed stone for the walls, concrete tiles for the roof and timber/aluminium windows and doors.

4.0 RELEVANT PLANNING HISTORY

- 87/03583 Outline application for erection of 2 No. dwellings – refused, appeal subsequently upheld
- 92/02182 Erection of detached dwelling with integral garage (revised house type). – approved and implemented (Permitted Development rights removed for buildings for extension).
- 2014/90249 Works to tpo(s) 18/78 within a conservation area – part granted/part refused and implemented.
- 2017/90170 Works to TPO(s) 18/78 within a Conservation Area - Part granted/part refused. It would appear this permission allowed for certain trees to be felled and then replanted. This permission has been implemented.
- 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) was refused at Huddersfield Sub-Committee on 6th June 2019. The reason for refusal is:

The detached garage with store above, by reason of its height and scale, would appear as an overly prominent and incongruous feature when considered against the existing spacious and verdant setting of the host dwelling within its curtilage. This would be harmful to the visual amenity of the area and contrary to Policy LP24 (A) and (C) of the Kirklees Local Plan and Policies in Chapter 12 of the National Planning Policy Framework.

An appeal has been lodged against the refusal of planning permission. Planning Inspectorate ref APP/Z4718/D/19/3231787

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

5.1 None, taking into account the reduced scale of the garage and that the previous reason for refusal raised no objections to the extensions to the dwelling itself.

6.0 PLANNING POLICY

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

The application site is unallocated on the Kirklees Local Plan but is designated as being within the Honley Conservation Area.

6.2 Kirklees Local Plan

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

6.3 National Planning Guidance:

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

Chapter 12: Achieving well-designed places.

Chapter 16: Conserving and enhancing the historic environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised via site notices, in the press and by neighbour letters.

7.2 Final publicity expired on: 2nd August 2019.

7.3 3no comments were received. One of which was on behalf of two separate neighbouring dwellings, therefore the comments received represented the view of 4no individuals. They raised the following points:

7.4 Comments:

- Proposal encroaches on land not owned by the applicant - notice has not been served. (this was subsequently queried with the applicant)
- Garage would be intrusive on neighbouring dwellings.
- Dispute that the banking will not hide as much of the garage as shown on plans. Due to previous tree works, plot is now more opening and screening has been compromised.
- Over-development of the woodland setting.
- Garage would be incongruous.
- Tree replanting should be enforced.
- Proposal contrary to historical decisions.

8.0 CONSULTATION RESPONSES

8.1 Statutory:

- KC Conservation and Design: were consulted informally and had no objections. This is the same response as received for the previous application.

8.2 Non-statutory:

- KC Trees were consulted formally and stated the following:

‘The tree information provided is the same as provided for a previous similar scheme on the site. The information provided includes an Arboricultural Method Statement and tree protection plan which demonstrates that the proposals and associated ground works are positioned outside of the rooting area of the trees and can be constructed without causing any significant long term harm.

As such the proposals are in accordance with Policy LP33 and LP24 and as such I have no objection to them provided a condition be attached to any consent that the development be carried out in accordance with the AMS. ‘

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of Development

- 10.1 The site is within the Honley Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that LPAs have a general duty in that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”. Similarly

paragraphs 193 and 194 of the NPPF indicate that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

- 10.2 Policy LP35 of the Local Plan follows the theme of national legislation and guidance. It states amongst other things that:

'Proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.'

- 10.3 The application site is located centrally within the conservation area and therefore, despite only being constructed in the 1990s, its design has a more vernacular appearance than other dwellings erected in the same period. Due to the relatively modern nature of the property, it does not hold specific importance to the significance of the conservation area, rather it has a neutral impact. The building makes use of traditional features such as stone lintels, sills and archways to create a grand appearance which is appropriate for the area. It sits comfortably in extensive grounds and is respectful of the established landscape features which surround it.

- 10.4 The proposed extensions and garage continue the design features of the main dwelling throughout and incorporate matching materials creating a cohesive appearance with the original building and wider area. The proposed extensions, reduced scale of garage and landscape works, in conjunction with the replacing of trees, would not cause harm to the significance of the conservation area. The scale of the extensions and the detached garage, now shown to be single storey, would retain substantial open areas within the curtilage of the site, retain and replant trees to the extent that the dwelling would continue to sit comfortably within extensive grounds.

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

Design

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

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

- 10.7 Local Plan policies LP1, LP2 and importantly LP24 are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive. LP24 (a) states that proposals should promote good design by ensuring:

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

(c) of the LP24 states:

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

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

- 10.8 The proposed extensions and garage continue the high quality of design seen in the host dwelling throughout the scheme. The proposed use of coursed natural stone on all elements is visual satisfying in terms of cohesion with the original building. The use of gables, ridge heights and traditional vernacular features such stone mullions, kneelers, lintels and sills continues the same quality of design and character throughout the application site. This use of architecture wholly respects the design of the existing building as does the material and details.
- 10.9 The location of the extensions, where the majority of the development is on existing developed land, ensure the plot will not appear overdeveloped whilst the host dwelling still appears the dominant element. The garage, as amended, is reduced in height to the ridge by 1.3 metres (overall 5.2m). This reduction in height when viewed together with the structure being located in regraded banking would appear subservient to the host dwelling.
- 10.10 The scheme, as amended, is therefore considered to be in keeping with the existing buildings in terms of scale, materials and details and respect the form, scale, layout and details of the area in regards to design and therefore is considered to accord with LP24 (a) and (c) as well as chapter 12 of the NPPF in regards of design. Matching materials shall be conditioned as a fundamental part of this assessment to conserve visual amenity of conservation area. Officers believe the roof pitch to the garage harmonises with the principal dwelling. The only other way to substantially reduce the scale of the garage would be to omit a roof all together. This would not be in keeping with the conservation area setting.

Residential Amenity

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

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

“...minimise impact on residential amenity of future and neighbouring occupiers”.

- 10.12 The proposed extension to the north-west side would be erected on a similar footprint to the existing garage, however would be notably taller. The dwelling of No.16 Green Cliff is situated approx. 11m away from the proposed north west side elevation of the extension. Given the size of the plot of no.16, the separation distance from the dwelling and given there are no windows in the proposed north west elevation facing towards no.16, it is considered there would be no significant harm in regards to privacy, overbearingness or overshadowing towards no.16 Green Cliff.
- 10.13 The extension to the south east side would be in excess of 27m away from any other neighbouring properties. Given this distance there would be no significant harm in regards to privacy, overbearingness or overshadowing towards any neighbouring properties.
- 10.14 The proposed garage is to be placed towards the southern corner of the site. It is set approximately 15.5m away from the closest dwelling (no.8 St Mary's Mews) as shown on plan 18075d-04-P09 showing the garage specifically. This measurement also accords with the Council's own mapping system. The garage is to be set to the north west of no.8 St Mary's Mews with only a small amount appearing directly in line with the dwelling. Nevertheless it will be visible from this property. The proposal sees the garage ridge lowered by 1.3m from the previous proposal. The design of the garage set into the existing banking and side ridge facing towards St Mary's Mews are all positive factors in reducing the bulk and presence the garage would have particularly on no's 1, 8 and 9. Given that at least 2no. trees were replanted between St Mary's Mews and the garage, the mass of the garage would also be further reduced over time. Given this separation distance, the reduction in height of the structure, and the other factors mentioned, it is considered there would not be an undue detrimental impact on the properties on St Marys Mews in regards to overbearingness.
- 10.15 In relation to overshadowing, given the 15m separation distance of the garage away from any neighbours, and that the garage is now single storey at 5.2m to the ridge and to the north and north west of St Mary's Mews, it is considered there will not be any detrimental overshadowing from loss of sunlight and therefore the scheme is considered to be acceptable in regards to overshadowing.
- 10.16 The garage does not see any windows at any level facing towards St Mary's Mews, and therefore would not result in overlooking. When the previous application was reported to sub-committee it was considered necessary to recommend the removal of permitted development rights to convert the garage into living accommodation and to remove the rights to insert additional windows into the walls or roof of the garage. This was so as to retain the privacy of neighbouring residents on St. Mary's Mews. Although the garage is now single storey it is considered reasonable and necessary to impose the same conditions. This would retain a good standard of amenity for the closest properties on St. Mary's Mews.
- 10.17 Cherry Trees, the dwelling to the west of the property, is set approx. 10m above the application site and 25m away from the dwelling. Therefore the proposed development is concluded to have no material impact on the amenities of this property. The driveway to the proposed garage runs approx. 10m away from Cherry Trees but, again, give the very steep bank between them, disturbance from vehicular movements is unlikely to have an impact on the residential amenity of Cherry Trees.

- 10.18 Vehicular noise associated with the use of the driveway and garage would be that normally associated with a domestic property. There are no concerns that this would have an adverse effect on the amenities of surrounding residents on St Mary's Mews or at 16 Green Cliff.
- 10.19 For these reasons set out above, on balance the scheme is deemed acceptable in regards to residential amenity and is assessed to accord with LP24 of the Kirklees Local Plan in respects of residential amenity. Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate. In this case it is considered that on balance, the harm is considered proportional.

Trees

- 10.20 As mentioned above, the site is set within an area covered by TPO. Further to this, the trees are also protected by virtue of conservation area status. In 2017, permission was granted for Tree Works to 8 trees within the site under application 2017/90170. Conditions on this application stipulated that all replacement trees should be planted in the first planting season, which would be from November 2017 until March 2018 (inclusively). Whilst the trees were not replanted within this date, they have now been replanted. The applicant has also submitted an Arboricultural Method Statement to demonstrate how the works shall not impact upon the trees.
- 10.21 KC Trees state that 'the proposals are in accordance with Policy LP33 and LP24 and as such I have no objection to them provided a condition be attached to any consent that the development be carried out in accordance with the AMS. This condition shall be added to the proposed conditions if the application is accepted.

Highway Safety

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

Land Ownership

- 10.24 It was brought to Officer's attention from a representation received that a third party potentially owned part of the land included within the red line of the application site. Officers requested evidence of this which was submitted. The applicants were then asked to provide a formal response in which they maintain that they own all the land within the red line boundary.
- 10.25 The duty of the LPA is to solely consider the planning merits of the application in accordance with the Development Plan, the policies contained in the NPPF and other material considerations. It is not concerned with land ownership, other than to ensure that an application form is submitted with a certificate completed in accordance with the Development Management Procedure Order. In this case the 3rd party has been informed of both applications and has been

given the opportunity to take part in the planning process. The planning application form makes it clear that it is an offence to complete a false or misleading certificate, 'either knowingly or recklessly' and that there could be a fine on conviction should this occur. As stated above, we have raised this matter with the applicant and received a response to this.

10.26 The evidence submitted querying ownership was inconclusive. The applicant maintains they own the entirety of the land. This is how the application will progress. Any further action between the parties involved would be to be taken through separate legal proceedings.

Representations

10.27 3no comments were received representing the view of 4no dwellings, these raised the following points:

10.28 *Visual Amenity Issues:*

- Dispute that the banking will not hide as much of the garage as shown on plans. Due to previous tree works, plot is now more opening and screening has been compromised.
- Over-development of the woodland setting.
- Garage would be incongruous.

Response: Assessed within the visual amenity section of the assessment.

10.29 *Residential Amenity Issues:*

- Garage would be intrusive on neighbouring dwellings.

Response: Assessed within the residential amenity section of the assessment.

10.30 *Tree Issues:*

- Tree replanting should be enforced.
- Proposal contrary to historical decisions.

Response: Assessed within the trees section of the assessment.

10.31 *Land ownership issues:*

- Proposal encroaches on land not owned by the applicant - notice has not been served.

Response: Assessed within the land ownership section of the assessment

11.0 CONCLUSION

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

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

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

12.0 CONDITIONS

1. Development within 3 years.
2. In accordance with the approved plans.
3. Matching materials.
4. Construction in accordance with Arboricultural Method Statement.
5. Garage cannot be converted from approved use without prior consent from LPA.
6. Withdraw PD Right for additional windows in garage. (PD rights for extensions and buildings already removed under 1992 application).

Background Papers

Application File:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92128>

Certificate of Ownership – Certificate A signed and dated 24th June 2019

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Report of the Head of Development and Master Planning

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Aug-2019

Subject: Planning Application 2019/91048 Change of use of land to domestic curtilage and erection fences to the sides (within a Conservation Area) 2, Garfield Place, Marsden, Huddersfield, HD7 6DA

APPLICANT

D Doward

DATE VALID

15-Jul-2019

TARGET DATE

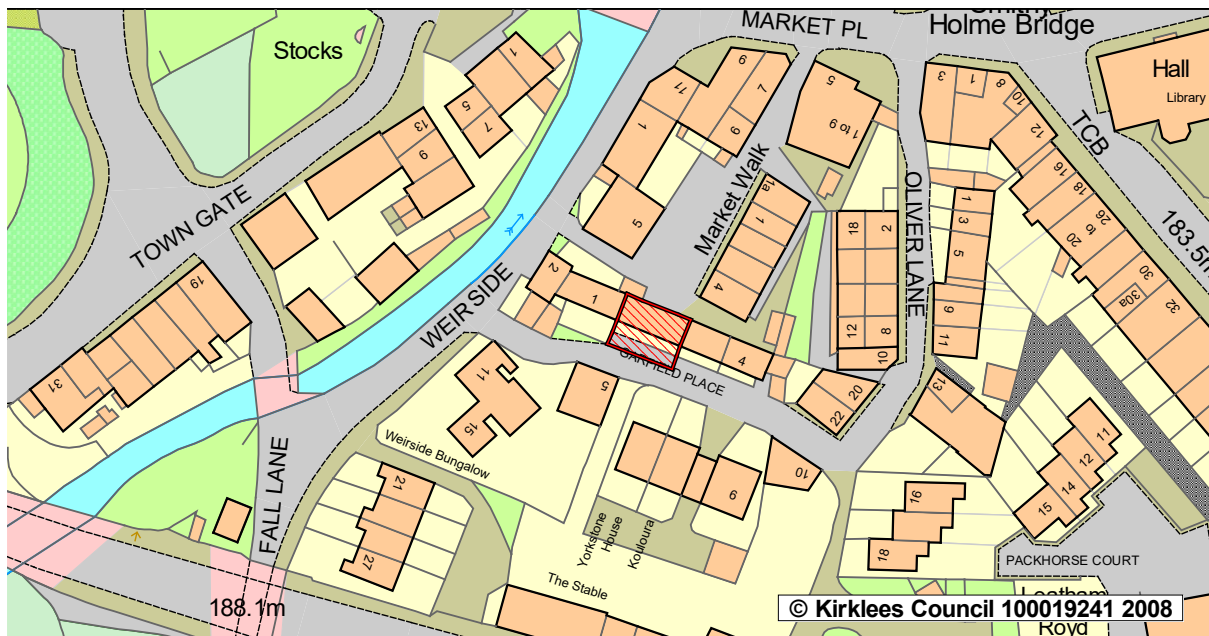
09-Sep-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Colne Valley

No

Ward Members consulted

RECOMMENDATION: REFUSE

1. The change of use proposed, by reason of its impact on the width and layout of the highway and the displacement of on street parking, would detrimentally impact on the highway safety of Garfield Place and Oliver Place. The development would cause conflicts between pedestrians, cyclists and vehicles by the narrowing of Garfield Place compromising the safe and efficient flow of traffic within the land forming the application site and on the surrounding highway network. This conflict would cause more dangerous manoeuvres to be required for vehicles to pass one another due to the narrowing of the highway. The proposal also disperses parking in an area where off-street parking is at a premium and does not satisfy the parking need of the area. For these reasons the proposal is deemed to be contrary to LP21 (a) and LP22 of the Kirklees Local Plan and Chapters 9 and 12, Paragraphs 110 (c) and 127 (a) of the National Planning Policy Framework respectively.

1.0 INTRODUCTION:

1.1 The applications is brought to Planning Committee at the request of former Cllr Bellamy on 28th April 2019, who has provided the following reason:

“Can I please request if you are mindful to refuse this application that it is heard by committee, with a site visit, for committee to determine if it would have any impact on the street scene, or have any detrimental impact on neighbouring properties,”

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

2.0 SITE AND SURROUNDINGS

2.1 2 Garfield Place is a mid-terrace, two storey property located towards the centre of Marsden. The dwelling is faced in natural stone with a slate tiled roof. It is set within a very small curtilage with a strip of land approx. 2m deep by 11.5m wide to the front of the property. Although it is stated the deeds show the property ‘owns’ land to the centre of the highway at Garfield Place, this relates to the subsoil as the highway itself is adopted.

2.2 The dwelling is set within the Marsden Conservation Area and is of vernacular appearance of dwellings built in the Victorian era. The historic sense of place in this part of Marsden is characterised by tight knit development, which includes narrow roads some without footways. Most of the housing in the immediate vicinity is terraced. Garfield Place is not specifically mentioned with the Marsden Conservation Area Appraisal.

3.0 PROPOSAL

3.1 This is for the change of use of the highway to domestic curtilage and the erection of a boundary treatment.

3.2 The land encompassing this application is currently part of the adopted highway, comprising the surface of that area no.2 Garfield Place have a subsoil ownership of. The plot of land being proposed for change of use is 11.5m wide and 2.6m deep.

3.3 In conjunction with the change of use, the applicant proposes to erect a 1m high fence at the side of the dwelling to demonstrate the boundary between no.2 and its adjoined properties. The fence shall extend 3.8m from the front elevation to leave a 3.8m gap for the highway.

3.4 The applicant stated that the fence shall match the existing and therefore it is likely it shall be painted in a grey colour.

4.0 RELEVANT PLANNING HISTORY

4.1 None

4.2 It would appear that at some point in the past, land forward of no.1 Garfield Place has been enclosed in a similar manner to that now proposed. Kirklees Highways Registry confirm this was done pre-adoption of the road, and therefore the owner would have had full ownership of the land at that point. Since the adoption of Garfield Place in the 1980s, the dwellings now only have subsoil ownership of the land.

5.0 HISTORY OF NEGOTIATIONS

5.1 The applicant was asked to submit further justification for the scheme, as this in essence seeks to 'stop up' part of the highway. This was submitted as supporting information on 29/03/19.

5.2 The applicant provided additional information on 26/06/19 to describe the proposed boundary treatment.

5.3 It was noted on 21/05/19 that certificate A was signed. Subsequently the applicant was informed to sign certificate B and serve notice on Kirklees Council as the land in the application site is part of the public highway. A signed copy of certificate B was received on 16/07/19. The application was re-validated from the date the revised notice was received.

6.0 POLICY

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

The application site is unallocated on the Kirklees Local Plan but is designated as being within the Marsden Conservation Area

6.2 Kirklees Local Plan

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

6.3 National Planning Guidance:

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

Chapter 9: Promoting sustainable transport

Chapter 12: Achieving well-designed places.

Chapter 16: Conserving and enhancing the historic environment.

6.4 Other:

- Marsden Conservation Area Appraisal

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice on 12/04/19, by neighbour letters scheme on 03/04/19 and in the press. Final publicity expired on 5th May 2019.

- 7.2 24 comments have received from 5 individuals.

- 7.3 Below is a summary of the comments received regarding material planning considerations:

- Dispersal of available on street parking where off-street parking is at a premium.
- Stop access for emergency vehicles.
- Dangerous impact on highway.
- Future cumulative impact if precedent set.
- Cause difficulties for pedestrians to avoid cars.
- Make access difficult for driveways and access roads nearby.
- Road would become impassable if two cars meet or if a larger vehicle parks up.

- Plans not detailed enough.
- unauthorised fence already constructed
- Where will be bins be stored?

7.4 Other matters

- Neighbours not correctly notified as some neighbours are rented so owner may not know.

7.5 Non-material planning considerations

- Comments regarding personal character judgements have no weight to determining this application.
- Council tax has been paid to maintain the road while it has been adopted so cannot be changed to domestic curtilage.
- Damage to boundary treatments.

7.6 One further representation was received following the service of Certificate B in July 2019. The representation but did not raise any additional points to those set out above, but advised that if to be approved a condition should prevent any boundary treatment to be erected.

8.0 CONSULTATION RESPONSES

8.1 Statutory:

KC Conservation and Design were consulted at stated as follows:

‘A fence projecting beyond the kerb line in to the highway would be incongruous in the streetscene of the Conservation Area’.

8.2 Non-statutory:

KC Highways Development Management -

In response to the documents initially submitted KC Highways DM stated:

“This application seeks approval for the change of use of land to domestic curtilage and erection of wall and gates (within a conservation area) at 2 Garfield Place, Marsden.

The proposal consists of the creation of a small, gated parking area to the front of 2 Garfield Place. This would be created by extinguishing the existing public highway.

Although minimal detail is given in terms of construction. Highways DM would raise concerns regarding the narrowing of the carriageway to less than 4.5m as this could be detrimental to the ability of two vehicles to pass safely and make access to the stables more difficult. Further concern would be raised by the reduction in unallocated off-street parking in a location where this is at a premium.

Given the above, Highways DM would not be able to support the scheme in its present form.”

This response was provided before the supporting statement was received. In response to the supporting statement KC Highways DM made additional comments as follows:

“It is most unusual for the local authority to allow such a “land grab” of the public highway to allow for private parking. I would maintain concern that this could lead to further applications from other residents on the street and also set a precedent for others in the district to make similar applications (those on town centre streets, particularly at the end of a cul-de-sac for example). Although the point is eloquently argued by the applicant, this application could still exacerbate the issue of drivers being unable to pass and repass on this narrow street which may see an increase in the undesirable manoeuvre of drivers reversing back out into Weir Side or Oliver Lane when two vehicles meet without room to pass safely.

As such, Highways DM maintain the objection to the scheme for the reasons cited above and those mentioned in the initial formal comments as per the below:

Highways DM would raise concerns regarding the narrowing of the carriageway to less than 4.5m as this could be detrimental to the ability of two vehicles to pass safely and make access to the stables more difficult. Further concern would be raised by the reduction in unallocated off-street parking in a location where this is at a premium.”

9.0 MAIN ISSUES

- Principle of Development
- Heritage
- Highway Amenity
- Residential Amenity
- Design
- Representations

10.0 APPRAISAL

Principle of Development

- 10.1 The development would result in a section of the adopted highway becoming enclosed, to form domestic curtilage for the purpose of vehicular parking. In principle the main assessment is whether this would have an unacceptable impact on highway safety. This is separate to the requirement the applicants would have to ‘stop-up’ the highway.
- 10.2 Chapter 9 of the NPPF seeks to promote sustainable transport. In regards directly to assessing proposal on highway grounds, paragraph 109 states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

- 10.3 It then goes on further to state within paragraph 110 and considering the context of highways and transport, development should...

“c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;”

- 10.4 LP21 of the Kirklees Local Plan sets out guidance which determines whether the impact of proposals are acceptable in regards to highway safety and access. LP21 (a) is directly applicable to this application. LP21 states all proposal shall:

Ensure the safe and efficient flow of traffic within the development and on the highway network;

- 10.5 As the application site is in the conservation area, heritage policy must too be considered. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that LPAs have a general duty in that

“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

- 10.6 Similarly paragraphs 193 and 194 of the NPPF indicate that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting”.

- 10.7 The Kirklees Local Plan echoes the NPPF in regards to ensuring the character of the conservation area is maintained. LP35 states that ‘Proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development’.

- 10.8 Whilst LP35 controls design and a proposals impact on the historic environment, LP24 is also directly applicable as this policy helps to establish whether proposal are of good design. LP24 (a) states that proposal should:

‘The form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;’

LP24 (c) goes on further to protect the residential amenity of neighbouring properties by ensuring development is:

‘in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers;’.

10.9 Chapter 12 of the NPPF goes on further to ensure proposals have a positive impact on the place to ensure the settlement is well-designed for the future. Paragraph 127, states that:

‘Planning policies and decisions should ensure that developments:

a. will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;’

10.10 These policies set the guidance to which the proposal shall be assessed against.

Background

10.11 As explained within the ‘Relevant Planning History’ section, the enclosure of land at no.1 Garfield Place was commenced in the early 1980s which was pre adopted of the highway, and therefore lawful. For context, Garfield Place was adopted in October 1984.

10.12 Garfield Place and its neighbouring roads such as Oliver Lane are densely populated streets with narrow highways. Due to the age of the dwellings in the area, the vast majority do not have off-street parking provision and rely on the ability to park on street. Given the tight nature of the lanes, there is only a limited supply of on street parking.

Highway Safety

10.13 Chapter 9 of the NPPF promotes sustainable transport. In terms of the highway safety, any proposal affecting it should ensure there are not any detrimental effects regarding the safety of highway users and so as to preserve local character. The proposed scheme would see the narrowing of the carriageway to less than 4.5m and this would hinder the ability of two vehicles to pass safely. This in turn would impact on highway safety as vehicles would have to conduct unsafe manoeuvres including reversing out of junctions, primarily the junction with Weir Side, to allow other vehicles to pass. In consequence this would conflict with the safety of pedestrian and cyclists using the highway. For these reasons, the scheme is deemed to have a detrimental impact the highway safety as it would cause additional conflict between vehicles and between vehicles and other users of the highway and therefore the scheme does not accord with Chapter 9, Paragraph 110, point (c) of the NPPF.

10.14 Chapter 12 of the NPPF promotes well-designed places. Significantly, paragraph 127, point (a) states that development should function well and add to the overall quality of the area over the lifetime of the development. Given the layout of this scheme, the proposed boundary fence would see the highway narrowed and have detrimental effects regarding vehicle conflict as stated above in regards to Chapter 9. This vehicle conflict created by the scheme would not constitute a well-functioning place nor would it improve the quality of the area for the future, but in fact have an opposite effect. Therefore the development would not comply with chapter 12 of the NPPF.

- 10.15 As stated within the principle of development; LP21 seeks to ensure the safe and efficient flow of traffic within the development and on the surrounding highway network. With regards to policy LP21 (a), this development would narrow the highway and remove a parcel of land from highway use which can provide informal space for motor vehicles to give way to other road users entering Garfield Place from Weir Side. Whilst it is acknowledged that when a vehicle is parked there it cannot be used for this purpose, this is not a permanent obstruction. The fact that this land is adopted highway and can be used to provide passing space, amongst other functions, is material to the assessment of this application and the impact the proposal would have on the efficient traffic flow of the highway. For similar reasons as to why the scheme does not accord with paragraph 110 (c) of the NPPF, the implementation of this proposal would severely impact the flow of traffic creating a longer single lane stretch of highway which would lead to dangerous manoeuvres being conducted to allow for vehicles to pass one another as well as creating an extended blockage when larger vehicles visit Garfield Place: such as emergency and service vehicles. Therefore it can be stated this detrimental effect is contrary to LP21 (a).
- 10.16 The applicants have provided information in support of the change of use. This is to create additional domestic curtilage for the purpose of parking, which would greatly help satisfy the need for the residents of no.2 Garfield Place to have safe and private parking space. However, the wider implications of this change of use would not meet the parking needs of Garfield Place nor the wider area given the reliance on unrestricted on street parking for most residents. In an area where off street parking is at a premium, the most convenient parking arrangement in the area is unrestricted on street parking as this allows for all residents in the area to park within a the vicinity on most occasions. Very rarely will residents have to park a substantial distance away from their dwelling. If Garfield Place and Oliver Lane was to see highway land currently used for on street parking changed in domestic curtilage to create private parking spaces, this would reduce the ability to park on street for the surrounding residents and therefore creating a more inconvenient parking arrangement in the street. An approval of this application could set a precedent for other applications in the vicinity of the site. If these were also approved some dwellings would be left with no parking or nearby on street parking available to use. This would detrimentally impact on the existing, most convenient parking arrangement for Garfield Place and cause parking dispersal and a loss in parking facilities and therefore is deemed to be contrary to LP22.
- 10.17 Within the supporting statement, photographs have been provided to show that the residents of no.2 Garfield Place could get 2no. vehicles on the land proposed for the change of use by using the strip of land directly in front of their dwelling which they own as confirmed by KC Highways Registry. This information suggests that parking dispersal is not an issue as by parking over the strip of land the applicant already owns and the application area, they can park 2 vehicles in the application site whereas a member of the public cannot use this strip of land to park and therefore the parking area can only be used to park one vehicle if left open as unrestricted on street parking. Therefore there is a case that this application would create one additional parking space on the street scene, but given that the most convenient parking arrangement for the area is unrestricted parking, this would not overcome the issues mentioned above.

Heritage

- 10.18 Due to the nature of the proposal, whilst there would be no harm directly to the dwellings, the fence would protrude in to the Highway and appear incongruous within the Street Scene. Given the street in is the Marsden Conservation Area, any harm must be outweighed by public benefit. Considering that the proposal appear incongruous in the street scene visually and there is no wider public benefit, it can be determined that the fence considered as part of the proposal does not adhere to the Heritage setting and is contrary to LP35 of the Kirklees Local Plan. If the principle of development was acceptable the fence could be omitted from the scheme which would overcome the harm caused.

Residential Amenity

- 10.19 LP24 (b) of the LP states proposals should promote good design by ensuring:
- “they provide a high standard of amenity for future and neighbouring residents...”

- 10.20 Another consequence of the enclosure of land is that the concerns related to highway safety would in turn affect the amenity of neighbouring residents. This has already been detailed in the preceding paragraphs and in essence the development would not provide a high standard of amenity for residents in the future. As well as the users of Garfield Place, the scheme would potentially impact upon the ability to access the unadopted road that serves the stables behind Yorkstone House on Garfield Place. This access is directly opposite the application site. Given the likelihood that the occupier of the stables could require a horsebox to be driven up Garfield Place and be able to turn in to this access road, the enclosure of this land would make the access very challenging. This is captured in the reason for refusal on highway safety grounds.

Other Matters

- 10.21 It should be noted that permitted development rights to erect boundary treatment to the front of the property do not necessarily exist. This is because Article 3(6) of the Town and Country Planning (General Permitted Development) (England) Order 2015 does not authorise any development which... “creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons”. This would prevent the erection of a means of enclosure if it created an obstruction as set out above.
- 10.22 Before a person can wall off or access a subsoil title, they will require a legal Order to extinguish or ‘stop up’ the public road that’s above the subsoil. A legal stopping up Order is granted by the Department for Transport (DfT) under S247 of the Town & Country Planning Act 1990, but the DfT can only grant an Order if there’s a valid planning permission that requires the stopping up of the public highway.

Representations

10.23 24 comments were received from 5 individuals.

Below is a summary of the comments received regarding material planning considerations and responses to them:

10.24 Highway Safety

- Stop access for emergency vehicles.
- Dispersal of available on street parking where off-street parking is at a premium.
- Dangerous impact on highway.
- Future cumulative impact if precedent set.
- Cause difficulties for pedestrians to avoid cars.
- Road become impassable if two cars meet or if a larger vehicle parks up.

Response: Assessed with Highway Safety appraisal.

- Fence to the side only is an improvement however condition no additional fencing to be constructed to the front.

Response: Noted and reflected in 'other matters' section

- A condition should prevent any boundary treatment to be erected.

Response: This point is noted, however it is not considered that this would on its own overcome the issues as set out above.

10.25 Residential Amenity

- Make access difficult for driveways and access roads nearby.

Response: Assessed with Residential Amenity appraisal

10.26 Design

- Plans not detailed enough.
- Illegal fence already constructed
- Where will be bins be stored

Response: Assessed with Design appraisal. Any obstruction in the highway would be dealt with outside the scope of this application

10.27 Non material planning considerations cannot be given any weight in the assessment of this application.

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 material considerations. It is considered that the development proposals do not accord with the Kirklees Local Plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits when assessed against policies in the NPPF taken as a whole.

Background papers

Link to application file

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91048>

Certificate B signed with the application dated 12th July 2019, received 16th July 2019. Notice served on Kirklees Highways.